

**Maurício Vieira**  
**Editor**

# **Global Approaches on State Fragility & Organized Crime**



**University for Peace**



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# Global Approaches on State Fragility & Organized Crime



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First edition

## Global Approaches on State Fragility & Organized Crime

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# Global Approaches on State Fragility & Organized Crime

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# Foreword

Francisco Rojas Aravena<sup>1</sup>

Organized crime is a global threat. Its dynamic has multifaceted consequences, varying from an impact in democratic elections to high levels of violence and criminality; from the collapse of natural resources to low levels of human security, encompassing economic disruption, and the foment of diverse forms of illegal trade. The institutional lack of capacity deepens state vulnerability in face of its potential to counter organized crime. In this sense, analyzing the dynamic of organized crime is a challenge *per se*, which includes the identification of how old and new criminal actors cooperate and collide, where and how they operate, and the violence they impose to control new territories. The fight against organized crime is more complex than before because criminal groups have become more structured and have coopted public officials and politicians in large scale and in more incisive manner to proliferate and protect their illicit practices. The production of marihuana by the Chinese Fujian mafia in Chile; the role of the most powerful criminal organization in Italy, 'Ndrangheta; the proliferation of the First Command of Capital (from the Portuguese *Primeiro Comando da Capital*, PCC) in Brazil and in the Southern Cone; the increasing amount of smuggled firearms from the United States to Mexico; the production of coca in Bolivia, Colombia, and Ecuador; the Albanian mafia and its role in smuggling migrants in the United Kingdom; the illegal trade of gold in South Africa and the correlation with organized crime and terrorism financing in Somalia are examples of how organized crime has spread out to the world making the social reality more complex and challenging.

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1 Rector of the University for Peace (UPEACE).

More than 15 years ago, during my tenure as Secretary General of Latin American Faculty of Social Sciences, I delved my academic contribution in a discussion about the challenges transnational organized crime poses to the Latin American and the Caribbean regions. From that period, I edited three volumes on this topic. The first one in 2006 entitled *International organized crime: a serious threat to democracy in Latin America and the Caribbean* (from the Spanish *El crimen organizado internacional: una grave amenaza a la democracia en América Latina y el Caribe*). The second one in 2008 entitled *Organized crime in Latin America and the Caribbean* (from the Spanish *Crimen organizado en América Latina y el Caribe*) with Luis Guillermo Solís; and the third contribution in 2011 edited with Andrea Álvarez-Marín which is entitled *Latin America and the Caribbean: Globalization and Knowledge. Rethinking the Social Sciences* (from the Spanish *América Latina y el Caribe: Globalización y Conocimiento. Repensar las Ciencias Sociales*). From the year the first contribution was published to our current times, the notion of state fragility permeated the academic debate on the impact of organized crime. At that time, the social reality in the context of criminality was proving to become more complex and challenging due to the high levels of armed violence and political instability. Nowadays, the advent of social media and technologies of information within a scenario of artificial intelligence's development and impacts makes the scenario more complex, which requires a permanent analysis and adoption of public policies in this area.

While revisiting these initial contributions to reflect on my new piece for this book, I would affirm that *state fragility* is still a concept that deserves special attention for comprehending, on the one hand, how states' vulnerabilities emerge, and, on the other hand, how organized criminal groups take advantage of these vulnerabilities to improve their criminality tactics. There is an urgent need to rethink what are the capacities of the state necessary to address organized crime within a multidimensional scenario in times in which El Salvador implements a state of exception to diminish the level of criminality in the country; the government of Colombia lacks capacity to monitor and implement the peace agreement with the Revolutionary Armed Forces of Colombia (FARC, from the Spanish *Fuerzas Armadas Revolucionarias de Colombia*); Brazil and

Mexico face a spread of criminal groups throughout the country and their collaboration with African and European criminal groups; the United States declares national alert due to the opioids health crisis in the country; the Russian invasion in Ukraine threatens the use of arms of mass destruction; the Anthropocene alerts the humanity to the collapse of natural resources; the high incidence of crimes in the cyberspace; the systemic corruption and political polarization in democracies; and the pervasiveness of human trafficking throughout Asia and Africa evidence different levels of fragility and its diverse consequences to collective well-being.

The novelty throughout these 15 years based on these contributions is that as much as the academia evolves the debate on state fragility and organized crime nexus, more levels and dimensions of fragilities are identified in countries with acute levels of criminality. Although my contributions were centered in the context of Latin American and the Caribbean, I would affirm that the main arguments provided in these publications remain valid and can also be incorporated into a global perspective, including the continents of Africa, Asia, Europe and Oceania and the North America region to reflect that states face more and complex challenges due to organized crime, since there is no concerted solution or strategy to counter this transnational threat collectively. In 2006, I argued that Latin America and the Caribbean were – and still are – experiencing a change in the dynamic of the conflict, which is significant for comprehending the evolution of the conceptual framework that determines regional security paradigms (Rojas Aravena, 2006). It is important to consider that not only these sub-regions are affected, but also the international community has faced the emergence of new violent threats, which spread more rapidly and have produced an increase in illegal or illegitimate acts that are difficult to neutralize due to their nature and global interconnection (Rojas Aravena, 2006).

In 2008 I called attention to the impact organized crime has on development and democracy as a consequence of governance crises and the weak rule of law. This scenario poses a threat to the well-functioning of institutions and negatively affects the economy and the private sectors. Also, it causes damages to individual in direct and indirect manners: from those that become victims of criminal

markets – such as human trafficking – to those that live in territories controlled by criminal groups due to the absence of the state. I discussed that the crisis of the state is expressed fundamentally in three aspects: a weak rule of law due to the lack of institutional capacity to strengthen the judicial system and the rule of law; inability of the State to ensure basic public goods for the population, and a significant erosion of their political systems, especially in young democracies. Since organized criminal groups are not ideological, they do not seek political power as such; they seek influence and decision-making capacity over State agents, regardless of the political party's ideology, which corroborates to the notion that the financing of politics is a matter of prime importance in all political systems, even more so in democratic systems, which makes a correlation between organized crime and corruption.

In 2011, the core of my contribution was on the inequalities in Latin America and the lack of state capacity to provide human development. This notion reflected that organized crime dynamics transfer insecurity from one country to the other as a spillover effect, which requires multidimensional lens to confront the new threats and challenges linked to violence and crime. This scenario becomes more complex in face of the varied of new criminal actors that emerge, creating a space for new forms of war that are linked to the erosion of the State in which States have essentially lost the monopoly of force (Kaldor, 2001). It is taken for granted that public policies and armed strategies applied to combat violence and crime are not efficient. While they suppress crime, there is a lack in addressing the causes that generate the criminal dynamic, especially in areas where the State is absent, which has an implication in the proliferation of dysfunctional areas where criminal groups occupy. Since transnational organized crime infiltrates democratic societies, licit economic dynamics, and in rural areas mainly through corruption and extortion measures, the focus of a strategy to counter it should be based also on its heterogeneous character of supply chains, goods, and services. This perspective comes with the contribution of Brombacher et al (2023), who argue that it is “quite difficult to get a clear picture of the logics, the structural factors and the operational modalities of different supply chains” (Brombacher et al., 2023, p. 15) of illicit dynamics.

This means that there is a need to generate and improve “comparative research ... to generate new knowledge with respect to different supply chain arrangements and/or illicit goods and services” (Brombacher et al., 2023, p. 15).

For this reason, rethinking global approaches on organized crime and state fragility is of urgent matter for our current times, enhancing the role initiated by the Palermo Convention and its implementation within a context-based approach. Since I have argued that one of the main challenges for the academic community in this matter is to design public policies to increase the capacities of the States and societies in countering organized crime, academia will still play a role in contributing to this area of research. In this scenario, the University for Peace (UPEACE), under its mandate by the United Nations General Assembly Resolution 35/55 of December 1980, innovated in this field with the creation of the Chair on Countering Illicit Trade and Preventing Transnational Organized Crime in August 2020. The Chair aims to enhance the academic debate on these issue areas, promote and develop educational activities, share best practices, and spread technical knowledge and expertise to professionals interested in matters related to combating illicit trade and transnational organized crime. More specifically, the Chair seeks to comprehend how illicit trade and transnational organized crime intersect with Peace and Conflict Studies through a critical thinking on state fragility approach. Its creation reflects the context in which these phenomena inhibit countries’ work towards sustainable development.

As this publication celebrates the 3rd anniversary of the Chair on Countering Illicit Trade and Preventing Transnational Organized Crime at UPEACE, this book addresses the main challenges caused by organized crime. In times of fragmented coordination among countries, low capacity to build agreements, absence of national territorial control, institutional crisis, absence of civic values, generational rupture, lack of progress in the fight against money laundering and terrorist financing, high levels of financial secrecy, there is an urgent need to design a collective action of prevention, and peacebuilding designed to counter organized crime and its varied forms of criminal markets, hence promoting more stable resilient societies. And, to achieve this, there must be recognized that the key

to equity is education, which will enable a positive social change in the world.

In this regard, the United Nations innovated on this topic when it designed the Agenda 2030 under the Sustainable Development Goals (SDGs) framework. The inclusion of the SDG 16, which centers its efforts in the countering of organized crime, illicit financial flows, arms trafficking, and corruption, was the materialization of a collective goal to enhance this agenda in the UN and throughout its agencies to promote more equitable societies. Such a goal resonates with a need for a permanent capacity building program. In this regard, UPEACE, in partnership with the Foundation for the Study of Money Laundering and Crime (FELADE in Spanish), has launched the Academic Program in Money Laundering and other Crimes to improve knowledge expertise in this topic and enhance a culture of compliance.

To conclude, I take the opportunity to congratulate the editor of this book Dr. Maurício Vieira for his leadership as the Head of the Chair on Countering Illicit Trade and Preventing Transnational Organized Crime at UPEACE, and to congratulate all contributors who shared – through high quality academic perspective – their expertise and experiences for the understanding of organized crime dynamics and state fragility perspectives.

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# Introduction

Maurício Vieira<sup>1</sup>

The term *failed state* does not have the same meaning as *state fragility*. Even though their origin and cooptation into the political lexicon are correlated, highlighting the difference between them is important for comprehending the argument and narrative that permeate this book. The term *failed state* was politically coined in the 1990s to justify interventions in countries that were not capable of sustaining themselves in the international political system (Helman and Ratner, 1993; Albright, 1997). At that time, Helman and Ratner (1993) and Albright (1997) based their perceptions of the world on a group of countries that share common characteristics. On the one hand, Helman and Ratner (1993) focused on the structural challenges of *failed states*, such as civil strife, government breakdown, economic privation, violence, and massive abuses of human rights. On the other hand, Albright (1997) presented a more nuanced division of countries derived from her professional experience at the United Nations (UN) and as Secretary of State for the United States. For Albright (1997), there were four groups of countries in which *failed state* was the last category. Albright (1997) divided countries by, first, those that understood the importance of having some kind of rules to act in the international system; second, countries that were basically transitioning to democracy but with a lack of institutional capacity for such transition; third, countries considered rogue states that undermine their own participation in the international system; and, fourth, the “so-called failed states that for some reason or another were basically eating their own seed grain” (Albright, 1997), which, metaphorically, can be understood as countries’ using their own resources, be they natural or economic, for a purpose other than serving social well-being. According to Rotberg (2003), this condition compromises a state’s ability to provide political goods to its citizens.

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Although Helman and Ratner (1993) and Albright (1997) contributed to one of the *problématiques* of the 21<sup>st</sup> century, their notion of a *failed state* was a mere classification of countries based on a simple comparison between strong and weak, powerful and powerless, and developed and poor, which reinforced the logic behind the ‘Third World’ label (Tomlinson, 2003) not more applicable to our current times. As Tomlinson (2003) explains, “those who developed a concept of the Third World around a set of measurable criteria usually relied on identifying material circumstances” (p. 307), along with differences regarding countries’ size, political ideologies, social structures, economic performance, cultural backgrounds, and historical experiences (Tomlinson, 2003). However, as Tomlinson (2003) argues, “these differences exist not simply between Third World countries, but within them as well. There are rich and poor people, empowered and disempowered citizens, to be found inside all states and societies in the world” (Tomlinson, 2003, p. 308). In this regard, the term *failed state* designated for countries lacking high levels of development only limits the understanding of the concept as it does not consider characteristics of all states independent of their high levels of economic growth and political stability. As Woodward (2017) explains, the concept of a *failed state* critically involves “the international system and actors intervening in states in the changed international environment after the Cold War. This is not just one aspect of the concept but its essence, without which the concept and its role cannot be understood” (p. 10). For this reason, Woodward (2017) argues that the origin and applicability of the term *failed state* are too vague with consequences spanning over three problems: the first is theoretical in nature, in which the definition becomes more complex over the years, the second is empirical, in which it is difficult to identify a failed state due a lack of efficient methodological approaches, and the third is political, based on the idea of international backlash from those who might be the target of the label or sympathetic to potential targets.

Despite the vague definition of the term when it emerged, the empirical problem identified by Woodward (2017) is relevant for making the distinction between *failed state* and *state fragility*. As mentioned at the beginning of this introduction, the argument of this book derives from a change in narrative required for comprehending that the term *failed state* works as a label embedded in a static condition. The narrative under the term *failed state* is based on the notion that if political interventions addressed to countries labeled as *failed* aim to influence a behavioral change on them, improving their condition of *failed* into stability, the static condition that the term *failed state* implies actually limits any possibility of behavioral change and goes against the root cause of the *failed* condition. In this

regard, the term *fragility*, not failure, should be examined further regarding states' capacities. *Fragility* is a broader concept than 'failure' and directly refers to the causes and conditions that explain what states themselves – in cooperation with other states and international organizations – must address to revert the fragility that they face. Since all states face some level of fragility – whether high or low – at some point, the adoption of *fragility* in the scope of this book improves the comprehension of the multidimensional factors that lead some states to higher levels of fragility when compared to their peers. This means that *fragility* is non-static, changeable, and varies gradually depending on structural causes, be they direct (internal) or indirect (external). As Nievas and Sampó (2016) mention, the institutional weakness of the State is one aspect to be taken into account when defining a failed state, but not the only one, which calls the attention to these concepts that should be used in a differentiated manner (2016, p. 108).

The definition of *fragility* that permeates this book comes from the Organisation<sup>2</sup> for Economic Co-operation and Development (OECD) through its States of Fragility approach, which is under the International Network on Conflict and Fragility (INCAF) unit. For the OECD, *fragility* is considered the “combination of exposure to risk and insufficient coping capacities of the state, system and/or communities to manage, absorb or mitigate those risks” (OECD, 2023). This definition is embedded in a multidimensional approach as it compromises people, the planet, and prosperity. For this reason, the importance of addressing fragility's root causes is a condition for comprehending the promotion of sustainable development and peace (OECD, 2022), on global, regional, national, and local scales. The notion of *fragility* as defined by the OECD helps to advance the origins of the term because it fragments *fragility* into six narrower dimensions that explain its causes: first, the economic dimension, which refers to a state dependent on external aid and the number of young people who are neither employed nor in education or training programs (OECD, 2022); second, the environmental dimension, which is determined by external and internal risk factors, including vulnerability to natural disasters, air quality, water and sanitation, and prevalence of infectious diseases (OECD, 2022); third, the political dimension, determined by risk factors such as the persistence and instability of the political regime, the presence of state violence or political terror, and the levels of corruption (OECD, 2022); fourth, the

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2 Although this book adopts the US English spelling, it keeps its British spelling for “Organisation” considering the original name of the OECD when it was founded. And this also applies for direct quotes throughout this introduction.

security dimension, which relates to both the prevalence of direct violence and institutional coping capacities to prevent and mitigate violence, including the homicide levels and the presence of organized crime (OECD, 2022); fifth, the social dimension, which is determined by vulnerability to risks that affect social cohesion arising from both vertical and horizontal inequalities (OECD, 2022); and, finally, the human dimension, which refers to the reduction of inequalities and vulnerabilities, and the provision of basic social services (OECD, 2022).

Similar to the OECD, the Fund for Peace (2023) contributes to the analysis on state fragility through its Fragile State Index, which is based on quantitative and qualitative data on countries performance over four dimensions: cohesion, which covers indicators on security, factionalized elites, and group grievance; political, which focuses on indicators that explain the level of state legitimacy, quality and offering of public services, and achievement of human rights and rule of law; economic, which is centered on indicators related to economic decline, uneven economic development, and the impact of a country on human flight and brain drain; and social, which aggregates indicators on demographic pressures, refugees and Internally Displaced Persons (IDPs), and external intervention. In both contributions, organized crime strongly emerges as an indicator in the security dimension, even though organized crime inherently permeates other dimensions as cause and consequence of state fragility. For this reason, the organized crime and state fragility nexus proposed in this book embraces a multidimensional narrative that looks at organized crime and state fragility as codependent concepts.

This reasoning is based on the fact that the level of fragility in a state enables organized crime to flourish and that the more powerful a criminal group is in a state, the more it contributes to increase the level(s) of fragility in the state where organized crime operates. In this regard, organized crime is complex in nature because its dynamics and types of criminal markets evidence a variety of threats, including economic disruption, increased violence and homicide rates, environmental degradation, high levels of corruption, and the crisis of democracy (Vieira and Farris, 2022). This critical thinking on the global perspective on state fragility derives from a Latin American literature on the topic, which problematizes *state fragility* as a concept and practice that must consider specificities of each context analyzed. For this reason, stating that poverty is the unique cause of state fragility is inaccurate, although the lack of development has been considered its fundamental cause (Mejías, 2014, p. 83). There are other reasons that explain state fragility in-depth within an approach on organized crime. As

Ferreira (2017) explains, organized crime finds, in conflict and post-conflict societies, a mass of unemployed youth, mostly living in peripheral regions and in a high degree of poverty, being constantly victims of prejudice from the elites of society (2017, p. 41), which can easily become a target of forced recruitment to join organized criminal groups. Following Pérez (2020), this fragility is also seen by the weakness of the power, functions and scope traditionally exercised by the public sector and placed its institutions in circumstances of dispersion that consequently show their permissiveness and inability to cope with the global flows of people, information, symbols, capital and licit and illicit goods and services (Pérez, 2020).

In a broader perspective, the impact of organized crime can be identified over three sectors, according to Teran (2007, p. 7): peace and security, development, and human rights and good governance. In a narrower perspective, Altpeter describes organized crime as perpetuating “armed conflict, fragility, and weak institutions that serve as a cover and provide breeding grounds and an environment where illicit activities thrive” (2015, p. 30). In the author’s explanation, such a reality becomes more complicated and difficult to solve because “armed groups that adopt criminal agendas and form illicit networks may also reach out for political power in order to maintain control, thus posing a serious long-term threat to stabilization efforts” (Altpeter, 2015, p. 1-2), which means that strategies to counter organized crime “are often insufficiently prepared to meet the demands involved” (Altpeter, 2015, p. 3).

Similar to Altpeter (2015) is the contribution provided by Cockayne (2011), who affirms that “the international community currently lacks a coherent approach to tackling organised crime in conflict-affected communities,” as well as globally, since organized crime affects all countries independent of their levels of development, economy, and political stability. In this sense, comprehending the organized crime and state fragility nexus is also a way of understanding how a state counters organized crime in its territory and transnationally. The Global Organized Crime Index mentions that “countries with the highest criminality levels are those experiencing conflict or fragility” (Global Initiative against Transnational Organized Crime, 2021, p. 18), which affects “more than three-quarters of the world’s population [that] live in countries with high levels of criminality” (Global Initiative against Transnational Organized Crime, 2021, p. 12). The index also calls attention to this “population margin [that] underscores both the ubiquity of organized crime and the urgent need to implement measures to combat it (Global Initiative against Transnational Organized Crime, 2021, p. 12-13).

The need to design and implement coherent measures to combat organized crime transnationally depends on how governments, international and regional institutions, the private sector, and civil society will address the lack of a coherent approach mentioned earlier by Cockayne (2011). In his analysis, there are three aspects to be considered when addressing the State's lack of capacity: first, in a normative sense where "sovereignty represents a constraint on international action, especially where crime and politics are intertwined" (Cockayne, 2011); second, an "analytical confusion regarding how to understand and respond to organised criminal actors in peacebuilding contexts" (Cockayne, 2011); and, third, the presence of "numerous obstacles to the international mobilisation and organisation of the capacity needed to tackle organised crime effectively, particularly specialist investigative resources and analytical expertise" (Cockayne, 2011). When combined, these three aspects emphasize the need for a strategy against organized crime within a multidimensional approach as an attempt to avoid reproducing armed security-centered responses only.

This notion comes from the need to innovate on strategies against organized crime in a human-centered approach, which became evident through the United Nations' (UN) process away from the Millennium Development Goals (MDGs) in 2000 and toward the Sustainable Development Goals (SDGs) – Agenda 2030 – in 2015 as a process of fragmentation (Vieira, 2020), which "lays on the notion of breaking into pieces to construct a unity, cohesion, and coherence through small parts that represent a whole structure" (Vieira, 2020, p. 4). While the MDGs were conceived under eight goals alone, the SDGs expanded the MDGs into 17 goals, including the Goal 16 – Peace, Justice and Strong Institutions – which is centered on tackling diverse violent practices derived from organized criminal dynamics, ultimately aiming to end abuse, exploitation, trafficking, and all forms of violence against and torture of children; reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets, and combat all forms of organized crime; and reduce corruption and bribery in all their forms, among other goals. The need to include the fight against organized crime as part of the SDGs was based on its impact on other goals of the Agenda 2030. Briefly, its impact can be understood by the need to:

- i strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol (UN, 2020);<sup>3</sup>

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3 SDG 3, Good Health and Well-Being, Target 3.5.

- ii eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation (UN, 2020);<sup>4</sup>
- iii take immediate and effective measures to eradicate forced labour, end modern slavery and organized crime and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms (UN, 2020);<sup>5</sup>
- iv improve the regulation and monitoring of interregional and global financial markets and institutions and strengthen the implementation of such regulations (UN, 2020);<sup>6</sup> and
- v. take urgent action to end poaching and trafficking of protected species of flora and fauna and address both supply and demand of illegal wildlife products (UN, 2020).<sup>7</sup>

Within the Agenda 2030, the targets of each SDG goal mentioned in the previous list enhances the comprehension of specific areas where organized crime impacts daily life, and, most importantly, the need to design a concerted and multidimensional approach to counter organized crime globally. Nevertheless, the design and implementation of strategies against organized crime will be effective – considering strategies’ limitations when implemented – if there is a solid terrain basis upon which to advance the research on the nexus between organized crime and state fragility. Identifying the nexus between these two areas is a way of identifying voids, especially in capacity. If strategies to combat organized crime remain an underprioritized area, there will be increases in states’ levels of fragility.

## The Structure of the Book

The *Global Approaches on State Fragility & Organized Crime* is the first collective publication under the Chair on Countering Illicit Trade and Preventing Transnational Organized Crime at the University for Peace (UPEACE). This book covers the organized crime and state fragility nexus through different perspectives based in the context of countries from Latin America, Africa, and Asia. In the first chapter, Juan Carlos Sainz-Borgo

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4 SDG 5, Gender Equality, Target 5.2.

5 SDG 8, Decent Work and Economic Growth, Target 8.7.

6 SDG 10, Reduce Inequality within and among Countries, Target 10.5.

7 SDG 15, Life on Land, Target 15.7.

discusses the correlation between organized crime and peacebuilding as a parameter for comprehending that the State's main function is the management and equal distribution of political goods to society. Sainz-Borgo begins his argument through the historical narrative behind the payment of taxes in the Egyptian or Roman societies as a source for constructing the states' current institutional apparatus and structure. If such function is not completely achieved or is dysfunctional in essence, then states' capacity on providing political goods not only becomes vulnerable to structural challenges but also acute to practices of criminality, violence, and the increase of organized criminal dynamics, with a direct impact on peace. In chapter 2, Megan Capp and Christopher Wiebe analyze the organized crime and state fragility nexus through the case of children whose parents have been incarcerated for drug offenses in Latin America. In their contribution, Capp and Wiebe provide an overview of the international resolutions and conventions that provide legal and moral frameworks for future action to argue that the incarceration of women and men leads to increased levels of vulnerability, stigmatization, and, potentially, future criminality for their children and that their children must not be forgotten when criminal justice responses are necessary, as recommended by international frameworks and guidelines.

In chapter 3, Vinicius Assis Couto, Claudio Dantas Monteiro, and Bárbara Diniz Caldeira reflect on the actions taken by organized criminal groups and drug trafficking during the COVID-19 pandemic in Brazil. They argue that the COVID-19 pandemic functioned as a more recent example of organized criminal groups' ability to adapt, even though such analysis will require medium and long-term evaluations in the future. In their chapter, Couto, Monteiro, and Caldeira also argue that there are indications that criminal groups have adapted to the current scenario by strengthening or creating new dynamics for action, which could lead to both medium and long-term changes in drug trafficking in Brazil. In chapter 4, Fausto Carbajal-Glass revisits the political trajectory of organized criminal groups in Mexico. Carbajal-Glass centers his contribution on two questions: what does organized crime mean for statecraft at the local level? And what is the role of criminal groups in a community? For both questions, the author compares two analytical approaches: "extra-legal forms of governance," and a "complex social order," which describe some of the many ways organized crime interacts with the State and communities. As Carbajal-Glass argues, the political trajectory of organized criminal groups has become more salient in light of recent dynamics in the Mexican criminal underworld. In chapter 5, Emma Farris analyzes the context of organized crime and corruption through the role of sanctions imposed by the United States government

in countries with acute levels of fragility. Farris centers her analysis on two Latin American countries: Nicaragua and Venezuela, due to their similarities with regard to institutional deterioration, existence of criminal networks, corruption, and impunity. In her argument, the level of state fragility in both Nicaragua and Venezuela has permitted the governments of these countries to remain in power and maintain the status quo.

Moving from Latin America to Africa, in chapter 6, Brahima Bilali contributes to this book through an analysis on South Sudan and the proliferation of small arms and light weapons (SALWs) in the country. Taking the independence process of South Sudan in 2011 as a starting point, Bilali argues that the proliferation of SALWs was enabled by the State's level of weakness, which, as consequence, undermined South Sudan's internal order, increased its level of violence, and intensified internal and intergroup violence in the country. In the following chapter, J. Tochukwu Omenma and Hans-Liudger Dienel analyze the role of the local community in countering organized crime in the Lake Chad Area through participatory decision-making processes. Omenma and Dienel focus their analysis on the Kanuri ethnic group in the northeast state of Borno. Built on dependent variables and explanatory variables, they argue that, on the one hand, the potential of local structures to address organized criminalities has been underutilized and, on the other hand, that sub-groups among the Kanuri ethnic group at the village, ward, and district levels have contributed to strengthen cohesion, disrupt disinformation, and improve existing forms of security.

In chapter 8, Jude Cocodia uses the case of Nigeria to discuss instability, horizontal inequality, and political elite in that country. Cocodia focus this chapter on the correlation between economic and horizontal inequality as triggers of Nigeria's level of fragility which has in the political elite its main driver. Embedded on the notion of greed, Cocodia argues that the success of Nigeria's changing the present and future of the country depends on the political elite, who should establish a dynamic based on parity. In chapter 9, Dorcas Ettang analyzes the role of civil society in the countering of organized crime in South Africa. Since South Africa is highly vulnerable to organized crime, not different from any other country in the world, the role of civil society becomes relevant due to the multitude of contributions that it can make, from oversight and monitoring to trauma support and from victim and witness assistance to research and shaping discourse.

From Africa to Asia, in chapter 10, Thilini R. Galappaththige examines the trafficking of women in the South Asian and Southeast

Asian subregions to comprehend the organized crime and state fragility nexus. Galappaththige also takes examples from Afghanistan, Pakistan, and Myanmar and recognizes that the trafficking of women is cause, symptom, and consequence of state fragility. In her analysis, countries in these subregions improved their legal frameworks and enforcement mechanisms, however, there has been little progress in the fight against the trafficking of women, which is considered one of the world's main criminal markets. Chapter 11, written by Zahid Shahab Ahmed, analyzes the case of Afghanistan following the withdrawal of US troops. While the political decision implies expected outcomes regarding the functioning of the new government without an international intervention, it will also cause unexpected outcomes, which derive from the concern on the increase in the level of state fragility. As Ahmed mentioned in the chapter, the concern refers to the Taliban's modus operandi of running the country, which will lead to an increase in organized crime, with an attention to criminal markets such as narcotics smuggling and terrorism, and the impact of this scenario on regional security. Although each chapter offers a variety of perspectives on organized crime and state fragility, which considers different countries and regions per continent, the main contribution of this book is the ability to read each chapter as part of a whole to increase understanding on how organized crime and state fragility are globally intertwined.

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## 1

## Organized Crime and Peacebuilding

Juan Carlos Sainz-Borgo<sup>1</sup>

One of the main attributes of the state's function is the administration of public goods for the promotion of the well-being of its citizens. The way in which the government obtains financial resources for that purpose is, in general, through the establishment and collection of public taxes over activities carried out by individuals and, not differently, the country's own economy. Since ancient times, taking the example of Egyptian and Roman societies, the establishment of taxes, the development of a system for their collection and, especially, a repressive apparatus that could obtain those financial resources from the hands of the private economy have been widely studied (Ajdini, 2014; Blanton, Choi & Lui, 2022; Rathbone, 1993; Clayton, 2016). For example, archaeologists have found explicit scenes of tax collection in the reliefs of the tumulus of the ancient Egyptian Empire in which peasants were kneeling while officials armed with rods forced them to pay the taxes imposed by the pharaoh (Parra, 2002). In the case of the Roman Empire, the established taxes varied from the ones approved by the emperor in Rome to taxes adopted in different municipalities and such difference on taxes over the same territory represented an even greater challenge to collect them (Escudero, 2022). However, in both cases of Egyptian and Roman Empires, the establishment of a centralized system for collecting taxes was essential for the development of the state governance, which included the organization of its administration, health and urbanism systems, and army. Consequently, this system influenced the basis for the success of strong and modern societies that left their legacy in the history of mankind.

In the process of centralizing the payment and collection of public taxes, the Roman Empire developed complex registration systems aiming to

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avoid tax evasion (Escudero, 2022). The reasoning behind this model was not only on the mere fact of non-registration of taxes payment, but also to prevent those resources from being used to finance causes and uprisings against the Roman imperial government. Revisiting the famous phrase of the Bible of Jesus which says “Render unto Caesar the things that are Caesar’s, and unto God the things that are God’s” (Lucas, 20:25), such statement takes place within the so-called framework “Tax Revolution” (Barr, n.d.; Morales et al., 2019) that occurred in the 6<sup>th</sup> century B.C. which is often mentioned in the gospels and other holy books of the period, representing the importance of legitimizing the collection of taxes in the face of an eventual uprising against the Roman occupation.

This historical perspective on the establishment of systems to collect public taxes is important to advance the notion on the how to protect the machinery of the state against the use and proliferation of defrauded resources. It is valid to affirm that defrauded resources are promoted by those who establish criminal networks, thus creating vast areas of the illegal economy which are far from government control and distant from any methods of measurements. According to estimates by the United Nations Office on Drugs and Crime (UNODC), the illegal economy amounts to USD\$ 870 billion per year, representing 1.5% of the world’s Gross Domestic Product (GDP) (UNODC, 2011). Since criminal groups do not have an ideology as such, they look for financial profits only. In this regard, ambition is what triggers criminal groups’ illicit practices, extending their networks and actions throughout different territories. Inevitably, this dynamic leads to a correlation of actions in which the greater the ambition a criminal group has, the greater the confrontation with the state will be. It is possible to identify more recent examples of this state-criminal dynamic in the mafias that began in the early 20<sup>th</sup> century in the United States in the context of the prohibition of the sale of alcohol and illicit gambling (Landesco, 1932; Levine & Reinerman, 1991); or the Colombian mafias that exported narcotics from that country (Sarmiento-Hernández et al., 2020). Criminal groups only proliferate and obtain greater resources due to tactics that go against the capacity of the state to act in this area, such as extortion and corruption, for example. A states’ inefficiency of its administrative and police structures is also one of the causes that enable criminal groups to act, which leads to a strategy that finds a direct confrontation, such as a war, a solution to counter this threat.

## The fight against illicit economies

The idea of war has been extended as a state administrative concept to justify the increased allocation of financial resources into a political and armed strategy aiming to eliminate any kind of internal or external threat under the narrative of the 'fighting against the enemy of the state'. President Richard Nixon has been credited for coining the framework "war on drugs" in his 1971 declaration (Rosen and Martínez, 2016), which had an impact in the design of more coercive and reactive measures against this threat. Subsequently, the concept behind the notion on "war on drugs" has been coopted into other areas of intervention rather than the fight against narcotrafficking and organized crime, such as "war on terrorism" (Jackson, 2023) and even against other phenomena, such as the "war on climate change" (Blanchard et al., 2022). Different from a state-centered perspective on the use of the term, "war on drugs" was also used by the greater capos of organized crime, as was the case of Pablo Escobar, to justify his confrontation against the Colombian state (Comisión de la Verdad, n.d.).

The fight against illicit economies and criminal activities that have a correlation with a varied of illicit financial flows have developed initially in the confines of national borders and, traditionally, the response has always been local. However, due to the advent of technology, globalization, and human mobility, criminal groups have diversified their illicit markets, increased their financial ambition and, consequently, has penetrated international boundaries, thus creating transnational networks for the perpetuation of their criminal activities. However, it took many decades for states to reach a global consensus on the form of international prosecution of transnational organized crime. The long delay in building consensus against illegal activities and organized crime is the result of isolated international criminal cooperation initiatives. The International Criminal Police Organization (INTERPOL), as a police cooperation body since 1923, did not consider organized crime as a direct subject of its competence for many decades, although a significant part of the crimes to which it devoted its attention were directly articulated in transnational networks.

The first example at the international level was reached with the Palermo Convention or, according to its official name, the United Nations Convention against Transnational Organized Crime and the Protocols thereto (UNTOC). The Palermo Convention represented the first major global agreement on the subject, which was approved on 28 July 2000 by an Ad Hoc Committee created by the United Nations Economic and

Social Council (ECOSOC) which decided to submit the convention to the General Assembly at its fifty-fifth session (UN Doc. A/AC.254/34). Despite the fact that the UNTOC innovated in addressing transnational organized crime globally, the convention does not bring a definition of what organized crime is. The convention establishes key definitions on the subject, such as “organized criminal group”, which refers to:

... a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention in order to obtain, directly or indirectly, a financial or other material benefit. (UN, 2000)

And the transnational nature of organized crime, which consists of crimes committed:

- a. In more than one State;
- b. In one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- c. In one State but involves an organized criminal group that engages in criminal activities in more than one State; or
- d. In one State but has substantial effects in another State. (UN, 2000)

The convention also establishes the main offenses, such as money laundering (Article 6) or corruption (Article 8), as well as the international structure for international cooperation aimed at the prosecution of the crimes that are part of it. While UN member-states were embarking on a new institutional path in cooperation against transnational organized crime under the Palermo Convention, which entered into force three years later of its adoption in 2003; the United Nations was initiating a debate on the challenges the new millennium evidenced for the international society. These debates led to the organization of the Millennium Summit in 2005, which established the so-called Millennium Development Goals (MDG) as an international framework designed to guide the broad lines of international cooperation on the major global issues. As part of the discussion, the UN organized a High-Level Panel on Threats, Challenges and Changes in 2004 (UN Doc. A/59/565) which established a list of six global threats: (1) poverty, (2) interstate conflicts, (3) civil wars and genocide, (4) weapons of mass destruction, (5) terrorism and (6) organized crime (UN Doc. A/59/565).

In other words, as Rojas Aravena (2006) has pointed out, from the perspective of the United Nations, transnational organized crime is an emerging global threat that has a very important gravitation on a planetary scale, and the perspective derived from the High-Level Panel had considered the interrelatedness of the identified threats within the framework of globalization since those threats reinforce each other mutually. In this sense, it is necessary to generate action plans capable of dealing with each of these threats in an interrelated global framework. Nevertheless, the issue on transnational organized crime as a global threat was not included as part of the Millennium Development Goals<sup>2</sup> framework. Collective consensus on this issue was only reached 15 years later with the adoption of the Agenda 2030 – Sustainable Development Goals (SDGs) – in 2015 (UN Doc. A/RES/70/1) in which transnational organized crime was included as part of the new international framework. During the adoption of the Agenda 2030, the *Transforming our world: the 2030 Agenda for Sustainable Development Declaration* (UN Doc. A/RES/70/1) stated that, in face of the multiple edges of the problem regarding the promotion of sustainable peace, sustainable development:

... cannot be realized without peace and security; and peace and security will be at risk without sustainable development. The new Agenda recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development), on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions. (UN Doc. A/RES/70/1)

The theme of sustainable peace was placed not at the bottom of the framework, but in a transversal perspective creating a correlation among all 17 SDGs<sup>3</sup>. Regarding the issue on transnational organized crime specifically,

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- 2 The MDGs framework included 8 goals: (1) Eradicate Extreme Poverty and Hunger; (2) Achieve Universal Primary Education; (3) Promote Gender Equality and Empower Women; (4) Reduce Child Mortality; (5) Improve Maternal Health; (6) Combat HIV/Aids, Malaria, and other Diseases; (7) Ensure Environmental Sustainability; and (8) Global Partnership for Development (UN, 2022a).
  - 3 The 17 SDGs include: (1) No poverty; (2) Zero Hunger; (3) Good Health and Well-Being; (4) Quality Education; (5) Gender Equality; (6) Clean Water and Sanitation; (7) Affordable and Clean Energy; (8) Decent Work and Economic Growth; (9) Industry, Innovation and Infrastructure; (10) Reduced Inequalities; (11) Sustainable Cities and Communities; (12) Responsible Consumption and Production; (13) Climate Action; (14) Life Below Water; (15) Life on Land; (16) Peace, Just and Strong Institutions; and (17) Partnerships for the Goals. (UN, 2022b).

the SDG 16, entitled “Promote just, peaceful and inclusive societies” was included with aim of promoting peaceful and inclusive societies for sustainable development, facilitating access to justice for all, and building effective and inclusive accountable institutions at all levels (UN, 2022b). This goal includes 12 targets, covering the following topics:

- 16.1 Significantly reduce all forms of violence and related death rates everywhere;
- 16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children;
- 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all;
- 16.4 By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime;
- 16.5 Substantially reduce corruption and bribery in all their forms;
- 16.6 Develop effective, accountable and transparent institutions at all levels;
- 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels;
- 16.8 Broaden and strengthen the participation of developing countries in the institutions of global governance;
- 16.9 By 2030, provide legal identity for all, including birth registration;
- 16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements;
- 16.A Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime; and
- 16.B Promote and enforce non-discriminatory laws and policies for sustainable development. (UN, 2022b).

Based on the objective and targets identified for the SDG 16, there are three conceptual lines that emerge and underpin the notion on the

access to justice. First, justice as a value by alluding to factors that generate “injustices” and to its role to “build peaceful, just and inclusive societies” (UN, 2015, p. 11). Second, justice as a fundamental subjective right by pointing out in the same place that these societies must provide “equal access to justice”. In this way, justice becomes essential for development and for peaceful coexistence, which is reinforced in the joint understanding that any SDG must achieve. Third, justice as an element of effective governance, in which the architecture of public bodies must provide legal certainty, public confidence, and stability to the system.

Although transnational organized crime is not mentioned as incisive manner in the definition of SDG 16, it is possible to find it as part of the target 16.4, which determines “to combat all forms of organized crime the behaviors listed refer directly to organized crime.” (UN, 2022b). More broadly, the fight against organized crime falls within the scope of the already mentioned targets: 16.4, 16.5, 16.6 and 16.10 that focus on specific criminal markets – illicit financial, arms flows, corruption, and bribery – and actions to counter it, such as access to information and a culture of institutional transparency. This normative and institutional evolution through the SDGs and the inclusion of an approach to fight against organized crime represent a momentum in the multilateralism decision-making process in dealing with a broader platform for the fight against all factors that weaken and conspire against lasting and sustainable peace. The incorporation of the SDG 16, and mainly the targets referring to counter transnational organized crime, responds to the internal recognition by the UN system that there was a need to improve its institutional machinery in face of the limited progress during the implementation of the Millennium Development Goals (MDGs).

The change from the MDGs to the SDGs came in moment in which the UN and other international and regional organizations, the private sector, civil society, and the academia recognize that it is impossible to build a more balanced and equitable society if a society does not live in greater balance with the environment and also if a society conspire against the development of a more inclusive culture. In this regard, the countering of transnational organized crime under the SDG is not an isolated goal, since this threat impact in different levels throughout the whole agenda. For example, the fight against poverty and the promotion of education, as become explicit respectively in the SDGs 1 and 4, must be seen in coordination with technological innovation and responsible consumption, as per the SDGs 9 and 12, respectively. The fight against transnational organized crime must be presented as a common front that affects the individual, society, and the environment in large scales, given the extensive links of organized crime

with expressions in all these areas through different criminal markets and violent practices.

### **The importance of studying organized crime from a peacebuilding perspective**

In a study on illegal economies in Africa (University for Peace), it was noted last year that “Illicit economies and organized crime threaten states’ capacity to provide for and protect citizens by creating a corrosive structure that impedes countries from reaching their potential” (2022, p. 10-11). The corrosiveness capacity of organized crime impacts in the improvement of human development, intensifying the level of weakness of states’ resiliency to counter illicit activities, while it “interferes with democracy building”, making “illicit economies and transnational organized crime inhibit sustainable development and increase institutional fragilities.” (University for Peace, 2022, p. 10-11). This weakening of state structures by organized crime is a factor that undermines the construction of sustainable peace over time. Since the creation of the United Nations in 1945, peacebuilding through the UN has been based on “a set of strategies not only to stop a conflict, but that begin long before the outbreak of violence and end long after. Their goal, in addition to eliminating violence, is to end the structural causes that have led to war and to foster stability and lasting peaceful coexistence.” (Rodríguez-Marín, 2021)

The construction of a sustainable peace, which can encompass the eradication of structural factors, must look not only at the elements that are part of the conflict *per se*, but also to those elements that sustain the fighting between the disputing parties. In situations where a United Nations peacekeeping operation achieves sitting down at a negotiating table, the parties involved in the armed conflict do not include those external actors that have paid for their confrontation in the fighting. This is a reality in countries where armed groups are articulated or financed by the sale of narcotics or protected natural resources, from ivory to diamonds. In this case, it is considered, within the framework of a contemporary approach on the study of peacebuilding that take into account organized crime in all its manifestations and diversity, as well as the necessary forms of coordination that must be developed in a society, with both public and private sectors in order to confront violence, which is growing and can even lead to internal or international armed conflict.

It is known that organized crime is structured by criminal groups that have a highly sophisticated structure, with complex managerial procedures and that constitute a dissociating element of any society. It has often been

pointed out that when a person buys counterfeit cigarettes or contraband clothing, this purchase is integrated into a network of illegal trafficking that links to the dynamics of criminal markets without realizing that those counterfeit products sustain other illegal networks, such as trafficking in drugs, arms, or humans. Moreover, this illegal financial flow perpetuates the gradual weakening of the state and its own collapse process, either within the national borders where this transaction takes place or in countries from different continents. In addition, these products begin to transit the various markets, some of them as part of the illegal market, but some of these products become integrated into the gray market or economy which increases the direct and indirect damage of the state through tax evasion and the generation of flows of resources for the financing of movements and actions against the promotion of a sustainable peace.

## Conclusion

For the study and understanding of peace processes, it is becoming increasingly necessary to adopt a broad approach about the social reality through a multidimensional perspective. On the one hand, traditional confrontations, or the construction of positive peace (Galtung, 1969), have given way to a much more complex and sophisticated situations, where the factors for the construction of peace range from the actions of governments and conflictual dynamics against it to the role of the private sector, which can derive part of their financial resources to the perpetuation of the conflict. On the other hand, in an era where conflict overcomes traditional scenarios of stability, a more contemporary vision for the study of peacebuilding must include environmental issues, with an emphasis in climate change and a more harmonious and sustainable development. In this context, the Declaration of Peace for the Ocean<sup>4</sup>, which was supported by the Government of Costa Rica, represents a new perspective for a more collaborative actions where traditional and contemporary factors, governments, civil society organizations and private initiative at all levels, from the most basic enterprises to large multinationals, must be part of an environment of global analysis for the search of a global, inclusive and sustainable peace in time.

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4 World Declaration of Peace for the Ocean. Available at: <https://peacefortheocean.org>.

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## 2 | **Children of Incarcerated Parents: The Impact of Criminalization for Drug Offenses in Latin America**

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Organized crime in Latin America is a complex and evolving area of study (Zaitch & Antonopoulos, 2019). Although there is significant variance within the region, some countries experience the highest homicide rates in the Western Hemisphere (UNODC, 2019) and are home to powerful criminal organizations (Sansó-Rubert, 2017; Rosen & Kassab, 2020) which are primarily funded through the drug trade (UNODC, 2012). Attempts to disrupt organized crime and the illicit drug market have led to increased criminal justice responses, including rapidly rising rates of pre-trial detention and incarceration, particularly for women (Walmsley, 2017). To date, minimal attention has been paid to the peripheral effects of these strategies. While states grapple with how to address organized crime, and the drug trade in particular, care must be given to ensure innocent parties are not unnecessarily victimized by these criminal justice responses. To bring light to these issues, this chapter focuses on children whose parents have been incarcerated for drug offenses in Latin America. It will bring awareness to a group that is often forgotten in conversations around organized crime and drug offenses by providing a broad synopsis of our current understanding of children of incarcerated parents in general and, more specifically, in Latin America. The chapter will then provide an

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overview of the international resolutions and conventions that provide legal and moral frameworks for future action.

### **A Global Understanding of the Issue**

Globally, a growing body of scholarly literature has drawn attention to this particularly vulnerable group of children. Over the past two decades or so, there has been increasing awareness and recognition that children whose parents are involved with criminal justice systems are more at-risk and vulnerable to negative health and social outcomes in comparison with their peers whose parents are not involved in justice systems (Dallaire & Wilson, 2010; Gaston, 2016). It is also recognized that there is a compounding effect; children who are already facing various forms of marginalization and vulnerability experience further challenges when their parents come in contact with the criminal justice system (Murray, Farrington & Sekol, 2012; Wildeman, 2009). There is also a racialized component to this reality with a growing recognition that indigenous and minority children are disproportionately impacted by the effects of parental incarceration (Cullen, 2016).

Recent research focuses on the tremendous resiliency of these children and shows that, with the right support, they are able to live healthy and positive lives (Arditti & Johnson, 2022; Ashmitha & Annalakshmi, 2020; Dunlea, Wolle & Heiphetz, 2020; Kremer, Poon, Jones, Hagler, Kupersmidt, Stelter, Stump & Rhodes, 2020). Within the evidence showing hope for these children, parental incarceration is still widely recognized as being an extremely traumatic experience (Turney, 2018). This trauma is non-linear and may be experienced before, during, and following their parent's incarceration. For example, children may witness violence during their parent's arrest, experience damage to their possessions and breaches of their homes and sanctuaries, and see their mothers and fathers receive aggressive treatment from law enforcement. At times, the children themselves may be victims of violence at the hands of arresting officers (Church World Service (CWS), 2019). Furthermore, children of incarcerated parents may reside in neighborhoods where street violence is commonplace, contributing to traumatic experiences and the development of potentially unhealthy coping mechanisms (Jones, 2017; CWS, 2019).

The detention of a guardian drastically alters family dynamics and the development of a child. Even prison visits, while ostensibly allowing a continued relationship with the guardian and positive outcomes for the child (Kremer, Christensen, Stump, Stelter, Kupersmidt & Rhodes, 2022; Schubert, Duinink & Shlafer, 2016), can be daunting – particularly when

considering the time and costs required of the child by the visit, as well as the environment and conditions the children may be subjected to during the visit itself (CWS, 2019; Tasca, 2015). Having a parent incarcerated can stigmatize children in ways that cause significant harm (Wells, 2020). Such stigma can impair social interactions at local gathering places, schools, or even in the home (CWS, 2019; Philips and Gates, 2011). In some scenarios, long-term absences of a caregiver due to incarceration, followed by stigmatization and a confluence of additional variables, – such as socio-economic status, ethnicity, place of residence, education, mental health, or relationships with other family members or role models – may cause these children to eventually repeat their caregivers' actions, thereby reliving their circumstances in adulthood and thus perpetuating a cycle of poverty, violence, and criminality (Harris & Eddy, 2018).

Although there has been a dramatic increase in research on the topic of children of incarcerated parents in the past 20 years or so, this increase is not equitable across countries (Markson, Lanskey, Souza & Lösel, 2019). The vast majority of the literature comes from the United States and the United Kingdom, with Australia, Canada and Western Europe also sharing research, although to a much lesser extent (Markson et. al, 2019). There are minimal publications from Eastern Europe, Asia, Latin America, and Africa (Markson et. al, 2019). With that being said, over the past few years there has been increasing attention paid to children of incarcerated parents in Latin America. This growing awareness is particularly important as the region experiences growing incarceration rates – particularly for women, who are more likely to be primary caregivers of children.

### **The Rise of Incarceration Rates in Latin America**

Between the years 2000 and 2015, the global prison population increased by 20% (Walmsley, 2016). Within Latin America during the same period, the prison population increased by 145%. Within Central America specifically, the prison population increased by 80% (Walmsley, 2016). These high rates of incarceration are mimicked by exceptionally high rates of pretrial detention (Aldaz, 2021). For example, in 2017, persons held in pretrial detention represented 62.6% of the prison population for the Dominican Republic, 60.2% in Argentina and 50.9% in Uruguay (Walmsley, 2017).

Internationally, the recent rise in incarceration rates has disproportionately impacted women. From 2000 to 2015, the global female prison population increased by 50% compared to 20% for men (Walmsley, 2015). This gendered incarcerated pattern is also consistent in

Latin America. For example, in Mexico between 2003 and 2016, the overall prison population rose only 6.8%, however, the number of women in prison increased by 50% (Comisión Nacional de Seguridad, 2016). According to the World Prison Brief (2020), El Salvador's female prison population increased by seven times between the years 2000 and 2022. Similarly, between the same period, Guatemala's female prison population increased by six times. El Salvador, Panama, Costa Rica, Uruguay, and Brazil are noted as having particularly high female incarceration rates (World Prison Brief, 2020).

The purpose of highlighting the experience of female prisoners is not intended to detract from the experiences of male prisoners. There is indeed a growing body of literature focused on the parental responsibilities and relationships of male prisoners (Sanberg, Agoff & Fondevila, 2022). Rather, a gendered and intersectional lens is needed to understand the experiences of the children of these parents – with women traditionally taking on the caregiver role. Although exact numbers are difficult to determine, it is often shared that the vast majority of women incarcerated for drug offences in Latin America are single mothers. As an example, in 2012 in Costa Rica, more than 95% of women incarcerated for bringing drugs into prison were single mothers and primary caregivers of their children (Defensoría Pública de Costa Rica, 2012).

While it is challenging to provide an exact estimate of just how many children are impacted by parental incarceration, recent research has shown that between 1,710,980 and 2,307,048 children in Latin America have at least one parent in prison (CWS, 2019). Of these children, nearly 500,000 have parents specifically incarcerated for drug offences (CWS, 2019). Drug offenses are also the primary cause for women's incarceration in Latin America. Available data shows that drug related crimes are the most common offenses for female prisoners in Argentina, Bolivia, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, Paraguay, Peru, and Venezuela (Washington Office on Latin America - WOLA, 2014). For example, in Argentina, Brazil, Costa Rica and Peru, more than 60% of women prisoners are behind bars for drug-related offenses (WOLA, International Drug Policy Consortium, Dejusticia Inter-American Commission of Women, 2016). Overall, research shows that, depending on the country, 35%-70% of women in prison in Latin America are incarcerated for drug offenses (Giacomello & Youngers, 2020).

In their critical review, Fleetwood and Giacomello (2017) discuss the 2016 resolution of the United Nations Commission on Narcotic Drugs,

*Mainstreaming a gender perspective in drug-related policies and programmes*<sup>3</sup>. The resolution is compared against the experiences of incarcerated women in Mexico City. The authors argue that the increase in incarceration rates can be traced to the conversion of United Nations drug conventions into punitive national laws within Latin America. These national laws are then disproportionately applied to those who are on the lower level of the drug trade, and are likely experiencing socio-economic challenges (WOLA, 2016). This strategy has yet to lead to real disruption of organized crime in the region and, in fact, may be creating conditions which further destabilize the state.

Fernandez-Montesinos (2021) explains how this approach impacts the stability of the state by stating, “The small-scale trafficking and offenses practiced by these marginalized groups in an environment of poverty and inequality contribute to the trivialization of crime and disregard for the law. This ultimately affects the state’s legitimacy and credibility” (p. 5). The heavy focus on low level crime impacts state fragility as there is no true disruption of narco-economies, nor institutional corruption, which are allowed to flourish (Transparency International, 2022; Mejías, 2017). The failure to prioritize investment in anti-corruption measures impacts key rule of law considerations, including the transparency and strength of democratic institutions (Ungar, 2013). It also provides a breeding ground for the continuation of transnational organized crime (Salomon, 2022; Rose and Kassab, 2020) and a measured decrease in public safety (Muggah and Szabo de Carvalho, 2017). Taken collectively, these lead to serious questions about the future stability of the region.

## **Drug Policy in Latin America**

Traditional criminal justice responses to criminal organizations operating within Latin America have led to decades of violence throughout the region (Bagley & Rosen, 2015). Many Latin American governments believe a “tough on crime” – or *mano dura* – drug policy is the only effective way to combat cartels and reduce levels of violence (Rosen & Cutrona,

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3 Resolution 59/5 was adopted by the Commission on Narcotic Drugs with the ultimate intention to adopt a gender-specific and gender-inclusive lens to efforts to address the global drug issue. It highlighted and recognized the unique social vulnerabilities women may experience, such as being the sole or primary heads of households or primary caretakers for their families, which may lead them to becoming involved in drug offenses. The resolution is recognized by scholars and practitioners as an important step forward and one on which scholarship and development should continue to build.

2021). To that end, Latin American governments criminalize a range of drug-related offences, including drug use, cultivation, and trafficking (Youngers, Castro, & Manzur, 2020). *Mano dura* strategies often involve increasing judicial penalties for such involvement in the illicit trade of narcotics or association with criminal organizations. Characteristics of the strategies also include increasing police use of force, implementing mass incarceration, mandating pretrial detention, and promoting militarization (Rosen & Cutrona, 2021; UNHRC, 2021). While such policies have led to some minor victories against certain criminal organizations, much of the available research indicates that *mano dura* policies have far greater deleterious consequences for the region. Many Latin American nations have experienced human rights violations, greater violence, health problems, and social exclusion, while problematic drug use and related criminal activity have increased (Rosen & Cutrona, 2021; WOLA, International Drug Policy Consortium, Dejusticia Inter-American Commission of Women, 2016). Meanwhile, far from seeing the drug market reduce, organized crime networks have continually expanded their reach and power, unaffected by law enforcement responses. State institutions – particularly criminal justice systems – continue to grapple with effective strategies for addressing these issues (Rosen & Kassab, 2022; UNHRC, 2021; WOLA, 2016).

Research indicates that, overall, *mano dura* policies have had minimal impact on organized criminal operations, with some cartels reacting to policy crackdowns with even greater levels of organization and violence (Antillano and Ávila, 2017). *Mano dura* policies have not significantly reduced homicide rates, and some hardline strategies, such as mass incarceration, often generate counterproductive outcomes (Miguel Cruz, 2022; Ruiz and Mackey, 2020). For example, growing prison populations may effectively allow criminal organizations to expand their operations and maintain control over their territory from behind bars, through organized riots and assassinations (Aldaz, 2021; Rosen & Cutrona, 2021). Despite the limited positive effect, and noteworthy detrimental outcomes, *mano dura* policies remain popular among both the public and governments. This support is influenced to varying degrees by: genuine security concerns; a fear of crime, which the media often perpetuates; a desire for retribution; partisan ideology; the influence of foreign powers on regional policy; socioeconomic status; age; and geographic location (Rosen & Cutrona, 2021).

### **The Impact of Drug Policy on Women and Children in Latin America**

The implementation of *mano dura* policies is a factor in the dramatic surge in Latin American prison populations described above. As mentioned earlier, while male offenders remain the larger overall population, there has

been a notable and growing trend of female incarceration for drug-related offences, which is 30% higher than that of their male counterparts (Youngers, Castro & Manzur, 2020; Giacomello & Youngers, 2020). This disparity has largely been attributed to pretrial detention, with research demonstrating that more women than men are held in pretrial detention, which is often mandatory regardless of the scale of the drug offense, and irrespective of whether the offense was violent (Goite & Cuenca, 2020; Giacomello & Youngers, 2020). A 2018 study of eight Latin American nations found that women were unlikely to be incarcerated for violent offenses and often operated at the lowest levels of criminal organizations, while just over half (62%) were in prison for their first offense (Youngers, Castro & Manzur, 2020). Women were generally found to perform low-level auxiliary activities in the drug trade by acting as couriers, transporting drugs within and over national borders, or smuggling contraband into prisons (Giacomello & Youngers, 2020; Youngers, Castro & Manzur, 2020). Women also served as small-scale dealers or worked behind the scenes, cultivating, cleaning, storing, packaging, or delivering shipments of narcotics (Youngers, Castro & Manzur, 2020; Giacomello & Youngers, 2020).

Therefore, while *mano dura* policies might seem to impact the drug trade when considering numbers of convictions alone, the overwhelming majority of incarcerated women are those operating at the lowest, least influential tier of organized crime. They pose minimal threats to society, and their involvement with the criminal organization is often due to external factors, such as poverty, low levels of education, limited opportunities for legitimate employment, coercion or domestic violence, and drug dependency (Youngers, Castro & Manzur, 2020). The individuals who command the criminal organization are generally men and are rarely arrested or sentenced. They often act with impunity, having the necessary influence or leverage to avoid or manipulate the legal system to their ends (CWS, 2019; Rosen & Kassab, 2020; Youngers, Castro & Manzur, 2020).

The women being incarcerated are often considered expendable by criminal organizations; they engage in high-risk, low-rank tasks and can easily be replaced when removed from operation (WOLA, the Organization of American States and the International Drug Policy Consortium, 2014; Giacomello & Youngers, 2020). While their incarceration minimally disrupts drug markets the drug trade or organized criminal networks, it has a devastating impact on their wellbeing, as well as that of their families and communities, often perpetuating a cycle of poverty, marginality, desperation, and ultimately, recidivism (Youngers, Castro & Manzur, 2020; WOLA, 2016).

Incarcerated women often suffer from violence, both physical and sexual, during their arrest and while behind bars. As with male prisoners, female prisoners are often held in deplorable conditions, in overcrowded facilities and with limited access to adequate food or even water (Aldaz, 2021). Additionally, women prisoners face hardships that do not affect their male counterparts, as they live in spaces primarily designed for men. This often leaves them without access to necessary sanitary or hygiene products, and what health care services might be available are not designed to meet women's needs (Youngers, Castro & Manzur, 2020). Youngers, Castro & Manzur (2020) also observe that women tend to receive less support, including the provision of food and other basic supplies, from their families while they are in prison as compared to their male counterparts, possibly due to cultural norms that expect women to act as caregivers and supporters.

Given traditional expectations of women as domestic caregivers, imprisoning women damages family ties. This is in comparison with male prisoners who are able to support themselves and often have the support of female family members to help ensure sustained contact with their children (WOLA, 2016). In the majority of cases, the mother is the primary adult upon whom the child depends. Children of incarcerated mothers are far more likely to find themselves left without a caregiver. A 2010 Brazilian study found that only 10% of children whose mother was incarcerated remained in the care of their father (WOLA, 2016). While the legal penalties for men and women are equally strict, the incarceration of women is disproportionately punitive towards children.

The true state of children of incarcerated parents in Latin America is still emerging. While the number of academic publications is growing, the majority of our current knowledge base comes from practitioner reports and advocacy organizations. The issue of children of incarcerated parents was first brought to mainstream attention in Latin America with the seminal 2014 report *Invisibles: ¿Hasta Cuando?* (CWS & Gurises Unidos, 2014). CWS and Gurises Unidos (2014) partnered with organizations in Brazil, the Dominican Republic, and Nicaragua to survey 193 children with incarcerated parents. The report highlights the negative impacts of parental incarceration – findings which are also confirmed by other research. They confirmed that children not only suffer the psychological effects of separation but also experience the risk of damaged or lost relationships with incarcerated parents or face difficulty when attempting to preserve them during their incarceration (CWS & Gurises Unidos, 2014; CWS, 2019; WOLA, 2016; Wildeman, 2009). As is consistent with the global pattern, children of incarcerated parents in Latin America exist in a realm

of social exclusion, a condition which is only exacerbated with the loss of their guardian (CWS, 2019; Dawson, Brookes, Carter, Larman, & Jackson, 2013).

Ormeno, Fogo, Santini, and Williams (2016) add to our understanding of the situation in Brazil with a study identifying the trauma, feelings, and emotions experienced by children of incarcerated mothers in Sao Paulo State. Interviewing 150 women in prison, the results highlighted the complexity and trauma that these children experience in their family lives. 67.4% of the children were living with their mothers at the time of incarceration, with 15.1% of them witnessing the arrest. In 38.1% of the cases, children were exposed to domestic violence by the father against the mother and in 20% the father was also incarcerated. In many cases, siblings may find themselves separated, ending up in different homes within the extended family, with friends, or within institutions. Children of incarcerated parents in Latin America are also at a higher risk of being exposed to neglect – notably more so when the incarcerated parent is the mother – and often undergo financial hardships that place them in positions of greater vulnerability to abuse (CWS, 2019; WOLA, 2016).

Often, these children live in vulnerable communities, experiencing severe levels of violence, poverty, and social exclusion. Their rights: to food, housing, education, health, work, and a healthy environment; to live free of violence; and to participate in the community are frequently, if not perpetually, violated (CWS, 2019). Financial responsibilities in the family change with the loss of a caretaker, and children and youth are often burdened with new responsibilities, which can further affect their social, physical, educational, emotional, and psychological development (CWS, 2019; Phillips & Gates, 2011). Such developmental challenges are compounded by instances of stigmatization, discrimination, and exclusion in schools amongst the child's peers and from educators and adults in authority (CWS & Gurises Unidos, 2014; CWS, 2019; Phillips & Gates, 2011).

Children of incarcerated parents in Latin America not only endure societal stigmatization and discrimination, but also have fewer opportunities for self-fulfillment and suffer more infringements of their rights. Often, as a result, and in the absence of necessary support, these children are more likely to commit crimes themselves, to experience a lower life expectancy, and are several times more likely than other children to end up in prison (Inter-American Commission on Human Rights, 2015, as cited in CWS, 2019; Phillips & Gates, 2011).

## Sentencing Considerations

*Invisibles: ¿Hasta Cuando?* provided, for arguably the first time, important insight into how criminal justice processes can harm children in Latin America. Its unique contribution is that it centred children as independent rights holders, rather than solely focusing on the adults involved in a criminal justice process. A follow-up report, *Childhood that Matters* (CWS, 2019), builds on this work with research conducted in eight countries: Mexico, Colombia, Chile, Costa Rica, the Dominican Republic, Brazil, Uruguay, and Panama. The qualitative and quantitative approach of this study involved children of incarcerated parents, their caregivers, and experts on drug policy and criminal justice systems. In addition to highlighting the negative impacts of incarceration on children and families, the countries are shown to share certain traits in their criminal justice approach. These include the application of mandatory minimum sentences, the disproportionate use of criminal law, a preference for incarceration over other alternatives, and increased sentences, which lead to increased levels of incarceration. Another problematic area identified was a lack of coordination among agencies tasked with safeguarding and protecting children's rights.

The Working Group on Arbitrary Detention (2019) emphasizes that imprisonment for drug-related offences should be a last resort, and used only for serious offences. Lesser offences should be addressed by diversion or a decision not to prosecute. Despite this advocacy, *Childhood that Matters* (2019) argues that sentencing reviews highlight the complete lack of consideration for children of incarcerated parents in decision making processes of the courts. While this is the general trend, there are situations emerging which provide hope. For example, in 2017 in Argentina, the mother of a child was given an alternative to incarceration (electronic monitoring), with the potential negative impacts of incarceration on her child being clearly articulated (Ministerio Público Fiscal 2017).

With the ever-growing number of women imprisoned for low-level drug offenses, and the effect that has on the growth and development of their children, several Latin American countries are looking into the introduction of measures to allow house arrest as an option for women who are mothers and are convicted of low-level drug offenses (CWS, 2019). The development of such alternatives would not only improve conditions for female prisoners, but reduce the strain and damage done to their families as a result of their incarceration. Such alternatives would also be in line with international recommendations and human rights standards.

## International Recommendations

Although there are many nuances at both the state and individual levels, it is becoming increasingly evident that children of parents in conflict with the law are an extremely precarious group. This vulnerability is receiving practical attention at the international level. Increasingly, international norms and standards are being reinterpreted to require criminal courts to prioritize the best interests of children in all decisions that may affect a child (Millar & Dandurand, 2018). This consideration is expected to extend to decisions about the child's parents or guardians during adult criminal proceedings, with specific attention to sentencing decisions, given the significant impact such decisions may have on a child's development and wellbeing. The *United Nations (UN) Convention on the Rights of the Child (CRC)*,<sup>4</sup> in conjunction with the *UN Guidelines for the Alternative Care of Children*<sup>5</sup> provide a strong legal basis for all social interventions, including criminal courts, to build upon, urging them to consider the best interests of a dependent minor when a parent is involved in legal or criminal proceedings (Millar & Dandurand, 2018).

The United Nations bodies, such as the General Assembly and the Human Rights Council, have adopted several resolutions directly focused on the situation of children affected by their parents' criminal justice system involvement. In 2010, The Salvador Declaration<sup>6</sup> of the 12th UN Crime Congress stressed the need to take into account the human rights of children of prisoners. The following year, in 2011, the United Nations Committee

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4 The CRC was adopted by United Nations General Assembly resolution 44/25 in November 1989. It lays out a variety of articles detailing human rights for all children under the age of 18. Of particular importance to the topic of children of incarcerated parents is Article 3(1) which describes the principle of "the best interests of the child". Article 3(1) states, "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration".

5 The guidelines were adopted by United Nations General Assembly Resolution A/RES/64/142 in 2010. They are intended to supplement the CRC and other relevant international legal frameworks, pertaining specifically to the well-being of children who are deprived of, or at risk of being deprived of, parental care. They provide guidance for states, in the best interests of the child, including the requirement that the state should "ensure that families have access to forms of support in the caregiving role" (Art. 3).

6 The Salvador Declaration reaffirms the need to respect, protect, and promote human rights in crime prevention and criminal justice efforts. While not explicitly focused on children, the declaration advocates for an emphasis on the well-being of societies.

on the Rights of the Child committed a Day of General Discussion<sup>7</sup> to the topic. The arising recommendations were explicitly rights-based and focused on preservation of the rights of the child during the range of criminal justice proceedings experienced by the parent. In this case, interventions by the justice system referred to the range of criminal justice stages, including investigation, pretrial, trial, sentencing and incarceration.

The Bangkok Rules,<sup>8</sup> adopted by the UN General Assembly in 2010 and published in 2011, established 70 rules by which criminal justice systems might reduce the imprisonment of women and seek to meet the needs of imprisoned women. These rules were necessary, as prison systems were largely designed around and for male prisoners, often failing to consider, much less meet, the needs and specific circumstances of women. In particular, the Bangkok Rules – specifically Rules 2(2), 26, and 28 – provide stipulations to consider the relationship of women prisoners with their children, and to facilitate the healthy maintenance of such relationships, with priority being placed upon ensuring the welfare of the child (UN General Assembly, 2011).

When fully applied, the Bangkok Rules would ensure that the child's needs take precedence, potentially including a suspension of detention to ensure care of the child. In instances where the mother is imprisoned, the Bangkok Rules stipulate that she ought to be located in a facility close to her family and that prison authorities ought to encourage and facilitate visitations with family members, especially children, to maintain family links (UN General Assembly, 2011). Furthermore, such visits should permit extended contact between mother and child and should take place in a child-friendly environment to reduce trauma and distress that the children might otherwise experience in these situations. Supporting women to maintain contact with their families in a friendly environment will improve both the quality and quantity of visits, subsequently improving the prospects for successful social reintegration following release. Maintaining

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7 The Day of General Discussion represents the first time the rights of children of parents who are incarcerated have been explicitly discussed on an international scale. The Day of General Discussion provides states and stakeholders guidance as to their obligations to promote and protect the rights of children of incarcerated parents.

8 The Bangkok Rules are officially known as The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders. The rules officially mark, for the first time, the need to provide gendered considerations to the rights of prisoners. They cover a wide range of areas, including providing guidance on healthcare, admission procedures, search procedures, and situations where children accompany their mothers into prison.

consistent positive familial relationships before, during, and following release somewhat mitigates the disruption that imprisonment necessarily imposes upon a child's development.

In addition to international recommendations towards the treatment of women prisoners regarding the welfare of their children, several recommendations have been implemented at regional levels. Article 30 of the Children of Imprisoned Mothers, authored by the African Charter on the Rights and Welfare of Children (ACRWC), was adopted in 1990 by the Organization of African Unity (Millar & Dandurand, 2018). This article stipulates that signatory African criminal courts must recognize and consider the best interests of a child when remanding or sentencing their mother to custody (Millar & Dandurand, 2018).

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) later expanded upon Article 30's definition of mother, extending the protections and rights therein to fathers and other primary caregivers – such as extended family members like grandparents – who have custody of children and whose incarceration would negatively impact the child (Millar & Dandurand, 2018). The ACERWC interprets Article 30 as all-encompassing as it relates to criminal justice proceedings, being applicable from arrest through to release and reintegration, rather than solely applying to the sentencing of a primary caregiver to imprisonment (Millar & Dandurand, 2018).

The Council of Europe, in the 2018 *Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents*, explicitly recognized the unique and specific challenges faced by children with incarcerated parents and advocated for a rights-based approach to solutions and interventions. Collectively, as observed by Millar and Dandurand (2018), these resolutions and recommendations have stressed the importance of states in:

1. prioritizing non-custodial measures where appropriate, considering the seriousness of the offence, the need to protect the public, and the well-being of the child when sentencing a mother or primary caregiver to prison;
2. recognizing, promoting, and defending the rights of a child of an incarcerated parent to have their best interests firmly in mind when considering decisions that may affect them and not discriminating against them because of their parent's or caregiver's actions; and

3. considering how a child might be negatively affected by parental imprisonment.

Despite this recognition, it is argued that the best interests of the child as a primary consideration is not universally considered in criminal justice decision making concerning the parents (Millar & Dandurand, 2018). There is a stark lack of data focusing on these decision-making processes within Latin America. The very limited existing research does show that the national legal frameworks of Latin America, with the exception of Argentina, have not successfully regulated the concept of parental responsibility in line with the CRC (Herrera & Lathrop, 2016). Future research could benefit from understanding how national legal frameworks incorporate the international recommendations listed above.

## Conclusion

This chapter has shed light on an oft-forgotten group of children: those with parents incarcerated for drug offences in Latin America. It has shown that children of incarcerated parents, in general, and internationally, are recognized as uniquely vulnerable and in need of protection and support. This realization is of particular importance in Latin America as criminal justice systems increasingly criminalize and incarcerate high levels of women – often mothers – in the fight against organized crime. Research shows that these women are often involved in low levels of the drug trade and incarcerating them does not disrupt organized criminal networks (WOLA, 2014). Rather, their incarceration leads to increased levels of vulnerability, stigmatization, and, potentially, future criminality for their children. International frameworks and guidelines provide recommendations to ensure that these children are not forgotten when criminal justice responses are necessary for their parents, however, we do not yet know how these are being considered or implemented at regional and national levels. It is clear that there is much work to do. As this work continues, it is essential not to lose sight of these children. Their voices and experiences must be considered and centered in the response to drug-related crime in Latin America.

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# 3 | Organized Crime during the COVID-19 Pandemic: A Regional Perspective from Brazil

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This chapter seeks to reflect on the actions of organized criminal groups in illicit drug trafficking from a regional perspective focused on Brazil, considering the decisive role of state action in a context in which the definition of the State builds upon moral and non-normative aspects. From this debate, we seek to revisit arguments about the creation or not creation of a crime through the idea of the absence of state agency and the possible changes, opportunities, and challenges that arise from the COVID-19 pandemic, particularly those that have strengthened or weakened organized crime and the rule of law. The idea of state absence is one of the most commonly used explanations for the emergence and consolidation of

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organized crime. In the case of Brazil, territorialized organizations that are capable of managing, even partially, local violence have gained traction, thereby raising sufficient power to dictate, even in a small way, territorial social relations and influence and insert themselves in lawful businesses and political apparatuses. The link between the absence of the State and the proliferation of organized crime is reflected in the premise of a similar and competing main function, which is the ability to control violence.

In this sense, the control of violence becomes a fundamental element. Eminent thinkers of the tradition of political thought, such as Hobbes and Maquiavel (Herb, 2013), had already pointed, even indirectly, to the monopoly of the use of violence as a central way to guarantee stability in a territory. However, Weber (1963) associates categories of violence through direct correlation to show that violence defines the very idea of the State. Besides the idea that the State is defined by its capacity either to monopolize violence or to function as an already consolidated State is argument that the absence of the State affects dynamics of violence through criminal groups' in light of obvious voids. The monopoly of legitimate violence becomes, in this context, a primary challenge for the State. The State seeks to pursue the extinction of unauthorized armed groups to demonstrate the government's effectiveness. However, the State's monopoly of legitimate violence does not guarantee that it will not become absent or achieve its primary objective. O'Donnell (1993), for example, recognizes this uncertainty and classifies countries by zones and colors to show the variance in states' ability to maintain a monopoly on violence.

While it is unclear if the State can reach a full monopoly of legitimate violence, the State's agency can be understood as being asymmetrically distributed in space, which allows for organized crime to proliferate in the State's least effective or controlled areas, or spaces where the State experiences high levels of fragility. In Italy, Gambetta (1996) and Paoli (2003) consider that the State's failure to fulfil its responsibilities created conditions for the development of the Italian mafias, mainly through commodifying protection. In Colombia, Romero (2003) as well as Rabasa and Chalk (2001) recognize that the State's inefficiency in monopolizing violence has enabled the growth of organized criminal groups. Even without this inefficiency, criminal groups would still have emerged in some African regions, where the absence or weakness of the State is made more widespread and dramatic (Bayart et al., 1999; Sung, 2004; Glenny, 2008). Seeking to conceptualize the phenomenon of paramilitarism in Colombia, Kalyvas and Arjona (2008) argue that the existence of the group and its actions to privatize violence are only possible because the Colombian state is absent or weak. Discussing the emergence of militias in Brazil, Cano and Iooty

(2008) point to the absence of the State as a determining factor for their appearance.

The idea of an absent or weak State is the most usual explanation for the rise of organized crime (Gambetta, 1996; Varese, 1997; Skaperdas and Syropoulos, 1997; Levi, 1998; Shelley, 1999; Skaperdas, 2001; Sullivan, 2002; Sullivan and Bunker, 2002; Eaton, 2006; Sanín et al., 2007; McCarthy, 2011; Van Dijk and Spapens, 2013; Paoli and Beken, 2014). However, the reasons for and processes by which states reach this situation of fragility vary and depend on context and history. In Southern Italy the mafia's parallel power is established by an absence or weakness of the State, and the case of Sicily that we find a historical example of this absence (Paoli, 2003). In Russia and other eastern European countries, the absence of the State and the proliferation of criminal organizations came after the collapse of the Soviet Union and the disappearance of a central government (Varese, 2001). In Africa, among several reasons, the absence of the state might stem from its recent history of independence from European nations (McCarthy, 2011).

In Latin America, the thesis that gains strength to explain the boom of violence at the local level but that may also represent the emergence and consolidation of criminal organizations is that of the impact of democratic processes of the last century on the fragility of the State (Romero, 2003; Kruijt and Koonings, 2015; Eaton, 2006). The reasons why the State is absent or faces high levels of institutional fragility are sometimes explained by singular historical and political processes. However, the idea of the absent State as a sociological category remains the hegemonic explanation for the rise of criminal organizations that are territorialized and capable of controlling violence. However, there is another explanatory framework where the consolidation of organized crime is not a translation of the absence of the State but rather, of the close relations the State establishes with criminal organizations through informal practices and the *quid-pro-quo*<sup>4</sup> clientelist policies. According to a thesis supported by Battilana (2003), Southern Italy was first a feudal regime based on clientelist practices, which have remained unchanged to date. As Paoli (2003) argues, the consolidation of the Italian republican regime did not imply the extinction of clientelist practices, which have undergone only minor changes.

Associating the political dynamics of clientelism with criminal organizations involves the perception that armed groups have somehow

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<sup>4</sup> The expression means something that is given to a person in return for something they have done.

become political actors capable of effective clientelist practices in territories that manage some control of violence. Thus, clientelism, as a political practice, and the mafia enable each other, constituting a sociocultural condition in Italy in which political figures mafia bosses merge to become the same actors. In contrast, countries in Latin America and Africa, where organized crime is a more recent phenomenon, have followed democratic reforms, and thus, the forms of appropriation of clientelist practices differ from those that have historically permeated local politics (Arias, 2006). The assumption is that organized crime establishes, with the consent, participation, and/or cooptation of the State, a new form of clientelism located in the urban outskirts, signaling the replacement of classic actors, such as traditional oligarchies, by new agents, such as heads of criminal groups- or *capos*. In this new arrangement, the phenomenon, sometimes referred to as neo clientelism, uses different means of control and actors while maintaining the historical pattern of political quid pro quo.

Focusing his analysis on the favelas of Rio de Janeiro in Brazil, Gay (2006; 2012) argues that violence threatens democratic processes, not only in Rio de Janeiro but also throughout Latin America, by creating new hierarchical forms of territorial domination. Conceição (2014) reported an example of this process in one of the numerous communities dominated by drug trafficking: a ritual was established for the neighborhood where the newly elected board of the Residents Association had to address the head or owner of the neighborhood (head of local illicit activities) to acquire the keys to the association's head office return them at the end of the board's mandate. To address similar issues, Arias (2006) proposed an elaboration of the relations between the State and criminal organizations, which we believe is more appropriate to the discussion of such relational dynamics because scholars disagree on whether the State is absent from the territories under the control of organized crime or if much of the explanation for the high levels of violence in these areas are due to the government's actions. However, the idea of neo clientelism should not be totally discarded, as it is one of the ways in which this relationship develops as well as comprehends the nexus between the State and organized crime as complex and diverse.

In this sense, this chapter argues that neo serves to provide an explanatory foundation for the initial process of forming a relationship between organized crime and the State but that it is not able to describe more structured relationships between the actors, such as militias in Rio de Janeiro (Couto and Beato Filho, 2019). With the deepening of relations between the state and organized crime, a more flexible approach to the phenomenon is necessary: one that explains how criminal organizations

conduct their activities through the State itself and their own criminal networks. The main idea is that the State and criminal organizations as well as parts of civil society create fluid and unusual networks of collaboration to achieve common illegal objectives, thereby facilitating political quid pro quo and the rearrangement of local social relations. In general, such illicit networks are constituted by criminal groups, local social leaders and political agents that establish reciprocal exchanges that guarantee the support of local power as well as the maintenance of criminal activities. Beyond political connections, illicit networks can even create legitimacy in the areas where they operate. In this regard, illicit networks become a way of spreading norms by guiding what is legitimate through violence, reinforcing the assumption that the State acts (il)legally places controlled by organized crime.

Through this approach, the State's failure to enforce the law does not imply its absence but rather, a new arrangement that acts within the political system, strengthens illegal interests, such as criminal networks, and damages the State's legal structure. In this sense, the construction of hybrid networks involving both formal and informal actors constitute a more feasible explanation for the consolidation of criminal organization, instead of simply presuming the absence of the State.

### **Transnational Organized Crime between Brazil and its Neighboring Countries: Contextualizing Drug Trafficking**

The growth and transformation of organized crime into a transnational threat in South America was detected by authorities throughout the 20th century, specifically toward the turn of the century (Adorno, 2019). When analyzing the globalization of illicit drug markets in the region, it is necessary to consider the regional and historical contexts, local specificities, and how licit and illicit markets have benefited from global trends, such as the expansion of the economy, the efficient flow of goods and services around the world, and the development of new devices due to technological progress (Alvarado, 2019). This notion of extraterritoriality from the perspective of the financial system, based on the legal and political rules of the different states of the sub region, creates a favorable environment for the manipulation of monetary resources that move from one place to another (Machado, 2017), and the practice of money laundering and foreign exchange evasion.

The movement of people, services, and goods in South America occurs with great intensity in the region and in diversified and non-uniformed ways along border areas between countries, either by air, land,

sea or boat travel. There are also more than 30 twin cities<sup>5</sup> located in Brazil, which allows for goods to move from a neighboring country to Brazil and vice versa. In the case of Brazil, the borders are immense, reaching more than 16,000 kilometers with neighboring countries located in South America (Ministry of Justice and Citizenship, 2016). Along this border area, there are wide levels of regional diversity in terms of territorial, climatic, institutional, and sociocultural characteristics. Among these flows, the dynamics of illegality are remarkable, as many of the countries that border Brazil are some of the largest producers of illicit drugs in the region, such as Colombia, Peru, and Bolivia for the production of cocaine and Paraguay for marijuana. Considering these four countries, their border with Brazil is more than 9,000 kilometers, almost three times the length of the border between Mexico and the United States (CDE, 2021). This comparison gives an idea of the complexity of the issue. Mainly cannabis and cocaine permeate the territories and cross the borders of these countries. For context, it is important to point out that cannabis is the most consumed narcotic. There are registrations of cannabis cultivation and production in practically every country due to the high demand and its agricultural characteristics. In South America, most of the cannabis produced corresponds to sub-regional trade, but, even still, some countries stand out in the illegal and transnational production and commercialization of cannabis, such as Paraguay and Colombia.

Paraguay is the largest producer of cannabis in South America, and it is estimated that 70% to 80% of its production is destined for Brazil, mainly to supply Brazilian domestic consumption (INSIGHT CRIME, 2016). However, there are indications that countries such as Chile, Argentina and Uruguay have increased their demand for cannabis in recent years, which has influenced the competitiveness of the drug market and caused an increase in the prevalence of Paraguayan plantations. Available data corroborates this view, estimating that marijuana use in Argentina and Chile doubled between 2008 and 2017 and that the trend of use remained stable in Bolivia and Colombia (UNODC, 2021). In addition, there are signs that existing routes for cocaine trafficking are being used for cannabis trafficking into these countries (SENAD, 2018).

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5 A twin city is characterized by the integration of a city into a region bordering another country, creating an environment of free movement between both territories. According to the National Confederation of Municipalities, Brazil currently has 33 cities that are characterized in this way. Available in: <https://www.cnm.org.br/comunicacao/noticias/criada-comissao-para-estimular-desenvolvimento-de-municipios-da-faixa-de-fronteira>. Access on 16 Mar. 2022.

In Paraguay, drug traffickers strongly influence the rural population, local authorities, and the country's politics (GARAT, 2016). The illicit actions of guerrillas related to drug trafficking have seriously compromised national security in Paraguay because of the scenario of institutional fragility, linking illicit practices to the State and the Paraguayan People's Army, and the growth of organized crime. This complex scenario has blurred the line between organized crime and state institutions. In addition to the supply of cannabis, Paraguay is a route for air trafficking of cocaine to Brazil, mainly from Bolivia (CDE, 2021). Cocaine trafficking is characterized by having a more complex and considerably profitable production chain for the actors who operate in this criminal market. In Paraguay alone, for example, it is estimated that this type of trafficking moves US\$800 million per year (Garat, 2016). Regarding the issue of cocaine, South America stands out for concentrating the highest estimated amount of global cocaine production in the world. In 2019, the region had more than half of the world's cocaine seizures, with Colombia being the main coca cultivating country, followed by Peru and Bolivia (UNODC, 2021). It is estimated that about 60% to 65% of Latin American cocaine is destined for North America, which is considered the largest consumer market and main trafficking route beginning in the Americas (Chalk, 2011; UNODC, 2021). The second largest known route is to Europe with Brazil often being the country most reported as the main transit country for cocaine shipped from the Andean countries to Africa, Europe, and Asia, in addition to supplying the large Brazilian consumer market (UNODC, 2021; UNODC, 2022).

Similarly, between Colombia's supplying cocaine and acting as a hub for other markets lie the commercial drug trafficking dynamics of Peru and Bolivia. In both countries, coca leaf production integrates cultural and religious traditions, and its historic use dates back more than 5,000 years. In Peru, it has been observed that the expansion of coca cultivation and cocaine production in the last decade was due to the remnants of the Shining Path group and its link to drug trafficking, and the expansion or progressive displacement of organized trafficking groups from Colombia to Peru (DEVIDA, 2021). Considering the year 2020, there is also a slight tendency for an increase in illicit crops (13%) in Peru and Bolivia (15.3%), while in Colombia there was a decrease in the area under coca bush cultivation by 7.1% (UNODC, 2022). Cocaine trafficking has ensured a promising market for Peru, with estimates of the accumulation of an illicit capital stockpile of more than US\$20 billion (DEVIDA, 2021). According to 2017 data, there are about 50,000 families involved in drug trafficking in the Peru (DEVIDA, 2021). In turn, 2020 data show that areas of illicit coca leaf cultivation in Peru account for about 61,000 hectares, with an estimated

92% of these areas destined for drug trafficking and not for cultural or industrial purposes, with an approximate production of more than 400 tons of cocaine. Moreover, drug trafficking permeates relations in the country's State apparatus, political parties, and the private sector (DEVIDA, 2021).

The increase in these Latin American countries' role in the production and trafficking of drugs may impact the decrease in the importance of Colombia as a player in this criminal market. Recent data indicates the diversification of criminal groups operating in the trafficking of cocaine from South America to Europe, which is the route that was previously dominated by groups from Colombia and Italy. Fragmentation of criminal groups may have influenced this scenario, especially after the demobilization of the Revolutionary Armed Forces of Colombia (FARC) (UNODC, 2021). As for the Brazilian side, the country differs from its neighbors by not being a cocaine-producing country. Despite its domestic consumer market, the characteristics of drug trafficking in Brazil are based on its condition as a relevant transit country, which means that Brazil is tied to the processes and organizations of producer and consumer countries. This characteristic also connects Brazil to international drug cartels and groups at the epicenter of consumption hubs (Procópio and Vaz, 1997).

Studies date back to the emergence of criminal organizations in the 1960s and 1970s, which were characterized mainly by the retail trade and the dispute for control of territories for the sale of illicit drugs (ADORNO, 2019). However, what seemed to occur mainly in the states of Rio de Janeiro and São Paulo gradually became a national problem. Criminal groups in Brazil have distinctive characteristics, with higher or lower levels of organization and hierarchy. The range of such groups varies from the emergence of armed local groups mainly in territories marked by vulnerability and social exclusion to the globalization of organized criminal groups in the country and in articulation with neighboring countries. However, at least in the two largest cities in Brazil, São Paulo and Rio de Janeiro, over the decades, some factors have tended to guide the actions of organized criminal groups: consolidated control over territories and illicit markets, the reduction of armed conflicts between the groups and their association with one another to increase profits and reduce risks for members and beneficiaries, and the increasing professionalization of trafficking focusing on economic growth and incorporation into the formal state. In this respect, Zaluar (2012) connects organized crime with drug trafficking in Brazil: several urban sociologists pointed out the deep associations between professionalized or organized crime, local clientelist politics and savage capitalism, the links between illegal and legal business, the passages between diversion and the conventional world, which would interpenetrate (p. 346).

Cocaine trafficking has become a very lucrative market in South America, and disputes soon arose to demarcate routes, territories, suppliers, and consumer markets. In Brazil, groups such as Comando Vermelho (CV), Família do Norte, Terceiro Comando Puro, and Primeiro Comando Capital (PCC) are some relevant examples. Among them, the PCC is the most prominent, having become one of the largest suppliers of cocaine in Brazil and for international trafficking from Brazil. The criminal organization, created in 1993, emerged from the prisons of São Paulo and currently has control of most of its prisons. The PCC has also expanded its operations nationally and internationally, and it is estimated that, in 2017, the organization already had about 14,000 members, working inside and outside the prison system (Dias and Manso, 2018).

These types of dynamics and cooperation in environments with high levels of state fragility is of paramount importance to understand the processes of expansion of criminal factions in Brazil. The PCC, for example, went through a process of globalization due to, among other factors, its performance in neighboring regions, such as Corumbá, located in the state of Mato Grosso do Sul on the border with Bolivia. This globalization also stems from relationships within the criminal underworld and moral debts among individuals who work in drug trafficking, as well as among those who are imprisoned in the region (Oliveira and Krüger, 2018). The PCC also exerts a strong influence in Paraguay, through the establishment of drug trafficking activities in the country and the direct involvement of Paraguayans in the criminal group (SENAD, 2021). Considering the magnitude of criminal groups in the country, as they transcend national borders, the Brazilian State faces the challenge of transnational crimes occurring within its borders. The issue is aggravated given the following difficulties: –there is a limited number of professionals in charge of working in an extensive border area, the security professionals sometimes work in challenging environmental conditions and face poor access to material resources necessary to perform their duties in these environments, the institutions in charge of border security are highly fragmented, and there are low communication capacities among police units in the region (CDE, 2021).

These difficulties are also labelled as *gaps* faced by governmental institutions responsible for repressing criminal groups. These gaps eventually make room for the creation of a non-state order, taking into consideration Idler's (2021) contribution to this issue, which argues that the existence of patterns of behavior developed by violent groups determine a social order that contributes to the establishment of some kind of cooperation in these spaces where the formal State has low capacity to act.

## Dynamics of Illegalities at the Border during a Global Crisis

As this chapter argues, criminal groups' infiltration into society develops through a network that is intertwined with the State, through the convergence of legal and illegal orders. Pondering on the action of illegality during crises is a reflection that we seek to bring in order to highlight how the occurrence of crime is rooted in social dynamics, such as the one experienced by great changes due to COVID-19 pandemic. With the rapid spread of COVID-19 at the beginning of 2020, several governments implemented measures restricting internal circulation and the total or partial closure of borders as pandemic prevention measures. The decrease in border flows by land, air, and sea in South American countries due to the prevention of the spread of COVID-19 began shortly after the announcement of the pandemic by the World Health Organization (WHO) in March 2020. In Brazil, the process of restricting travel with its neighboring countries also began on March, 2020. In the context of the global health crisis, several sectors of society were affected, including the flows of lawful markets. However, as the central focus of this analysis is drug trafficking, this chapter seeks to understand the possible influences that the pandemic has had on it.

Recent studies<sup>6</sup> on the subject around the world highlight the importance of analysis in order to identify dynamics that have changed in illicit markets, with a focus on drug trafficking and the emergence or strengthening of new trends. In terms of drug trafficking, it is characterized by heterogeneity and flexibility, as it has different stages that adapt to local contexts, market demands, and strategies of redesign: cultivation, production, processing, transportation, marketing, and money laundering. Drug trafficking is also a dynamic that has become more involved in politics and the economy, through the transformation of illicit resources to compete in lawful markets and coopt state officials into participating in corruption. As a direct effect of the pandemic, the stagnated arrival of chemical precursors to drug-producing countries, the displacement of transit countries, and trade barriers to drug suppliers interrupted the cocaine trafficking chain. Consequently, this generated, even for a brief period, an observed reduction in the value of coca leaf production in Peru and Colombia at the beginning of the pandemic, negatively impacting farmers who depend on these crops for their livelihoods (UNODC, 2021). Similarly, retail drug prices increased in some consumer markets, which doubled in some US cities (DEVIDA, 2022).

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6 UNODC (2020), UNODC (2021), EMCDDA (2021), UNODC (2022b).

However, the cocaine trafficking rings were able to reestablish themselves during the COVID-19 pandemic. The transnational nature of criminal organizations was a fundamental factor for maintaining and adapting drug trafficking operations throughout the world, especially in times of production interruptions and abrupt changes in the modalities of the transportation of goods. A study prepared by the Center of Excellence for Illicit Drug Supply Reduction (CDE, 2021) points to a strong trend in the resilience of criminal organizations during COVID-19, despite the application of several enforcement measures to restrict the movement of people at local and global levels. The possible modifications to these trafficking networks were pointed out by georeferenced seizure data that refers to a change in the pattern of locations used by criminal organizations for the trafficking of marijuana and cocaine, increasing the frequency of routes through the south of Brazil (CDE, 2021; UNODC, 2022b).

Another change following the beginning of the pandemic, was the increase in drugs seized transported through highways (CDE, 2021). The restrictions on circulation and the decrease in the circulation of cars on the streets, among other reasons, contributed to this change. Moreover, the restrictions facilitated police surveillance on national highways. While there are factors that could have favored police work, even temporarily, this dynamic reflects the extent to which such restrictions and difficulties during the COVID-19 pandemic have affected criminal organizations and led them to plan new courses of action and alternative strategies. In this respect, it is important to identify criminal organizations' tendencies for future change. Based on the information acquired from data on seizures in ports of the country and on the international trafficking of cocaine, there was an expansion of destinations for the cocaine and a possible diversification of ports used, with an increase in the use of Northeastern Brazil (CDE, 2021). The research also points out that one of the reasons for the diversification of ports used in Brazil for drug trafficking was the implementation of new enforcement strategies and increased control in the Port of Santos and ports in the southern region of Brazil. On the other hand, the diversification of destinations for the shipment of illicit drugs may indicate a response to the demands of consumer markets, beyond the U.S. and Europe, expanding to other continents and regions.

Similar studies have presented the diversification of the ports used in South America for cocaine trafficking, indicating that Argentina, Chile, and Uruguay have been used more by criminal groups in recent years. The ports of these countries constitute non-traditional routes for the outflow of cocaine from South America, which have become incentives for their use.

Criminal groups take advantage of institutional weaknesses, such as low enforcement, to increase profits given that with traditional routes criminal organizations lose about 20% from seizures (Sampó and Troncoso, 2022). In Brazil, trafficking by air, especially in private aircrafts, not very affected by stoppages due to the pandemic. As for the domestic retail market, there were reports in Brazil of the frequent use of mobile applications for the sale of illicit drugs, as well as the expansion of drug deliveries at the local level and through the postal service (CDE, 2021).

The complex form that established the dynamics of criminal groups, with their transnational bonds capable of transporting a large amount of cocaine from a region to the whole world through various strategies and transport mechanisms, which enabled them to maintain their activities even during the COVID-19 pandemic. This phenomenon makes it necessary to better understand the meaning given to what security forces traditionally understand as “trafficking routes of drugs”, which should be understood, as far as possible, as non-static. The traditional and busiest drug transportation routes are usually those already known to authorities, which are the focus of most strategies to combat international drug trafficking. Due to the malleability of criminal groups, new routes, means of transportation, and drug-loading areas have appeared. However, the theme of trafficking routes is still little explored in the research available, indicating the need for greater understanding, information sharing and research, even if it is impossible to map the extent of the territory that they occupy (Adorno, 2019: 45).

With the economic situation worsening in South America during the pandemic, possible consequences of the COVID-19 pandemic in the long term indicate challenges related to increased poverty and unemployment, which could trigger an expansion of the involvement of people in organized crime (UNODC, 2021). Residents of Brazil, Colombia, Peru, Bolivia, and Paraguay reported before the outbreak of the COVID-19 pandemic that the issue of delinquency and public security were the main socioeconomic issues. This analysis is based on data provided by the Latinobarometer (2022) platform, which cites that during the years 2013 to 2017, unemployment appeared to be a secondary issue, followed by corruption. With the outbreak of COVID-19 in 2020, trends published by Latinobarometer (2022) began to differ in terms of reported data, which indicated that the economy would be the main post-pandemic challenge, compared to previous years where the issue of human security was more prevalent. In addition to economic challenges, Latinobarometer (2022) cited citizens' concern for their health, poverty, and the overall political situation.

**Table 1** - In your opinion, what is the main issue that your country faces?

Country	% Referring to Delinquency/Public Security				
	2015	2016	2017	2018	2020
Brazil	9.0%	2.9%	2.6%	5.5%	3.3%
Colombia	11.4%	17.5%	10.1%	12.1%	7.6%
Peru	38.0%	54.9%	40.0%	25.9%	6.9%
Bolivia	25.1%	14.9%	14.0%	7.1%	1.1%
Paraguay	24.7%	16.3%	15.2%	10.1%	4.0%

Source: Latinobarometer (2022).

While economic concerns dominated public perception, armed criminal groups took advantage of global and national instability and assumed informal control of several territories to sell drugs, with reports that some groups expanded their financial capacity through the supply of informal credit lines, food, and even the imposition of quarantine-related rules in communities such as Rio de Janeiro (Moncada and Franco, 2021). This scenario became a challenge for the State, as it affected the consolidation of the rule of law and organized civil society, in addition to the distribution of goods and services to citizens.

## Conclusion

This chapter aimed to elucidate two key points about the dynamics of organized crime, especially those related to drug trafficking in Latin America. The first reflects the absence of the State due to the emergence and development of organized criminal groups. The advent of organized criminal groups involved a web of relationships between crime and the formal State. Because of the entanglement between the criminal and state actors, the second aim of this chapter was to discuss the dynamics used by primary actors in South America, which were characterized by the exponential development of transnational transactions, breaking boundaries, and the notion of the State. The COVID-19 pandemic then functioned as a more recent example of organized criminal groups' ability to adapt. As we argued in this chapter, while it is still early to evaluate medium and long-term changes in transnational drug trafficking due to the COVID-19 pandemic, there are indications that criminal groups have adapted to the current scenario by strengthening or creating new dynamics for action, which could lead to both medium and long-term changes in drug trafficking. As organized criminal groups continue to evolve, the study of organized crime remains an essential topic to understanding the global economy, particularly financial

transactions related to violence, corruption, and compromising the rule of law. Moreover, drug production, trafficking, and consumption have a significant impact on health, social development, the economy, security, the environment, and state governance. The challenges posed by this phenomenon require comprehensive, multidimensional, and international cooperation efforts to improve quality of life and the rule of law in these societies.

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## 4

## The Political Trajectory of Organized Crime in Mexico

Fausto Carbajal-Glass<sup>1</sup>

December 2022 marked the 16<sup>th</sup> anniversary of the War on Drugs<sup>2</sup> in Mexico. At the time of the anniversary, organized criminal groups had taken advantage of four major dynamics: becoming more violent in their tactics, economically diverse, fragmented, and geographically strategic (Carbajal-Glass, 2020a). As a consequence, the political dimension of organized crime has also evolved over the years, particularly at the local level. This chapter seeks to revisit the political trajectory of organized criminal groups in Mexico in light of the abovementioned dynamics. In particular, this chapter focuses on two cross-fertilizing questions: what does organized crime mean for statecraft at the local level? And what is the role of criminal groups in a community? Answering these questions is essential to improve our understanding of and response to the dynamic of organized crime in Mexico, and possibly other countries facing similar challenges (Carbajal-Glass, 2019b). In order to answer these questions, this chapter compares two analytical approaches, which are the “extra-legal forms of governance” and the “complex social order”, in an effort to understand and analyze organized crime in Mexico. As the chapter will explain in section three, there are many ways to describe organized crime and its relationship with the State and communities. However, some of these depictions have made organized crime even more confounding and difficult to address through policymaking only. At the same time, the political trajectory of organized criminal groups has become more salient in light of recent dynamics in the Mexican criminal underworld.

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  - 2 In December 2006, the Mexican government launched an offensive against drug-trafficking organisations operating in the country. As it will be explained in the next section, the strategy had serious side effects in terms of large-scale violence and the evolution of organised crime in Mexico as such. For an expanded account on Mexico’s War on Drugs, see: Valdés-Castellanos (2013).

The first approach, more commonly employed, delves into the existence of extralegal forms of governance within a community and seeks to explain how alternative forms of governance by criminal groups were created and evolved across time. On the other hand, the second analytical approach, which this chapter uses as part of its main argument, more fully addresses the informal institutions that criminal groups use at the local level, which are part of a broader complex social order in which legal and illegal actors, both political and economic, interact in multiple ways. Although both approaches highlight the detrimental effect organized crime has on fragility in the Mexican State, this chapter is critical of the first approach since it disregards hybrid organized criminal dynamics in Mexico, as well as new mechanisms of interaction between criminal groups, the State, and communities. Before addressing this issue to a fuller extent, a brief background of Mexico's criminal landscape is necessary to discuss the "extralegal forms of governance" and the "complex social order" approaches to understand what organized crime means for the Mexican State at the local level and what role criminal groups play in communities today.

### **The Organized Criminal Landscape in Mexico**

Not long after the Mexican government launched a "kingpin strategy"<sup>3</sup> to counter criminal organizations in December 2006, organized crime in Mexico has taken on five interconnected dynamics that are still in force.<sup>4</sup> First, the criminal landscape is fragmented. Some estimates suggest that the number of criminal groups grew by 900% since 2007 (Angel, 2017), with as many as 245 to 400 new criminal groups interacting in the country (Ellis, 2018; Chaparro, 2021). Second, there has been an unprecedented increase in criminal violence. According to government data, from 2007 to 2014, the national intentional homicide rate rose from 9.2 per 100 thousand inhabitants to roughly 13 per 100 thousand inhabitants (SESNSP, 2022). As for 2015, 2016, and 2017, the homicide rate was roughly 17, 20, and 26 per 100 thousand inhabitants, respectively (SESNSP, 2022). The year of 2018 was the deadliest year in Mexico's recent history, as there was a total of 36,685 homicides, meaning that the national intentional homicide rate reached 29 per 100 thousand inhabitants (SESNSP, 2022). It is worth mentioning that 2021 registered a slight decrease, albeit still strikingly high, with 27 homicides per 100 thousand inhabitants (SESNSP, 2022).

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3 The strategy consists of large-scale joint operations by federal police and the military aimed at decapitating Mexico's most powerful drug trafficking organizations (Guerrero, 2013).

4 For more recent trends in organised crime in Mexico, see Carbajal-Glass (2020b).

Third, organized crime has become a predominantly local dynamic that is confined to specific geographical regions (Carbajal-Glass, 2019c). For instance, in 2017, half of lethal violence in Mexico was concentrated in 56 of the 2,457 municipalities (Guazo, 2018). As the Mexico Peace Index 2022 states, smaller criminal groups with less infrastructure and logistical support for drug smuggling have become more localized in their scope of operation (IEP, 2022, p. 37). Fourth, criminal organizations in Mexico have diversified their revenue streams by performing at least 23 illegal activities, such as human trafficking and exploitation, firearm violence, train assaults, alcohol and cigarette smuggling, fuel theft, illegal mining, copyright piracy, kidnapping, murder, and extortion, just to name a few (Carbajal-Glass, 2020b, p. 148). Finally, criminal groups have infiltrated state institutions, particularly at the local level, and have become deeply embedded in local communities (Carbajal-Glass, 2018, p. 9; Piedrahita, 2020).

In synthesis, Mexico's criminal underworld has drastically changed over time by becoming more polymorphous and violent. This worrisome changing character of organized crime in Mexico was reported by the Global Organized Crime Index 2021, which provides a comprehensive assessment on the extent to which illicit economies, as well as the dynamics of criminal actors and networks are pervasive in Mexico, being one of the six countries, along with Colombia, with the world's highest criminality rate (GITOC, 2021). Therefore, it is paramount to revisit the nature of existing informal institutions shared between criminal groups and local communities as well as its impact on the level of Mexican state fragility.

### **Beyond a Narco-centric Explanation of Violence in Mexico**

Institutions are created out of a social need to channel the power of collective action. Ultimately, they shape the behavior of individuals and structure human interactions (North, 1990; North et al, 2009). However, scholars who focused on Latin America have long ago pointed out the limits of approaches centered on formal institutional design (O'Donnell, 1996; Levitsky, 2001; Helmke, 2003; Helmke and Levitsky 2004). This chapter is deeply concerned with those informal institutions that have a crucial impact on the social order and political environment. However, most of the literature has focused on informal institutions within the limits of the law. There is less research on informal institutions concerning illegal non-state actors. Thus, this exploratory research seeks to theorize on the informal institutions used by organized crime at the local level. Scholarship focusing on civil war has been useful for this research (Balcells, 2010; Bacells and Justino 2014; Arjona, 2014; Balcells, 2015). For Arjona (2014), informal institutions by illegal non-state actors should be understood as mechanisms

of territorial control and regulation of public order through, for example, illegal taxation (extortion), provision of security in exchange for social compliance, intimidation or the use of violence, provision of services like health care or education, dispute resolution schemes, and even cultural codes, symbols, and other expressions of identity (Arjona 2014, p. 1376-1377).

As with literature written from the context of civil war, in the scope of this chapter it was adopted a meso-level analysis insofar as the municipality is the lowest politico-administrative unit in Mexico. The meso-level of analysis should be understood as the study of those processes taking place at the municipal level, such as local forms of collective action and governance, local institutions, and groups leadership (Balcells and Justino 2014, 3). As Arjona (2014) argues, while chaotic and anarchic violent settings may appear at the macro level, order often emerges locally through the creation of informal institutions. In this sense, local level analysis acquires a particular relevance as, in the words of Abt and Winship (2016), “community violence is emphasized because [...] it likely accounts for the largest number of homicides” (p. 3). It is worth mentioning that the meso-level approach, in the scope of this chapter, allows to bridge levels of analysis in the study of violent non-state actors (Balcells, 2014), such as organized criminal groups in the case of Mexico. As for the micro level, this approach could contribute to help to explain why people join armed groups. At the macro level, this approach could help to determine why security policies and peace and state building processes fail, national reconciliation initiatives succumb to pressures, and nation-wide large-scale violence perpetuates.

As for criminal violence, this research goes beyond the narco-centric explanation of violence in Mexico. The narco-centric explanation of violence may obscure private drivers and motivations that take place locally. The identification of parallel processes of violence could add another layer to the overarching violence that currently occurs under the macrocleavage known as Mexico War on Drugs. In Kalyvas’ (2015) perspective, “what appears on the macro level to be [ethnic or sectarian] violence could be motivated, when one looks at fine-grained data, by feuding between competing individuals, neighbourhoods, or villages that adopt the macrocleavage as convenient cover” (p. 15). It is worth noting, however, that Kalyvas (2015) and Arjona (2014) consider civil war scenarios in their analyses. In this sense, Osorio et al (2021) have pointed out that “while the literature has witnessed a turn towards the study of armed groups institutions, we know comparatively little about institutions built by armed non-state actors outside of civil war settings” (p. 1571). That said, the Mexican case study could make

important analytical contributions to the way that violent non-state actors, chief among them organized criminal groups, interact with communities at the local level and impact statecraft.

### **Understanding Mexico's Security Conundrum**

As it will be portrayed below, there are two opposing ways to understand and analyze organized crime in Mexico today: a) the extra-legal forms of governance approach, and b) the complex social order approach. Both of these approaches are theoretically valid in the sense that they aim to explain Mexico's security crisis by acknowledging its political nature (Carbajal-Glass, 2019b). These crises are exacerbated by deep-rooted factors such as the weakness of local law enforcement institutions or social distrust in government authorities, often due to corruption and impunity. As it will be seen, both analytical approaches highlight the State's weaknesses as the main enabler of informal markets and governance (Clunan and Trinkunas, 2010). At the local-municipal level, the State experiences fragility as it struggles to consolidate democratic values, procedures, and mechanisms in their own communities, due to informality. This chapter adopts a critical stand on the extra-legal forms of governance approach, albeit it may apply to other countries severely affected by organized crime,<sup>5</sup> or indeed may have been applicable in the early stages of Mexico's War on Drugs. The main reason is because this analytical approach disregards variables that are vital considering the current Mexican criminal landscape. Conversely, the second approach is an attempt to represent the current dynamics of organized crime in Mexico and what they represent for statecraft.

#### **The "Extra-legal Forms of Governance" Approach**

Some communities, if not regions, in Mexico are said to be run by "parallel governments made up of criminalized political and administrative structures" (Muggah and Sullivan, 2018). Felbab-Brown (2013), for instance, has asserted that "in parts of Mexico, criminal gangs dominate the lives of entire municipalities, and their reach extends to state governments" (p. 148). In this sense, much of the research focus of Skaperdas and Syropoulos (1995) has been criminal gangs in Mexico that has been labelled as a "primitive state," regarding how they regulate social behavior, provide basic goods and services, and establish de facto boundaries. According to this analytical approach, the scope and depth of informal settlements between criminal groups and local communities in Mexico can bring

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5 See Sampaio (2021).

about extra-legal forms of governance. In this sense, the definition of governance by Rosenau (1992) is useful: “[t]hose activities that may or may not derive from legal and formally prescribed responsibilities to overcome defiance and attain compliance.” Moreover, Rosenau (1992) distinguishes between government and governance to explain this extra-legal character: “Governance is a more encompassing phenomenon than government as it subsumes informal, non-governmental mechanisms” (p. 4). Similarly, for Risse (2011), governance is a process that entails two dimensions: actors and modes of coordinating social action (p. 11).

When it comes to criminal governance in particular, Lessing (2021) defines it as “the imposition of rules or restriction on behavior by a criminal organization” (p. 856). This definition of criminal governance should be supplemented with the nuances provided by Sampaio (2021), in which armed criminal groups set and enforce rules, provide security or deliver other basic services, such as water, electricity or internet access, in an urban area, which may be a part or the whole of an informal settlement or a neighborhood (p. 11). It is worth mentioning that criminal governance creates two blockages to peace and state building, namely that criminal structures do not reduce large-scale violence and take advantage of cultural and structural violence, alienating citizens from the State (Ferreira and Richmond, 2021).

The extra-legal forms of governance approach relies on insightful premises, chief among them that there are no such things as “ungoverned spaces” (Comolli and Schake 2018). From an institutionalist viewpoint, governance weakness –or utter lack of it– equals to power vacuums left by the State, which are normally filled by other state or non-state actors. The idea of ungoverned spaces neglects the alternative structures of control, organization, and mobilization between organized criminal groups and local communities that are part of the social fabric, either through violence management, provision of goods and services, or dispute-resolution. Lilyblad (2014) proposes a useful framework to analyze how non-state actors assume roles of authority and institutionalize governance in what he calls “territories of limited statehood,” through coercive violence, socio-economic security, and social legitimacy.

This approach can be applied to governance in Mexico, as it impacts the fragility of the State. Taken to an extreme, it claims that certain forms of infiltration, such as subversion and substitution, are commonly associated with insurgent groups and are part of Mexico’s criminal landscape. As a result, some scholars have employed categories such as “criminal insurgency,”

“narco-insurgency,” and “narco-terrorism” to depict the Mexican criminal landscape (Killebrew and Bernal, 2010; Grillo, 2011; Sullivan, 2011; Schedler, 2014). However, the study of organized crime under this conceptual umbrella might make organized crime more confounding and could be risky for the purpose of policy making. First, this analytical approach downplays the influence of the aforementioned dynamics in the Mexican criminal landscape. Chief among these dynamics is the emergence of a more fragmented, increasingly local, and economically diversified organized criminal structure. In addition, building on research conducted by Ucko (2013), one of the main limitations and risks to “extra-legal forms of governance” is that “it denies the local population agency, treating them as passive victims, and compels a re-imposition of the state (and of state functions) as the go-to solution” (p. 529). This mindset neglects the sense of order that has long predated the imposition or re-imposition of the State: order through military means. Furthermore, this approach does not take into account the widely researched political-government nexus (Godson et al, 1997) or that criminal groups adopt behaviors and characteristics of state-building actors (Barnes, 2017; Tilly, 1985), such as conflict resolution schemes, basic services provision – e.g., food, water, electricity– or security. This said, it is important to define the nature of informality in Mexico next, particularly the informal relationship between organized criminal groups and local communities, and its impact on the State, as being more about extra-legal forms of governance or a complex social order in which legal and illegal actors interact through a combination of formal and informal institutions.

### **The “Complex Social Orders” Approach**

As it has been explained above, the “extra-legal forms of governance” approach erroneously regards organized crime in Mexico as an entity alien to what Khoshkish (1979) referred to as the “socio-political complex.” Criminal groups, the argument goes, are capable of controlling or even governing territories through “kalashnikov,” or quasi-military parades and the exertion of high-intensity violence. The main weakness underlying this idea is the assumption that those territories where criminal groups operate, or migrate to, are politically neutral (Carbajal-Glass, 2022a). Assuming that these territories are politically neutral disregards two fundamental causal mechanisms that have reshaped the Mexican criminal landscape: the emergence of more fragmented and localized criminal groups in Mexico (Carbajal-Glass, 2019a) and the democratization process and the ensuing political fragmentation at the local level (Carbajal-Glass, 2018). It is worth briefly expanding on these two variables to theorize about the meaning of

organized crime for local communities and the State.

The severe fragmentation and increasingly local scope of the organized criminal dynamic in Mexico has made the analysis of power relations and tensions between criminal groups and private actors with specific interests at the local level all the more necessary. These private actors include, among others, political parties, unions, politicians, local and national entrepreneurs, ranchers, and multinational companies, to name a few (Carbajal-Glass, 2022b). Consequently, the “complex social order” analytical approach highlights the intricacies underlying the interaction between organized crime and the State. This approach emphasizes the way in which organized crime relates to power, particularly the concentration and conservation of it. Research by Tilly (1985) is rather helpful in considering the symbiosis between political power and crime as a fundamental element in the creation of the State (state making) and war (war making) (Reference). For this reason, Tilly (1985) argues that “banditry, piracy, gang rivalry, surveillance (policing), and war are part of the same continuum” in the state-making process (p. 170).

Similarly, organized crime in Mexico has been historically part of the political regime (Chabat, 2005) and has been used at different levels of government as “machinery to integrate power” (Astorga, 2009, p. 56). By analyzing the current role of criminal groups in Mexico through the lens of criminal fragmentation, one can identify that power relations and tensions are, in essence, historical and political processes (Carbajal-Glass, 2022b). Concretely, these power interactions, in which organized crime indeed plays a violent and political role, are associated with the search and maintenance of power by private actors, chief among them land access, economic hegemony, and political domination. This interaction evokes Arendt (1963) particularly when she stated that “[p]ower comes into being only if and when men join themselves together for the purpose of action, and it will disappear when, for whatever reason, they disperse and desert one another. Hence, binding and promising, combining and covenanting are the means by which power is kept in existence; where and when men succeed in keeping intact power which sprang up between them during the course of any particular act or deed, they are already in the process of foundation, of constituting a stable worldly structure to house, as it were, their combined power of action” (p. 175).

In addition, the democratization process has exacerbated these power tensions among private actors and, ultimately, the role of criminal groups as “violent brokers,” as Berber (2017) would call them. The political

changes associated with democratization at a national scale in Mexico in 2000 “undermined the pyramidal composition of power structures (i.e., the single-party government and the centralized authority of the president), which led to the loss of social control” (Villarreal 2007, p. 484). In turn, local political and economic elites adopted a more competitive approach in their relationship with the central government. The democratization process shed light on the national political system in Mexico as a set of subnational regimes (O’Donnell, 2004, p. 183) operating within the context of a national polity and economy (Anderson and Cockcroft, 1972, p. 12). Paradoxically, it was during this democratic dawn that coercive undemocratic mechanisms of strongmen enjoyed a sort of parallel sovereignty (Maldonado-Aranda, 2013p. 66). Moreover, the central government’s decline at a national level strengthened local and regional “arrangements” between organized crime and the State as well as municipal governments (Carbajal-Glass, 2022b). In this sense, it could be said that the democratization process in Mexico took the crime-government nexus to a higher level in terms of depth and scale.

More recently, however, not only the crime-government nexus but also the economic sector-crime nexus eventually became more problematic during the so called “War on Drugs” (Carbajal-Glass, 2018). The federal government’s security strategy contributed to not only a fragmentation of the criminal landscape but also a general political reconfiguration. The unstable system of relations between organized crime and the State at the local level during the democratization period became even more unstable when criminal fragmentation took place in the context of Mexico’s Drug War. Thus, criminal fragmentation led to political fragmentation, which made the search for power more competitive and chaotic.

The “complex social order” analytical approach does not intend to assign less seriousness to the role of criminal groups in Mexico, nor to trivialize its meaning for the statecraft. Indeed, criminal groups may play a political role in many Mexican communities insofar as they seek, concentrate, and exert power. However, they are also involved politically at the local level as they help other private actors, both legal and illegal, to seek, concentrate, and exert power through coercive means and high-intensity violence. Although subtle, this epistemological shift demystifies the subordination of all actors in a community to organized crime. Contrary to the omnipotence that is commonly portrayed on entertainment platforms, criminal groups have worked to integrate themselves into these power tensions in urban settings by forging alliances and coalitions of convenience with actors at the local level. In this sense, today more than ever, due to its severe fragmentation and local dimension, organized crime is less able to impose its conditions and extra-legal forms of governance, even though

criminal groups may be more willing to exert violence as their preferred means of coercion.

Indeed, the “complex social order” approach presents a challenge to the State because lethal violence tends to perpetuate itself when used by actors to achieve private objectives, be they economic, political, or environmental. The scale of these micro dynamics of violence can be understood through the plight of local entrepreneurs who sometimes succumb to the informal economy. For example, an owner of a taxi company who has non-regulated taxis could be affected by an elected mayor who has run on a campaign of regulation and criminalization. Many times, after no positive outcome for the business, an entrepreneur might seek to broker a deal with a criminal group to coerce, or assassinate, if necessary, the public official so that he or she will desist from such a policy (Carbajal-Glass 2022b).

The “complex social order” analytical approach acknowledges that the War on Drugs worsened power disputes as it provided an unmatched platform for political and economic actors with local interests to redefine their positions of power in their own environments. As a result, this approach should also be understood as an attempt to nuance the developmental process of today’s violence in Mexico. In this sense, large-scale violence in Mexico should be seen as a result of micro-violent interactions, beyond those related to drug trafficking or any other illegal activity per se (Carbajal-Glass 2021, p. 143). Organized crime-related violence should also be analyzed as a fragment of a bigger power system. This analytical approach, then, should be understood as a response to the “narco-centric” approach of violence in Mexico (Reference). Although extremely useful, previous research has obscured community violence in Mexico. Criminal violence in Mexico should be understood as a by-product of historical private dynamics of violence in politically complex, economically competitive, and socially unstable environments.

In addition, the “complex social order” analytical approach emphasizes the incorporation of sociopolitical variables to reflect current interactions between organized crime and local communities, such as forms of collective action, systems of alliances, and involvement in local leadership. Contrary to the “extra-legal forms of governance” approach, overconfidence in state building might be a delusory panacea for two reasons: no institutional design will be able to shape local politics, and – actually, it should be the other way around, and institutions are not strong enough to adhere to the collective will. On the one hand, any action aiming at “imposing” or “re-imposing” the State should bear in mind the limits of state building

in complex informal settlements. Moreover, any security policy from the central government should bear in mind the community's sociopolitical environment and its components, namely key groups, relationships and tensions among groups, narratives that resonate within the community, and values, interests, and motivations. In other words, the intentions, means, and ways of the national government must be coupled with the realities and intricacies of local politics. On the other hand, however, locating local leaders and key groups for policy making may entail two challenges in these types of environments: not understanding the complexity and dynamism of the alliance and leadership system or relationships in the community and succumbing to political deals with criminal actors, especially since politics and the criminal underworld have become inseparable conditions of the political, social, and economic landscape. In this sense, the "complex social order" approach is meant to nuance the understanding of the role of organized crime in Mexico today, even more so considering the recent fragmentation of criminal groups and changes to operational scope in Mexico, along with organized crime's connection to politics. Contrary to what is commonly considered as a top-down relationship between organized crime and local communities, this proposed approach asserts that organized crime is just a fragment of a broader constellation of actors, legal and illegal, with private interests.

## **Conclusion**

Any sociopolitical order produces institutions. In their most sophisticated form, institutions uphold bureaucratic mechanisms and procedures. In their most essential form, however, institutions are informal human interactions and practices that occur on a daily basis. After having provided background for the evolution of organized crime in Mexico and briefly discussed the theoretical framework guiding this research, this chapter expanded on the idea of the existence of a set of informal institutions between criminal groups and communities in Mexico and their impact on the State. To that end, this analysis synthesized two approaches: "extra-legal forms of governance" and "complex social orders." The first approach relies on the idea that the weakening or lack of State authority has not prevented criminal organizations from shaping local communities through their own means and terms. In this analytical approach, criminal groups perform a top-down role in the sense that informal institutions resemble extra-legal forms of governance. These social and political mechanisms end up becoming alternative structures of control and affect the organization and mobilization of organized criminal groups and local communities and their interactions with one another. Such is the control that these extra-

legal forms of governance have over the Mexican state that organized crime performs the role of the State to the point of replacing it. The second approach suggests that the interactions between organized crime and local communities is less about alternative forms of governance and has more to do with a complex social order in which legal and illegal actors interact through a mix of formal and informal institutions. This said, the role that organized crime has over local communities might be subtler, albeit not less damaging, in terms of its ability to have an effect over statecraft insofar as paralegal sources of sovereignty arise. These power dynamics inevitably impact democratic governance, strong institutions, and citizen security on a local scale.

Both approaches are valid as they explain how power comes into being when criminal groups operate in or migrate to communities. However, recent trends in organized crime in Mexico suggest that the country is heading into a more complex set of interactions between organized criminal groups, communities, and the State. Possibly, the “extra-legal forms of governance” approach may have applied in the past when drug syndicates were highly sophisticated and had a predominantly transnational capacity. However, recent trends in Mexico’s organized crime bend toward the second approach to the extent that it has become a more fragmented and localized criminal landscape. The second approach also addresses how structural factors have promoted organized criminal activity in a country. In this sense, the “complex social order” approach is not only concerned with organized criminal groups in terms of their specific means, ways, and ends but also acknowledges that organized crime is not an isolated entity but, rather, is part of a social reality and consequence of political and economic dynamics. Making such distinctions could give insights into why security policies paradoxically generate more grievances and popular disconnection from the government following heightened regulatory policy or criminalization campaigns, peace-building processes fail, national reconciliation initiatives succumb to pressures from criminal groups, and nation-wide large-scale violence escalates.

Future research should integrate comprehensive ethnographic fieldwork to bring about more empirical evidence on the nexus between the State, communities at the local level, and criminal groups. While the ultimate task of this research agenda is to explain the history, impact, and future of these informal dynamics of state fragility in Mexico, it also reveals a rapidly changing criminal landscape, where Mexico is not an outlier but, rather, the norm. Internationally, research in this field could provide actionable insights to respond to the changing character of organized crime,

including urban security challenges in the 21st century, contemporary crime and conflict, and future trends of organized political violence.

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## 5

## Fragility in Venezuela and Nicaragua: Returning to the Sanctions Question

Emma Farris<sup>1</sup>

In the context of organized crime and corruption, the United States (US) government has imposed sanctions on countries wrestling with state fragility.<sup>2</sup> Sanctions function to condemn human rights violations, organized crime, terrorist financing, and corruption, all issues instigated and fed by state fragility. Following September 11, 2001, sanctions also became an important “tool [based] on the formidable strength of and trust in the US financial system and currency” (US Department of the Treasury, 2021, p. 1). Two primary recipients<sup>3</sup> of US sanctions in Latin America have been Nicaragua and Venezuela. Because of their similarities regarding institutional deterioration and organized criminal dynamics in the context of state fragility, this chapter will focus on these two countries.

In April of 2018, a series of protests broke out in Nicaragua to which the State responded with brutal force and repression. This response

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  - 2 This chapter does not endorse the static term of ‘fragile states.’ Instead, states *experience* fragility through a weakening of institutions and rule of law. If states are deemed as fragile or failed in their entirety, sanctions could be deemed altogether pointless, as the use of such terms would seem to acknowledge that there is little, if any, room for states’ improvement in terms of security and stability. In the context of ‘fragile states,’ although sanctions would continue to function as a punitive measure, they would not have any chance at forcing countries into compliance. For this reason, this chapter looks at state fragility, including weak institutions and rule of law.
  - 3 Cuba is another Latin American country heavily and historically sanctioned by the US, so much so that it deserves a separate chapter on US-Cuba relations and sanctions.

from the Nicaraguan government came only four years after protests in Venezuela in February of 2014 when the government responded in a similar way. Aside from the origins of their political crises, Venezuela and Nicaragua have both experienced a steady deterioration of state institutions and rule of law over the years, a result of the consolidation of power used to hush political opponents who try to speak out against the regimes. The states' repressive nature has created a void in other areas, particularly affecting social security, infrastructure, and the justice and banking sectors, in addition to the territories themselves. This void has turned the countries into havens and headquarters for criminal organizations, money laundering schemes, and corruption. Countries and actors around the world with an interest in conducting their business operations in Latin America have invested in the two countries, particularly Venezuela, which has known ties with Iran and its proxy, Hezbollah, a Lebanese terrorist organization, as well as other countries that cannot easily do business in other parts of the world (Humire, 2020a; 2020b).

State fragility seems to be the driving factor of an increasingly absent yet strikingly omnipresent State that neglects its population's general necessities and its role as protector in the security realm but remains ubiquitous through repression and crackdowns on civilians. The Fragile States Index published by the Fund for Peace (2022, p. 7) cites an "Elevated Warning" for Nicaragua and an "Alert" for Venezuela in the global context of state fragility based on social, economic, and political factors. The Corruption Perceptions Index published by Transparency International (2022) ranks Venezuela 177<sup>th</sup> and Nicaragua 167<sup>th</sup>, with both scores considered out of 180 countries. The Global Organized Crime Index adds that Venezuela and Nicaragua suffer from "high criminality" and "low resilience" to combat these dynamics (Global Initiative, 2021, p. 104), which means that the states cannot effectively combat organized criminal dynamics.

The pandemic has only isolated Venezuela and Nicaragua, amid border shutdowns and changing government policies, and amplified criminal dynamics in the countries, increasing state fragility. Criminal groups have adapted to pandemic setbacks, learning to operate in different ways than before, taking advantage of high public spending, and offering a flow of cash to public officials and their home countries at a time when the world turned its back on states experiencing high levels of fragility. Criminal actors have ultimately contributed to the economies of their home countries during a difficult fiscal period, bringing home an important source of income for many families and the State. Following the brunt of the COVID-19 pandemic, the international community must, once again,

reflect on US sanctions on Venezuela and Nicaragua in the context of state fragility. This chapter will look at how sanctions have affected each country through an overview of the US sanctions framework and an analysis of state fragility in the two countries since the US began implementing sanctions.

### **The Kingpin Act, the Magnitsky Act, and the Engel List**

Following the arms embargo, “in September [of] 2008, the US Department of Treasury’s Office of Foreign Assets Control (OFAC) designated three high-ranking Venezuelan officials as drug kingpins for providing material support to the FARC” (US Government Accountability Office (GAO), 2009, p. 13). The Kingpin Act became law on December 3, 1999, and allows the president, who, at the time, was President George H. W. Bush, made aware of foreign drug traffickers or entities who “play a significant role in international narcotics trafficking,” to designate these individuals or “kingpins” to prevent them from interacting with the US financial system (White House, 2009). The Kingpin Act has evolved over the years to include “foreign individuals and entities that provide specified types of support or assistance to designated traffickers, or that are owned or controlled by such traffickers, or that act on their behalf” (White House, 2009).

The Global Magnitsky Human Rights Accountability Act (Magnitsky Act) “authorizes the president to impose economic sanctions and deny US entry to any foreign person identified as engaging in human rights abuse or corruption” (Congressional Research Service (CRS), 2020), following a 2012 act specifically directed at Russian foreign actors but that in 2016, became law with global targets and ramifications (CRS, 2021a, p. 1). The US president is at the forefront of this law, expanded by Executive Order (EO) 13818 of December 20, 2017 (CRS, 2021a), which allows the president to decide whether to apply or retract applications of the Magnitsky Act (CRS, 2020). Civil society actors, along with any other non-state actors, may also provide counsel as to the direction of these designations (CRS, 2021a). Another conspicuous aspect of this law is that it expired on December 23, 2022, even though sanctions, because of EO 13818, may continue even after that date (CRS, 2021a).

While the Magnitsky Act focuses on corruption and human rights violations globally and provides the legal framework for related sanctions, the Engel List is significant because it focuses solely on the Northern Triangle of El Salvador, Honduras, and Guatemala (Runde, 2021). The Engel List is a product of the Magnitsky Act and the US-Northern Triangle Enhanced Engagement Act, sponsored by US House Representative Eliot

Engel in 2019 (Runde, 2021). The US-Northern Triangle Enhanced Engagement Act established a comprehensive plan of action to combat corruption in the Northern Triangle, which included a report detailing, among other elements, the need to create “a list of senior officials who are known or credibly alleged to have committed or facilitated such corruption, not including individuals who have already been sentenced to crimes in criminal courts” (*United States-Northern Triangle Enhanced Engagement Act, 2019*).<sup>4</sup> While the US-Northern Triangle Enhanced Engagement Act never became law because of its failure<sup>5</sup> to pass in the US Senate (*United States-Northern Triangle Enhanced Engagement Act, 2019*),<sup>6</sup> the US Department of State (2021a) published the “Report to Congress on Foreign Persons who have Knowingly Engaged in Actions that Undermine Democratic Processes or Institutions, Significant Corruption, or Obstruction of Investigations into Such Corruption in El Salvador, Guatemala, and Honduras,” which included a list of corrupt foreign actors in the Northern Triangle and is an adoption of the framework, which passed in the House of Representatives.

### **Sanctions on Venezuela: From Escalating Tensions to Zero Tolerance and Potential Relief**

The US began sanctioning Venezuelan-associated entities and individuals because of the humanitarian crisis in 2015; however, the US history of sanctions on Venezuela goes back to 2005, with the country’s noncompliance on anti-narcotics and 2006, with the arms embargo (Bull and Rosales, 2020). From congressional laws to executive orders, sanctions have ranged from arms trade restrictions to economic penalties for terrorist financing, drug trafficking, human rights violations, and corruption. In 2006, the US restricted the export and resale of arms to Venezuela because of the country’s noncompliance with the Arms Export Control Act (22 U.S.C. 2781) (CRS, 2021b). This arms embargo was the result of a designation due to Venezuela’s “virtually [having] ceased its cooperation in the global war on terror” (GAO, 2009). Yet this was not the first designation based on US national security concerns. In 2005, the US decided that Venezuela was not honoring its commitments to combat drug trafficking (CRS, 2021b), with President W. Bush citing that Venezuela had “failed demonstrably”

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4 See United States-Northern Triangle Enhanced Engagement Act, H.R. 2615, 115th Cong. (2019).

5 The US-Northern Triangle Enhanced Engagement Act only officially passed in the US House of Representatives.

6 See United States-Northern Triangle Enhanced Engagement Act, H.R. 2615, 115th Cong. (2019).

in this regard (GAO, 2009). The US decertified<sup>7</sup> Venezuela in “anti-drugs and human trafficking cooperation” in 2005 (Bull and Rosales, 2020). Prior to this designation by Bush, Venezuela had begun purging the country of American involvement in the issues of drug trafficking, ending formal cooperation with the US Drug Enforcement Administration (DEA) (GAO, 2009).

Today, the Global Organized Crime Index ranks Venezuela as 6.64 in criminality on a scale of one to ten (Global Initiative, 2021), which is one of the worst scores in the Americas. High levels of criminality are joined with a low state capacity to resist and combat such dynamics, which is reflected in its “resilience score” of 1.92 (Global Initiative, 2021). The US also no longer has a presence in Venezuela, which is the result of a suspension of US Embassy operations in Caracas in 2019, when the US accepted the interim democratic government of Juan Guaido (US Department of State, 2022a), as opposed to the Nicolas Maduro regime, which, although autocratic, has continued to hold onto power in Venezuela over the years. The US does, however, maintain a Venezuelan Affairs Unit out of Bogotá, Colombia (US Department of State, 2022a), through which it has held diplomatic relations with the Guaido interim government. However, in December 2022, the Venezuelan opposition voted to oust Guaido as the head of the opposition and interim president of Venezuela, which became effective on January 5, 2023 (“Oposición de Venezuela,” 2022). While the US Embassy in Venezuela continues to be based out of Bogotá, Colombia, this situation has muddied the waters even further for US-Venezuela relations and coordination on human rights and humanitarian relief, among other key issues.<sup>8</sup>

The US has also sanctioned Venezuelan state officials and companies for their nexus with Hezbollah, a Lebanese-based, US-designated terrorist organization since 1997 (US Department of State, n.d.), beginning in 2008 when designations were first made (CRS, 2021b). Since then, the US has named and shamed the Venezuelan State, through individual designations and congressional hearings, for interacting with Hezbollah intermediaries, such as Alex Saab (CRS, 2021c), but it has not gone so far as to designate the country as a state sponsor of terrorism (US Department of State, n.d.). Former Minister of the Interior and Vice President and current Oil Minister of Venezuela Tareck Aissami has known ties with Hezbollah that run deep,

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7 See Foreign Relations Authorization Act from FY2003 (Bull and Rosales, 2020).

8 See the US Department of State’s statement on “Venezuela’s Interim Government and the 2015 National Assembly” (US Department of State, 2023).

through familial and other personal connections with the organization (Ottolenghi, 2017). From a US national security perspective, contested FARC territory on the border with Colombia; high levels of criminality, especially drug trafficking and other illicit activities; civilian oppression; and the presence of diverse foreign actors and extractive industries, such as gold mining and oil, create the perfect scenario for *tierra de nadie*,<sup>9</sup> a situation in which the legitimate State has lost control over territory, which normally falls under its jurisdiction by international law, and, in turn, is exploited by different criminal groups and used to launder money to fund criminal operations, including terrorism.

Because of the Russian invasion of Ukraine in February of 2022 (Council on Foreign Relations, 2022), however, Washington has been toying with the idea of befriending its longtime foe and has made several steps toward an opening with the country. This opening toward Venezuela has begun to ensure “alternate oil supplies to fill the gap [due to the war in Ukraine]...[and the US] boycott of Moscow’s energy industry,” which looks like it will continue for an extended period of time (Parraga et al., 2022). As the US rethinks sanctions on Venezuelan oil, the world is reminded that, while sanctions may be an important tool to combat human rights violations and state-facilitated illicit activities, they are ultimately part of any given country’s geopolitical strategy. In the case of the US, sanctions reflect the country’s strategic and national security interests at the time. In this sense, the Biden administration has determined that it is within US strategic interests to keep Russia in check<sup>10</sup> and preserve European stability and protect its North Atlantic Treaty Organization (NATO) allies, perhaps at the cost of US sanctions on Venezuela. While the US has only begun to lift some sanctions on Venezuelan crude oil (Jacobs et al., 2022), this step backward on Venezuelan sanctions goes to show that sanctions are left at the mercy of each administration, even when they involve perpetrators of gross human rights violations, corruption, and organized crime, ultimately revealing sanctions’ geopolitical value and use as a foreign policy tool.

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9 ‘Tierra de nadie’ means ‘no man’s land’ in English.

10 The Biden administration’s strategy toward Russia has been inconsistent at best. The new Joint Comprehensive Plan of Action (JCPOA), or nuclear deal with Iran, is currently being negotiated with the help of Russia as an intermediary, which would seem to undermine current sanctions on Russia for its invasion of Ukraine by giving Russia a way to potentially evade US sanctions through its partnership with Iran (Stephens, 2022; May et al., 2022). Although the Biden administration’s commitment to punish Russia may waver, the first diplomatic steps have been taken toward a reopening of US relations with Venezuela, “one of Russia’s closest Latin American allies” (Parraga et al., 2022).

## Sanctions on Nicaragua's 'Sham' Regime

In response to a 2006 electoral victory for Daniel Ortega in Nicaragua, the “US government tightened economic sanctions [on Nicaragua], leaning on international financial institutions to suspend lending and imposing restrictions on top regime figures” (Feinberg, 2021). However, the US has placed sanctions on Nicaragua since the Reagan administration in the form of an embargo “similar to that of Cuba,” which was lifted in “1992 by the Bush administration” (Akin Gump, 2018). Since then, US sanctions on Nicaragua have been “list-based” (Akin Gump, 2018). In November of 2018, following a massive display of force by Nicaraguan armed forces against civilian protests against the government, where many Nicaraguans were forced to flee their country and take refuge in nearby countries like Costa Rica, the Trump administration issued EO 13851, entitled “Blocking Property of Certain Persons Contributing to the Situation in Nicaragua,” which designated several members of the Ortega regime for “human rights abuse(s),” “actions or policies that undermine democratic processes or institutions in Nicaragua,” and “corrupt practices and transactions,” among other factors listed (*Blocking Property of Certain Persons Contributing to the Situation in Nicaragua, 2018*).<sup>11</sup> Also in 2018 and prior to EO 13851, Congress passed the Nicaragua Human Rights and Anticorruption (NICA) Act, which, among other things, proposed targeted sanctions on individuals and entities who had ties to the Ortega regime, engaged in non-democratic and corrupt practices, and helped to perpetrate human rights violations against civilians and protesters (*Nicaragua Human Rights and Anticorruption Act, 2018*).<sup>12</sup> The NICA Act also committed to the publication of a report on the situation of human rights and corruption in Nicaragua (*Nicaragua Human Rights and Anticorruption Act, 2018*).<sup>13</sup>

In November of 2021, in addition to sanctions pursuant to EO 13851,<sup>14</sup> Congress passed the Reinforcing Nicaragua's Adherence to Conditions for Electoral Reform Act of 2021 or the RENACER Act, which included “targeted sanctions to advance democratic elections,” “developing

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11 See Exec. Order. No. 13,851, Blocking Property of Certain Persons Contributing to the Situation in Nicaragua, 83 Fed. Reg. 61,505 (Nov. 27, 2018).

12 See Nicaragua Human Rights and Anticorruption Act of 2018, Pub. L. No. 115-335, 132 Stat. 5019 (2018).

13 Ibid.

14 All sanctions and established norms on Nicaragua are accessible via the US Department of State website: <https://www.state.gov/nicaragua-sanctions/>.

and implementing a coordinated sanctions strategy with diplomatic partners,” “inclusion of Nicaragua in [the] list of countries subject to certain sanctions relating to corruption,” and classified and non-classified reports on human rights and corruption at the highest level (*Reinforcing Nicaragua’s Adherence to Conditions for Electoral Reform Act, 2021*).<sup>15</sup> This act was passed in an effort to condemn the regime’s attempts at silencing the press and political dissidents and preventing fair and free elections in Nicaragua. In January of 2022, the US also “impose(d) visa restrictions on 116 individuals complicit in undermining democracy in Nicaragua” and “sanctioned six members of the Ortega-Murillo regime for currently serving as officials of [the] government of Nicaragua or for having served at any time on or after January 10, 2007” (US Department of State, 2022b), in response to the November 7, 2021 elections, which were regarded as having “no democratic legitimacy” by the Organization of American States (OAS, 2021). These sanctions came in addition to sanctions issued just prior to the November 2021 elections, which addressed a deteriorating situation of human rights in Nicaragua for political opponents, opposition candidates, and journalists.

Despite US and other diplomatic efforts, such as those of the European Union, to sanction the Nicaraguan government (European Sanctions, n.d.), the government has not improved on human rights and corruption, especially evidenced by the jailing of members of the political opposition leading up to and following the presidential election in 2021 (US Department of State, 2021c). The Ortega regime declared victory in November of 2021 in a “sham” of an electoral process (White House, 2021), where, according to the Biden administration, Ortega conducted a “pantomime election” and has conducted business as usual since then (White House, 2021). Considering the electoral success for the regime, extreme poverty in Nicaragua, and the apparent division and lack of consensus among the opposition movements, questions regarding the effectiveness of sanctions have arisen. Practitioners like Feinberg (2021) have called for an acceptance of “imperfect solutions,” adopting the idea that the Ortega regime is here to stay, thus, questioning the point of sanctions due to the Ortega regime’s resistance to US sanctions and economic strife in the country. However, if sanctions are a way of checking international entities and actors who do not play by the rules of the democratic world order, actors who are able to forgo sanctions will not only believe impunity to be untouchable if sanctions are not sustained but also perceive impunity as the

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15 See *Reinforcing Nicaragua’s Adherence to Conditions for Electoral Reform Act of 2021*, Pub. L. No. 117-54, 135 Stat. 413 (2021).

norm, instead of something that is not tolerated. Sanctions are also used by US presidencies to assert influence in certain parts of the world (Akin Gump, 2018), as an important foreign policy tool.

### **Sanctions as a Tool to Prevent Instability**

In the 2020 US Strategy to Prevent Conflict and Promote Stability, the US government specifically outlines “sanctions and other financial pressure tools” as a clear part of its strategy to “advance stability and impose costs on actors that fuel conflict and instability,” citing “financial transparency and regulatory reform measures” as an effective means to hold foreign actors accountable and reduce the risks that human rights abusers and corrupt officials can exploit US financial systems” (US Department of State, 2020). In this sense, the use of sanctions is two-fold for the US. On the one hand, the US seeks to make the world more stable through US leadership, including economic constraints and transparency. On the other hand, the US looks inward to its own financial institutions and aims to curtail any harmful interactions it might have with external actors to promote stability at home.

State fragility poses a threat to both the US and global stability, as “fragile states are more likely to become unstable and fall prey to criminal and terrorist networks” (Department for International Development, 2005),<sup>16</sup> a phenomenon that can have an impact “well beyond national borders” (Fund for Peace, 2021). When looking at state fragility, the soundness and resilience of state institutions are telltale signs of states’ ability to cope with destabilizing factors, such as corruption, violence, and democratic conflict, among others. The 2022 Fragile States Index cites an “Elevated Warning” for Nicaragua and an “Alert” for Venezuela (Fund for Peace, 2022). The 2021 Fragile States Index also deemed Venezuela as suffering from fragility not only in the short term but also in the long term, as the country was included in the list of the top five most worsened states over the past ten years (Fund for Peace, 2021). The Bertelsmann Stiftung (2022) Index (BSI) gives Nicaragua a score of 2.45 and Venezuela a score of 1.44 in governance, noting that they have both “failed” in this sense, based on scores evaluating the countries’ “steering capability,”<sup>17</sup> “resource efficiency,”<sup>18</sup> “consensus-

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16 States that experience fragility are more likely to experience instability and high levels of criminality, but they are not fragile in a static sense. See Footnote 1.

17 Steering capability refers to a country’s “prioritization,” “implementation,” and “policy learning” (Bertelsmann Stiftung, 2022).

18 A state’s resource efficiency refers to its “efficient use of assets,” “policy coordination,” and “anti-corruption policy” (Bertelsmann Stiftung, 2022).

building,”<sup>19</sup> and “international cooperation.”<sup>20</sup> The Global Organized Crime Index lists Venezuela and Nicaragua as having “high criminality” and “low resilience” (Global Initiative, 2021), meaning that the states have low levels of governance and capacity to combat high levels of illicit activity.

Rampant corruption is one of the factors that inhibit Nicaragua and Venezuela from adequately addressing state fragility. The Corruption Perceptions Index ranks Venezuela 177<sup>th</sup> and Nicaragua as 167<sup>th</sup>, both scores out of 180 countries (Transparency International, 2022). The Capacity to Combat Corruption Index (2022) gives Venezuela an extremely low ranking due to its “legal capacity,” “democracy and political institutions,” and “civil society and media.” With embedded impunity, there are no checks and balances, governments are complicit in illicit activities, and informal markets are prevalent due to countries’ inability to provide for their populations. As a result, the playing field widens to criminal actors and transnational criminal networks, creating a situation of extreme instability and insecurity.

While the US has imposed sanctions to curb corruption, human rights violations, and government involvement in organized crime, these sanctions have also forced governments into a corner of informality and worsened criminal activity, depending on the regime (Bull and Rosales, 2020). Bull and Rosales (2020) contend that sanctions on Venezuela have “hindered existing routes of rent appropriation” in a country whose government, for years, had adopted a “defensive authoritarian rentierism in which oil rents were used primarily to sustain the government in power and undermine opponents.” This strategy led the country to identify and entertain outside “rent-seekers,” for example, Russia, China, and Turkey, and create “informal institutions” that aim to forgo sanctions (Bull and Rosales, 2020). Ultimately, this dynamic of subversion has led the Venezuelan State to concentrate even more power and define a new set of allies who are willing to assist Venezuela at the expense of Venezuelan citizens and their guarantees.

### **US Hard Power: Why Sanctions?**

There is no doubt that instability poses an existential threat for each country, but it is also probable that sanctions, in the short term, encourage

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19 Consensus-building includes “consensus on goals,” “anti-democratic actors,” “cleavage and conflict management,” “civil society participation,” and “reconciliation” (Bertelsmann Stiftung, 2022).

20 International cooperation includes “effective use of support,” “credibility,” and “regional cooperation” (Bertelsmann Stiftung, 2022).

states to adopt informal and illicit measures (Bull and Rosales, 2020), which allow governments to further consolidate power, find other trade alliances and business partners, and construct an anti-American discourse as responses to American-led isolation. While the two countries clearly suffer from high levels of criminality and insecurity, paired with low levels of state resilience and capacity, the question is whether pushing Venezuela and Nicaragua into a corner, where they are forced to rely on the informal economy, is worth the costs involved. Thus, rather than asking whether sanctions are effective, the more relevant question is whether they are necessary, even though they might not be entirely effective in the short term. It is important to keep in mind that implementing countries like the US must protect their citizens and financial institutions and what is left of the Western democratic world order, which is largely defended by the US and its allies. While disagreement exists in terms of their effectiveness, implementing sanctions is one of the only ways in which the US can act punitively, aside from extradition requests for specific individuals or showing military and political support for opposition groups. Therefore, the debate regarding US sanctions on Venezuela and Nicaragua should not consider effectiveness, but rather, acknowledging sanctions' necessary existence, the US should improve its sanctions framework and the ways in which sanctions are implemented, taking into account state fragility and the presence of organized criminal groups in the two countries.

One alternative is narrowing sanctions on the two countries. Targeted sanctions do a better job of pinpointing certain individuals, instead of affecting state-run economies directly. In the case of Venezuela, sanctions on government property have most likely affected the economy in detrimental ways for the Venezuelan people. Targeted sanctions direct punitive efforts toward individuals, instead of citizens, as the State remains the perpetrator of gross human rights violations and horrific levels of corruption in Venezuela and Nicaragua. In this sense, while one of the options on the table is narrowing sanctions so as to avoid eliminating them, a combination of both targeted and state-seeking sanctions may be the only way in which countries are forced to feel some sort of sting for their actions. Other alternatives include bolstering civil society and opposition groups in the states. While empowering the political opposition in Venezuela and Nicaragua might eventually lead to the ousting of Maduro and Ortega, respectively, when coupled with other efforts like sanctions, the strategy alone lacks punitive character.

Deterrence is also an important consideration. If the US cuts back on sanctions on Venezuela and Nicaragua or changes its sanctions policy

in some meaningful way, a precedent of impunity may be unintentionally encouraged. Differently, if sanctions are upheld, even though they may cause economic downfall and struggle for the respective populations, other countries may be deterred from failing to comply with international norms and institutions. The US Department of the Treasury (2021) supports this idea, citing that, “at their core, sanctions allow US policymakers to impose a material cost on adversaries to deter or disrupt behavior that undermines US national security and signal a clear policy stance.” While sanctions have become an important tool of deterrence over the past twenty years in general, clearly increasing in usage (US Department of Treasury, 2021), it is the view of some regional analysts that the US, at least in Latin America, has sometimes implemented sanctions that have resulted in unintended negative economic consequences (Breda, 2021).

### **Economic Strife in Venezuela and Nicaragua**

In February of 2021, United Nations (UN) Special Rapporteur Alena Douhan “...urged the United States, the European Union, and other states to drop sanctions imposed against Venezuela,” as “sanctions have exacerbated pre-existing economic situations and have dramatically affected the whole population of Venezuela” (United Nations High Commissioner for Human Rights, 2021). This report ultimately revived the debate around sanctions on Latin American countries, or, at the very least, spurred conversations on them in the international sphere. Later in 2021, the US Department of Treasury (2021) published the 2021 Sanctions Review, which acknowledged that the US government “must adapt and modernize the underlying operational architecture by which sanctions are deployed,” but the US government did not precede this analysis by considering the economic strife exaggerated by sanctions in countries with targeted entities and individuals at the forefront of government leadership (US Department of Treasury, 2021). This consideration might have been excluded by the US Department of Treasury because such an analysis would be outside of the scope of the institution’s mandate. Moreover, sanctions seem to be continuing in an upward trend as a foreign policy tool, although this ultimately remains to be seen, depending on the effect of sanctions on the Russia-Ukraine conflict. The New York Times (2022) points out that the rules of the game for sanctions might be changing because of the unilateral support and level of coordination that there have been for sanctions on key Russian leaders and oligarchs, largely seen as perpetrators of the conflict in Ukraine (Tavernise and Apuzzo, 2022).

Even so, the humanitarian effects of sanctions must be pointed out, not to discard sanctions, but rather, to continue the sanctions debate

in a more comprehensive manner that considers state fragility. Moreover, considering humanitarian consequences, the US government “has issued licenses permitting various types of humanitarian assistance transactions in Venezuela” (GAO, 2021). Nevertheless, the US GAO (2021) found that “the Venezuelan economy has declined steadily for almost a decade and fallen steeply since the imposition of a series of US sanctions starting in 2015,” specifically declining in a remarkable way in terms of gross domestic product growth. The National Survey of Living Conditions (ENCOVI) published by Andrés Bello Catholic University (2021) revealed that 76.6% of Venezuelans live in extreme poverty. While this percentage, the worst in the region, can be correlated to extreme isolation from international markets due to sanctions, Maduro, and Chavez before him, had been consolidating power and turning a blind eye to, and even participating in, illicit markets (Transparency Venezuela, 2020), which ultimately take away from the formal economy. To complicate the situation further, the Maduro regime and the Unitary Platform<sup>21</sup> of Venezuela signed a humanitarian agreement on November 26, 2022, which the US, the European Union, Canada, and the United Kingdom have welcomed as a way to curb the humanitarian crisis (US Agency for International Development (USAID), 2022).

In Nicaragua, according to projections by the Economic Commission for Latin America and the Caribbean (ECLAC), the country’s “GDP would grow by 2.5% in 2021 and 1.8% in 2022, numbers ahead only of Venezuela” (Cuevas, 2022). According to the International Foundation for Economic Global Challenges, the percentage of Nicaraguans living in poverty decreased from 44.7% in 2009 to 39.0% in 2015 (Alaniz, 2019). In 2019, poverty levels in Nicaragua had returned to 44.4% (Alaniz, 2019), which could be partly because of increased sanctions following the 2018 crackdown on Nicaraguan protestors. The NICA Act also “effectively blocks access to new multilateral lending to Nicaragua” (CRS, 2021d).

It is likely that the two worst economies in Latin America have been impacted in a negative way by US sanctions, even if their economic decline is also the result of corruption and participation in informal markets. Sanctions ultimately not only affect corrupt leaders and perpetrators of human rights violations whom they intend to hurt but also damage the economy, which affects ordinary citizens. The economic dependency of citizens on autocratic regimes and state fragility are also encouraged in using sanctions. In this sense, sanctions do work somewhat in favor of Maduro

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21 The Unitary Platform is a Venezuelan opposition alliance.

and Ortega, as the leaders can use the economic hurt felt by the general population to create anti-American rhetoric and a foreign scapegoat to excuse or justify economic hardship and injustices that are effects of the respective regimes' decision-making. In the present, it remains to be seen if the Nicaraguan and Venezuelan populations believe this discourse and how they come to define state fragility in terms of its drivers.

## Conclusion

US sanctions, in addition to government decision-making, seem to make Venezuela and Nicaragua experience more fragility. Sanctions push the two states further into the illicit market and increase their reliance on other isolated states (Bull and Rosales, 2020), such as Iran and Russia, because they are limited regarding their trading partners due to sanctions. Moreover, in the case of Venezuela, the country, rich in natural resources, has turned to non-Western states (and criminal groups) to do its rent-seeking (Bull and Rosales, 2020). Despite sanctions, the two countries are ultimately able to function in the international market because of the lifelines given to them by certain countries, including superpower China. Venezuela and Nicaragua have also been successful in consolidating their power, through networks of criminal activities, corruption, and impunity, made possible by fragile institutions. State fragility has permitted the governments to remain in power and maintain the status quo, through severe political repression, corruption, and loyal political supporters. This situation has prevented changes in leadership and rule type. The very fragility of institutions consolidates Ortega and Maduro's rule and prevents effective checks and balances on the government. However, imposing sanctions is one of the only ways in which the US can respond punitively to illicit activities and organized crime that affect the US. It is also of US interest to mitigate corruption and human rights violations in Venezuela and Nicaragua, not only because of its democratic values but also because of the effect that strengthened institutions in the two countries would have on US national security.

There is also a humanitarian aspect to US sanctions. Some point to the perverse effects of sanctions on the Venezuelan and Nicaraguan economies, contending that sanctions have driven the economies into humanitarian crises, particularly in the case of Venezuela. However, while US sanctions have worsened these economies, it would be going too far to say that sanctions have *caused* a humanitarian crisis. It is impossible to isolate the effects of sanctions from the impact of corruption, impunity, and state-endorsed organized crime. The US also gives aid to Venezuela

and Nicaragua, through support from different US government agencies, and might have further success with humanitarian efforts in Venezuela due to the 2022 agreement between the opposition and the government (USAID, 2022). In September of 2021, the US government “announced \$247 million in humanitarian assistance and \$89 million in economic and development assistance to respond to the needs of vulnerable Venezuelans” (US Department of State, 2021b). Moreover, USAID (2022) cited the US government’s “humanitarian” funding for the “Venezuela Regional Crisis Response” from 2017 to 2022 as being over \$2 billion. The US should continue to provide humanitarian assistance to Venezuela and Nicaragua, coupling aid with capacity-building initiatives to increase soft skills and leadership abilities within Venezuelan and Nicaraguan refugee groups, particularly young political activists living in exile, to provide them with the tools to return to their home countries and improve the respective institutional and democratic crises there.

Sanctions are supposed to hurt the governments that they affect, existing to pressure human rights perpetrators and corrupt officials into action by inflicting economic challenges on their countries. The idea is that, after a certain amount of economic build-up, in an effort to appease the population and decrease negative effects on the economy, leaders whose countries have received sanctions will eventually fold. However, the US’ “unrivaled ability to use its dollar hegemony against its adversaries...has not been matched by a corresponding success in changing [states’] behavior” (Mulder, 2022). In the case of Venezuela and Nicaragua, their behavior has not changed in the short term, as the authoritarian regimes remain in power and have done little, if anything, to change their posture on human rights, corruption, drug trafficking, and other types of organized crime, in, what would be, an effort to lessen US sanctions. The long-term effects of US sanctions on the two countries ultimately remain to be seen in the coming years.

Despite their debated effectiveness in the short term, the more relevant argument for sanctions is that they are the necessary means to take punitive action against two countries that compromise US national security. They also function to establish a US zero-tolerance stance on human rights violations, corruption, and state-approved, and even state-run, organized criminal networks. While gone are the days of regime change in Latin America, the US must have a means of exerting hard power, or coercive and punishable mechanisms, on countries that do not play by democratic rules, harm their own populations, and threaten US national security. For this reason, sanctions might be one of the only viable ways of punishing Venezuela and Nicaragua for their lack of compliance with international norms regarding human rights, corruption, and organized

crime. However, the US must also exert its soft power where it can in the region, especially in democracies experiencing high levels of fragility. US foreign direct investment (FDI) in Latin America remains increasingly important, particularly given China's increased interest and influence in the region. US mergers and acquisition deals in Latin America should continue to be encouraged and incentivized by the US government, considering that "China ranked only second to the US as the second largest source<sup>22</sup> of cross-border mergers and acquisitions" (ECLAC, 2021). Increased US investment in Latin America, especially in states suffering from fragility, would not only benefit citizens through potential development projects but also make countries, such as Venezuela and Nicaragua, more adherent to democratic norms and regulations as a result of US leadership in diverse sectors of the economy, as opposed to influence in these areas from non-democratic actors. While sanctions remain on the table, they should be supplemented with forms of soft power to improve state capacity in Venezuela and Nicaragua and elsewhere in the region.

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<sup>22</sup> China ranked second "in terms of the amounts involved" (ECLAC, 2021).

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## 6

## Small Arms Proliferation in South Sudan: Cause and Consequence of Fragility?

Brahima Bilali<sup>1</sup>

South Sudan gained its independence in 2011 after decades of the national liberation struggle.<sup>2</sup> However in 2013, the country fell into a protracted civil war, which aggravated the ruins of its nascent security institutions. While this instability is due to numerous factors, the proliferation of small arms and light weapons (SALWs) appears as both a consequence and an enduring cause of state fragility in South Sudan. In a vicious circle, this proliferation was enabled by the State's cross-sector weaknesses, which, also, undermined the internal order of the country. The chaos brought about by the civil war gave way to the spread of SALWs which, in turn, laid the groundwork for the emergence of non-state armed groups, the strengthening of the ones that already existed in the territory, and widespread urban violence, hence the loss of the State's monopoly of force. While SALWs do serve a multitude of legitimate uses, they also constitute instruments that intensify internal and intergroup violence. In the case of South Sudan, SALWs appear to have had disruptive effects on the stability of the youngest African nation. Therefore, here, the concern

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2 The modern political history of South Sudan can be divided into three parts: the civil wars period (1956-2005), the transition period (2005-2011), and the post-independence period (2011-onwards). During the civil wars period, the Southern Sudanese Rebellion Movement, known as the Sudan People's Liberation Army (SPLA), in its pursuit of self-determination for the Southern Sudan, engaged in a civil war against the Sudanese government. The national liberation struggle officially ended in 2005 with the signature of the Comprehensive Peace Agreement (CPA), which led to a transition period at the end of which national independence was to be voted through a referendum by the Southern Sudanese.

is related to the causes and consequences of the proliferation of SALWs for South Sudan's survival, particularly in how it contributes to non-state violence (caused either by civilians or informal armed groups) in urban and rural areas, which hampers the State's ability to maintain order within its territory. Focusing on the period leading to the independence of South Sudan (2011) up until the advent of its first post-independence civil war (2013), this chapter aims to address the relationship between state fragility, the proliferation of SALWs, and the informal use of violence in the country.

### **Weak Borders and the Proliferation of SALWs in South Sudan: A Relationship**

SALWs proliferation has been a prevalent dynamic in the modern political history of South Sudan, mainly because of protracted violence that hampered its stability over a long period. Generally, in each episode of armed confrontation between local actors, the distribution of SALWs has functioned as a war tactic for the warring parties (United Nations Development Program, 2017). Since the independence of Sudan in 1956, the Southern Sudanese region<sup>3</sup> has been confronted with multiple episodes of violence, either on a national scale or locally. The first civil war (1955-1972) and the second civil war (1983-2005), which opposed the Southern Sudanese rebellion movement, - also known as the Sudan People's Liberation Army (SPLA), - to Sudan, laid the foundation for the widespread possession of SALWs by non-state actors in the region. As a legacy of these civil wars, the ownership of SALWs became a perceived necessity for survival not only among the main warring parties - the Sudanese State and the SPLA - but also among tribal groups, local militias, and civilians. The United Nations Development Program (2017) notes that violence's entrepreneurship is no longer exclusive to these main parties.

However, despite limited data on SALW proliferation among non-state Southern Sudanese groups during these civil wars, research conducted on the ground has identified sources of arms used by these groups (Wezeman, 2003). One of the means of arms procurement over the years has been the capture of weapons from the armed forces of the government of Sudan. Another source of arms is the supply of SALWs by neighboring countries, such as Uganda, to the rebellion groups. In some cases, rebels gain access to weapons through bargaining strategies with other non-state armed groups. The advent of civil war opens opportunities for the spread of arms, as the

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3 The term "southern Sudan region" refers to South Sudan as a region of Sudan before its independence in 2011.

supply of these destructive means is sustained by their demand by numerous actors engaged in a survival contest. Despite a moment of unity among Southern Sudanese political and military actors during the transition period (2005-2011) when they focused on achieving national independence, the spread of SALWs persisted through various means, including imports of conventional arms, cross-border weapons trade, and proxy arming of local commanders (United Nations Development Program, 2017). The Mines Advisory Group (MAG),<sup>4</sup> in its efforts to reduce “the threat posed by unsecured caches in potentially volatile border areas”, reported in 2006 the existence of over 100 unsecured stockpiles of SALWs in Southern Sudan (Mines Advisory Group, 2006).

The potential recovery of these arms by ill-intentioned groups was perceived to be an immediate threat to human security and the success of the peacebuilding process of the transition period. An estimation made by the Small Arms Survey in 2009 indicated that some 2.7 million SALWs were in circulation in Sudan, and more than two-thirds of these arms (around 2 million) were outside the control of the government (Small Arms Survey, 2009). It is therefore certain that a few years before the South Sudanese independence, the proliferation of SALWs, and the presence of non-state armed groups greatly contributed to insecurity and a potential resurgence of widespread acts of violence. As shown in Map 1 (below), a significant number of armed groups with affiliations to either the SPLA or the Sudanese Armed Forces (SAF) were present, particularly on the northern border separating the Southern Sudanese region and the rest of Sudan. Furthermore, Southern Sudanese civilians circulated 720,000 guns during the year 2009. The high circulation of weapons among the population contributed to a profound militarization of social life (Zambakari, 2013). A household survey in the Lakes State of the Southern Sudanese region showed that around 35% of respondents said that they or someone in their house were in possession of a firearm (Small Arms Survey, 2007). These populations also experienced high rates of gun violence. According to the Small Arms Survey (2007), during the transition period, households, on average, reported at least one incident of robbery, physical altercations, or armed attacks.

After the independence of South Sudan in 2011, one of the most important challenges of the new country was the proliferation of SALWs and the resulting violence.

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4 It is a non-governmental organization focusing on the assistance of populations affected by weapons such as SALWs in fragile states.



margin, ranging from 6,800 to 39,200. In addition to this, a household survey conducted in 2016 suggests that civilians' ownership is estimated between 232,000 and 601,000 guns, with the higher estimate seeming more plausible due to the believed higher rates of arms possession among civilians in certain regions (Unity, Upper Nile, and Eastern Equatoria) that were not included in the survey (United Nations Development Program, 2017).

**Table 1 - Discrepancies between required and current arms holdings of the SSNPS**

Security force	Projected personnel total	Multiplier		Projected requirements		Estimated current holdings	Discrepancies
		(Low)	(High)	(Low)	(High)		
SSNPS	36,000	1:0.3	1:1.20	10,800	43,200	50,000	6,800– 39,200

Source: King, B. (2014). *Excess Arms in South Sudan: Security Forces and Surplus Management*. Small Arms Survey. P5.

At the crux of the issue of the excess of arms and SALWs proliferation lies the inability of the South Sudanese political authorities to maintain the country's territorial integrity. A crucial dimension of statehood is the physical base of a state, which includes its territory, and is essential in evaluating a state's ability to safeguard its material existence and population. This inability to protect the integrity of its borders has so far appeared as an important aspect of the South Sudanese State's weakness. Despite receiving international and judicial recognition of its political existence, South Sudan has failed to establish state-building, statehood, and internal sovereignty (Giraudeau, 2012). The inability of the State to exert a territorial presence in all its regions became more obvious with its strong presence in the capital, Juba, in comparison to its physical withdrawal from rural areas. Governmental officials have managed to effectively project their power only in the capital. The immediate implication of this territorial incapacity has been the exacerbation of uncontrolled areas. Because of governmental absence and the authority void, these spaces became dominated by non-state armed groups causing destructive behaviors (Kuol, 2018). This territorial weakness highlights a profound internal weakness of the State, which cannot project its power beyond its capital city or regional capitals, as noted by Lacher (2012).

The external dimension of the issue of territorial integrity of South Sudan is related to its unresolved border issue with its Sudanese neighbor. South Sudan gained its independence from Sudan, but the tensions between the two countries did not fade as they continued to undermine each other

on the question of contested borders. As indicated in Map 2 (below), South Sudan shared in its northern part at least 20 km of borders with Sudan and faced territorial disputes with its neighbor on the issue of ownership of the regions of Abyei, Blue Nile, and Southern Kordofan. The South Sudanese state engaged in open competition with its Sudanese counterpart over the control of these areas. The three regions appear strategically important because of the presence of natural resources that have also been a source of territorial instability (Kimenyi, 2012).

### Map 2 - South Sudan and its Borders



Source: Craze, J. (2013). Dividing lines: Grazing and conflict along the Sudan-South Sudan border. Small Arms Survey. P10.

Initially, while South Sudan was approaching independence in 2011, it claimed legal ownership of the Abyei region through its transitional constitutional arrangements. But a legal claim all alone was insufficient in the ownership of a contested area. The declaration of legal ownership

ought to be followed by an ability to exert physical control over the claimed territory. The reaction of the Sudanese State against South Sudan's claim was the immediate invasion and occupation of the Abyei region. Regardless of the legal status of the South Sudanese State's claim, local inhabitants and South Sudanese armed forces were driven out of the region because of the Sudanese invasion (Arnold and LeRiche, 2013). This violent development of territorial disputes between the two countries contributed to further instability in the region. In 2012, the Sudanese army subsequently invaded another disputed territory, the Heglig town of the Southern Kordofan region. While South Sudan acceded to independence, it was clear that it was struggling to control its territory and efficiently claim its borders. Territorial disputes with its Sudanese neighbor brought South Sudan to the verge of war, as military confrontation for the conquest of borders continued between the two states. This situation exacerbated the South Sudanese State's inability to protect its borders, especially following Sudan's alleged use of informal armed groups to undermine its rival's stability (Schomerus, Vries, and Vaughan, 2013).

From the perspective of its internal borders, the South Sudanese State also confronted severe limitations in its capacity to impose territorial order. The issue of territorial delimitation particularly fueled tensions and hostilities between local communities. At the beginning of the post-independence period in 2011, South Sudan's temporary constitutional arrangements established an administrative and territorial structure for the country, which consisted of the recognition of ten regional states. The regions were further divided into counties, which were composed of *payams* and *bomas*,<sup>6</sup> both representing the smallest South Sudanese administrative units. As local land ownership became more critical, conflicts between local inhabitants escalated, making the country vulnerable to violence (Justin and De Vries, 2019).

Relative to land disputes between communities, three possible factors contributed to the internal territorial weakness of South Sudan, according to Justin and De Vries (2019). First, communal frictions over land ownership stem from the arbitrary organization of territories by colonial rulers during British rule, which relocated local communities without regard for local dynamics and traditions, ultimately leading to

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6 South Sudan's decentralization system is organized as followed: 1. the central government, 2. regional states, 3. counties, 4. payams (administrative divisions of counties) and 5. bomas (smaller than payams and containing several villages).

contemporary competition over land ownership. Secondly, the conflation of traditional and formal political structures in local administrations contributed to the emergence of local disputes on rightful land ownership (Justin and De Vries, 2019). Simultaneous involvement of traditional and governmental authorities in the resolution of land disputes may have led to conflicting decisions, causing more instability instead of de-escalating the situation. Finally, the lack of clear institutional order on the question of land management also caused contradictory perspectives among citizens (Justin and De Vries, 2019). While some favored the establishment of local borders along with ethnic and indigeneity lines as a condition of land ownership, some voices argued that territorial delimitation should be based on the majority group. The inability of the State to resolve these contradictions indicated a lack of territorial monopoly and institutional lines to address internal territorial issues, leading to increased local conflicts exacerbated by ethnic motivations.

The dynamics of violence, concerning the weak external and internal borders of South Sudan, created conditions that favor the spread of SALWs. The intensification of conflicts, at the local, regional, or interstate levels, mostly opens the door to more demand and supply in SALWs. As stated by Mueller (2013, p. 21),

Each of these instances of violence was fueled by the steady supply of SALW. Since South Sudan's independence in 2011, the ban on material acquisitions to the state was lifted, allowing the government to pursue several defense contracts with arms-supplier states. Simultaneously, a great number of non-state groups (tribal, militia, etc.) have begun acquiring illicit weapons at an increasing rate. Where there is conflict, arms will flow. The demand for weapons in South Sudan is enormous, and outside suppliers have had no problem meeting this demand.

The enduring effect of internal instability on the proliferation of SALWs in South Sudan is a problem that has been underscored by the excess of arms in the country, because "the demand for armed personnel and weaponry is clearly at its height during periods of conflict. As conflicts abate, however, many arms remain in circulation" (King, 2014). According to the report conducted by the United Nations Development Program (2017), respondents to a household survey expressed a sense of insecurity in their local area. While 61% of them report firearms to be the cause of many deaths, over half indicate that armed confrontation led to displacement (UNDP, 2017). The report goes on to show that the negative perception of security in the country is associated with widespread acts of violence

brought about by SALWs proliferation (UNDP, 2017). Therefore, because of the weakening of state authority, the disruption of human security, the loss of the State's monopoly on the use of force, and the spread of acts of violence, the proliferation of SALWs is intrinsically linked to state fragility.

### **State Fragility, Small Arms Proliferation, and Violence**

While a consensus-based definition of state fragility among scholars appears to be a very difficult task to achieve (Boege et al., 2008; Patrick, 2007; Howard, 2008; Graf, 2012), this chapter draws its definition of state fragility partly from Woodward (2006). According to Woodward (2006), state fragility expresses a situation in which the predominance of the authority of the State is either fragile or lost. While the authority of the State is characterized by its entitlement to the political administration of society and its maintenance of law and order through different legitimate channels, according to Woodward (2006), the State faces fragility when it fails to preserve its dominance in society as the highest authority. Woodward (2006) then identifies two dimensions of state authority. The first is moral authority, which is based on the idea of the State and the perception of the State as the legitimate and rightful authority administering social life and providing different services to the population. The second dimension is administrative authority, which is related to the physical nature of the State and the existence of institutions and political actors.

Stewart and Brown (2009) argue that the decay of authority can be perceived through the physical inability of the State to assure the security of the population against various threats. For them, this loss of authority does not necessarily imply the total loss of the entire territory of the country. Rather, it could be a partial loss of authority in some areas of the country (Stewart and Brown, 2009). The authors also indicate that the widespread presence of criminality in society and the State's incapacity to bring about solutions to maintain order and enforce the law are signs of the State's decaying authority. Therefore, in situations of fragility, the dimension that appears very crucial to the survival of the State is authority. Because the decline of authority generally means an incapacity to ensure crucial functions, including the provision of security, the monopoly of legitimate violence, or the preservation of human security. As the loss of authority and capacity prevails, the material and moral domination of the State over society can become a subject of continuous rejection. In other words, the decline of the State's authority is inseparable from its degree of legitimacy before the population or other non-state actors (Holsti, 2004). The more illegitimate the State becomes, the more likely it is to see its authority exposed to physical threats.

State fragility is frequently associated with the outbreak of violence, which can take on different forms, with armed conflict being undoubtedly the most common one. The nature of the connection between fragility and violent conflict is open to discussion, but it seems difficult to analyze fragility without involving situations of violence. The outbreak of violent conflict could be an indication, a factor, or a result of state fragility. A state's incapacity to fulfill its core responsibilities toward the population can lead to violent unrest, and by trying to consolidate order, a state may use instruments of force that ultimately result in widespread violence. In this regard, state fragility can be a situation in which violence becomes widespread in society, and as violence carries on, fragility becomes extreme (Ziaja and Fabra, 2010).

The inherent functions of statehood entail the State's ability to protect and defend its population from disruptive factors that originate from domestic and external dynamics. The political history of Europe shows that the formation of modern statehood was the product of rulers' capacity to centralize their authority through the abolishment of rival armed actors in their territories. In this sense, the monopoly of legitimate violence represents one of the very essential sources of a state's strength. The loss of state capacity to have an internal military hegemony is conducive to fragility. Thus, as the State loses its authority, it becomes vulnerable to threats, hence, creating conditions for its instability (Klare, 2010).

According to Klare (2010), there is a relationship between the emergence of informal armed structures and situations of fragility. The appearance of non-state violent groups is not a direct factor of state fragility but rather a contributing dynamic to the decline of state strength. These groups are conducive to the spread of violence and conditions that hinder economic development and the State's ability to provide services. As the State sees its strength decay, informal armed groups start making their appearance to contest its authority, worsening the situation of fragility. The incapacity of the State to regain its strength encourages informal groups to increase their social dominance. In a worst-case scenario, non-state armed groups can take segments of the State's territory under their control and eventually overthrow the ruling regime (Aliyev, 2017). But the presence of armed militias in favor of the State can also contribute to fragility. These armed groups may appear as instruments of stabilization of state power, but their presence can be symptomatic of the beginning of state decay. Whatever the nature of informal armed groups (pro-regime or rebellion), their predominance in society represents a decline in state capacity and a sign of state fragility.

Closely related to the emergence of informal armed groups is the pervading presence of small arms in the context of fragility. The definition given by Louise (1995, p. 1) presents small arms as a “subcategory” of light weapons and helps understand that they represent some of the most common weapons encountered both in armed conflicts and in everyday violence perpetuated in urban spaces:

light weapon has been used as a generic term to describe all conventional munitions that can be carried by an individual combatant or by a light vehicle. This includes small arms (defined below), bazookas, rocket propelled grenades, light anti-tank missiles, light mortars, shoulder-fired anti-aircraft missiles and hand placed landmines. Small arms is a subcategory, consisting of automatic weapons up to 20 mm, including submachine guns, rifles, carbines and handguns.

The commerce, proliferation, and use of SALWs continue to represent an enduring dynamic of state fragility as they hinder states’ ability to secure their internal and external borders. SALWs can also be very effective against the State’s armed forces (Aliyev, 2017). Their flexibility lies in the fact that their usage is open to most people and does not necessarily require a military background or professional ability. It is possibly one of the reasons that explain non-state armed groups’ preference for these arms during violent conflict. When SALWs start becoming easily accessible, the State becomes vulnerable to instability because opposition groups can use them to disrupt state authority, compromising the State’s survival.

The monopoly of force is a crucial feature of modern statehood that allows for the maintenance of stability and security within a society. However, the proliferation of SALWs can hinder this dynamic, particularly in fragile states. In an already fragile state, insecurity is deepened as non-state armed groups and civilians become an alternative source of violence capable of pursuing goals and following rules of their own. Thus, especially in the African security and military contexts, the uncontrollable circulation of SALWs by the State came to appear as a central feature of fragility. As indicated by Tar and Adejoh (2021, p. 49),

... the emergence of militias, insurgents, terrorist, bandits’ militants, etc., in several African countries clearly indicates state failure. The proliferation of SALW has further encouraged the activities of these groups. The Democratic Republic of the Congo, Angola, Sierra Leone, Uganda, Nigeria, Sudan, South Sudan,

Libya, Kenya, [and] Somalia, just to mention but a few countries in Africa, indicate that the failure of the state has increased the rate of illicit weapons in circulation.

Various sources evidence the high circulation of SALWs in states with high levels of fragility. The United Nations (UN) highlights the proliferation of arms through its impact on war and post-war contexts (UN, 2015). At the time of its report, the UN indicated not only that armed conflicts have led to around 55,000 deaths annually but also that there were more than 30 million displaced people annually due to violence and war. For the organization, “the widespread availability of small arms and light weapons and their ammunition is a key enabler of conflict” (UN, 2015). Another report by the Stockholm International Peace Research Institute associates the flow of SALWs with post-shipment diversions in states that experience fragility, as “arms are transferred to an end-user (e.g., rebel, terrorist, etc.) other than the intended end-user” (Griffiths et al., 2013). The report also connects these diversions to the resurgence of violence and corruption. In Somalia and the Republic Democratic of Congo, arms intended for the State’s military forces were found by authorities in Eastern and Central Africa’s arms trade markets and at the hands of armed groups. Arms imports from Ukraine traveling to East Africa have also been subject to hijacking by Somali pirates. In 2012, an arms deal between the Sierra Leonean State and the Chinese involved Serge Muller,<sup>7</sup> who contributed to facilitating the arms trade during the 1991-2000 Sierra Leonean civil war (Griffiths et al., 2013).

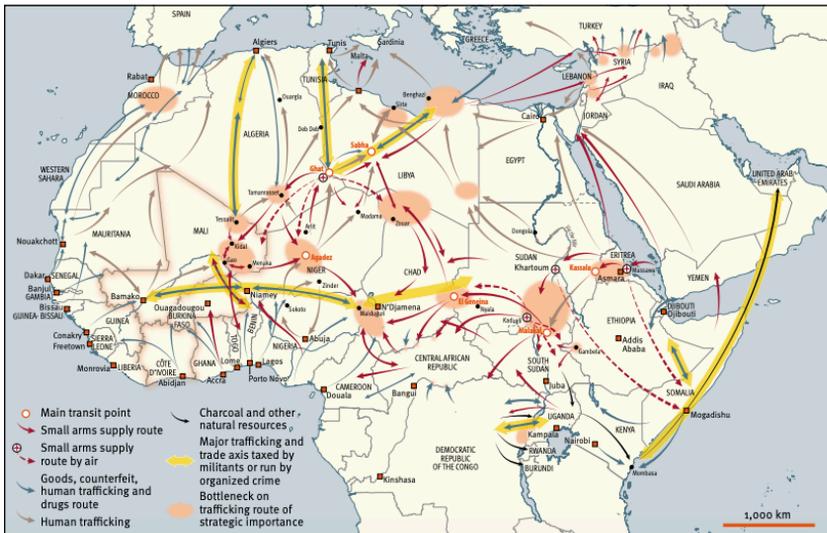
The question of SALWs proliferation in Africa is tied to state survival in the post-Cold War context. The decline of the Soviet Bloc and the end of the two global powers’ competition meant for many African countries the end of the patron-satellites relationship and the weakening of internal and external border control. The military’s sponsoring of these countries during the Western-Soviet confrontation for control of spheres of influence shows that, over time, the continent became a reservoir of SALWs waiting to be used. What emerged as a major trend in the African security landscape is the “increase in trade and circulation of...SALWs from the stockpile of arms at the disposal of weak states, at the end of the hostility between the two power blocs” (Tar, 2021, p. 18).

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<sup>7</sup> “Muller’s firm, Rex Diamond Mining Company NV, [was] granted mining leases by the Sierra Leonean Government in 1994...” (Griffiths et al., 2013, p7).

Besides the historical context of the post-Cold War era, the spread of SALWs in the continent is also related to continuing contemporary dynamics: political disruptions, poor border control, illicit arms trade, ungoverned spaces, stockpiling and diversions of arms and ammunition, and the black market for arms (Tar and Adejoh, 2021). The numerous armed conflicts and social unrest that occurred in many African countries greatly weakened the State's ability to control and contain the spread of small arms. The circulation of SALWs is also sustained by the poor border management in many of these countries, where various actors (smugglers, rebel groups, transnational arms dealers, local elites, etc.) manage arms trafficking schemes. A report by Roberto and Matthias (2020) for the Small Arms Survey shows that the Sahelian region represents, nowadays, an important hotspot of arms trafficking and is part of a complex network of West African and trans-Saharan routes connected to various parts of the world (see Map 3).

### Map 3 - The Complex Network of Arms Trafficking in West Africa and Beyond



Source: Roberto, S., & Matthias, N. (2020). Tri-border Transit: Trafficking and Smuggling in the Burkina Faso–Côte d'Ivoire–Mali Region. *Small Arms Survey*. P7.

Uncontrolled or ungoverned spaces in the poorest and most remote parts of the continent are often accompanied by the presence of non-state armed groups. In such places, SALWs become prevalent as the State is unable to counter armed groups. The absence of the rule of law also

allows individuals to wield the monopoly of force. While arms stockpiling is related to the State's military preparedness, it also represents another source of SALWs proliferation as it provides an opportunity for certain individuals or groups to operate the illegal arms trade. Lastly, SALWs are favored by the illicit arms market, which enables their trade and circulation through concealed and complex transnational criminal links.

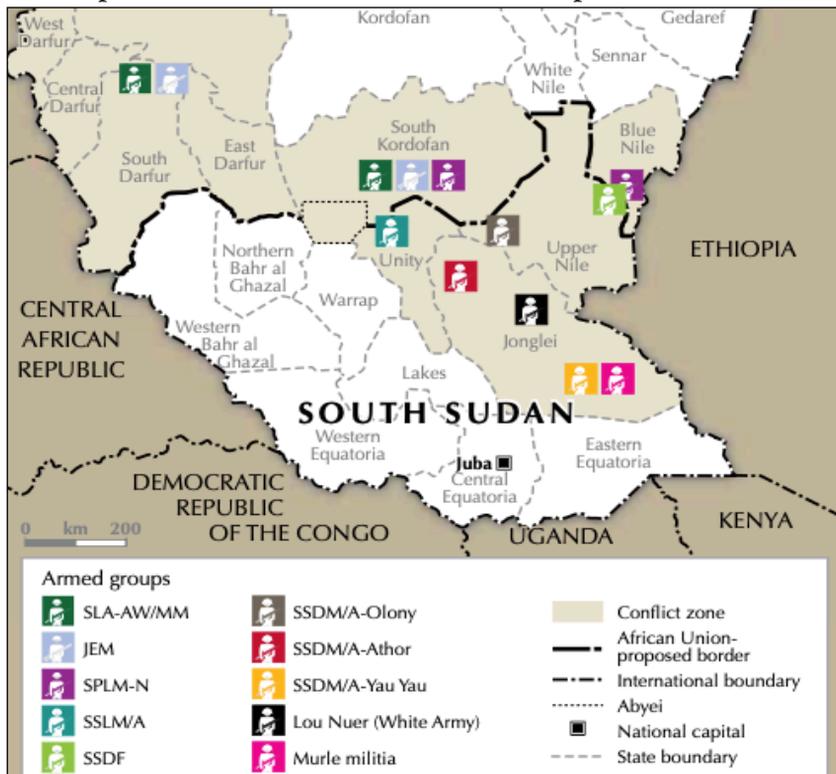
### **SALWs Proliferation as Reinforcing the Decline of the State's Authority in South Sudan**

Modern statehood is fundamentally associated with the principle that violence must be under the monopoly of state control through the State's legitimate use of force. An incapacity to control completely the military can, therefore, be perceived as an internal weakness of the State. South Sudan was particularly challenged by various local dynamics that have transformed it into a highly militarized society in which resources of violence have become accessible to most of the population. Since its independence, the country has been dominated by a military class, and the departure of Northern Sudanese rule opened the door to a social class defined by ethnic and military dynamics (D'Agoût, 2018). Hence, South Sudan's political landscape is pervaded by political actors with ties to military networks, resulting in a highly militarized society (Kuol, 2018).

The proliferation of SALWs contributed greatly to the militarization of South Sudanese society, favoring the South Sudanese State's declining authority. While it is challenging to determine the exact number of SALWs over the years due to limited available data, a few years before independence in South Sudan, the number of civilian-owned guns was around 720,000 (Zambakari, 2013). Another source shows that in 2011, the year of independence, while more than 3 million SALWs were available, two-thirds of the South Sudanese population owned these weapons (Doki and Ahmad, 2014). In 2016, in areas controlled by the State, the number of SALWs in circulation was between 232,000 and 601,000 (United Nations Development Program, 2017). However, these statistics do not necessarily indicate a decrease in the number of firearms in circulation, because not only did the National Assessment of Small Arms conducted by the United Nations Development Program not include regions held by rebel groups, such as Unity or Upper Nile, but also the number of arms in these regions is even believed to be higher than the assessment reports. Since the availability of weapons created the opportunity for the distribution of military power, non-state armed actors managed to exert their influence in the post-independence era in South Sudan. As it can be observed in Map 4 (below),

various non-state armed groups<sup>8</sup> operate in specific parts of the country, particularly in regions ridden by armed violence and that are not most likely under government control.

**Map 4 - Presence of Non-state Armed Groups in South Sudan**



Source: Leff, J., & LeBrun, E. (2014). *Following the Thread: Arms and Ammunition Tracing in Sudan and South Sudan*. Small Arms Survey. P28.

The South Sudanese State's incapacity to maintain military force under its control encouraged the proliferation of informal armed actors. These actors engaged in filling the security void created by state security

8 Map 4 shows only a limited number of non-state armed groups, whose status might have changed or not since the time of the reporting in January 2014: South Sudan Democratic Movement/Army (SSDM/A) – Athor: does not have “active troops,” inactive; SSDM/A – Yau Yau: has “500 – 1,000 core troops;” SSDM/A – Olony: has less than “3,000 troops;” Lou Nuer (White Army): “can mobilize up to 8,000 troops;” and Murle militia: “usually attack(s) in small groups” (Leff and LeBrun, 2014, p. 35).

weaknesses. The extreme circulation of SALWs therefore undermined greatly the Government of South Sudan (GoSS) and its security capacity. Existing formal security structures appeared unable to absorb challenges related to uncontrolled violence, especially when it came to the assurance of civilians' safety. As a result, non-state South Sudanese armed groups expanded their influence throughout various areas where they operated as security providers to their communities. These groups also engaged in criminal activities such as unlawful tax recovery and the use of violence against external communities.

At the time of South Sudan's independence, although the Sudan People's Liberation Movement (SPLM)<sup>9</sup> was in the most dominant political position, the government was unable to establish a monopoly on military resources and faced competition from informal armed groups which continuously relied on violence to achieve their various ambitions (Arnold and LeRiche, 2013). With the increasing weakness of the legitimacy of the State, non-state armed groups<sup>10</sup> continued to flourish and expand their influence in the South Sudanese security sector (Kuol, 2018).

The excessive militarization of the South Sudanese society immensely posed significant challenges for the Government of South Sudan in managing the security sector. The incapacity of the State to ensure stability or to implement policies that would help tackle the existing military challenges made local communities self-sufficient in the maintenance of local security (Hutton, 2014). As a result, the South Sudanese State's security structure was grossly inadequate in delivering security services. The structural weakness of state security indicated that civilians and informal armed groups were armed enough to bypass state intervention to achieve communal security (Reeve, 2012). The proliferation of SALWs not only led to increased violence but also eroded the State's moral and material authority as the sole legitimate source of security provision. Consequently, non-state actors emerged as alternatives to the State's security structures.

Furthermore, the advent of independence did not contribute to a decrease in the rate of civilian-owned firearms. The prevalence of SALWs

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9 The SPLM is the most dominant and ruling political party in South Sudan. It was founded in 1983 as the political wing of the Sudan People's Liberation Army (SPLA), the South Sudanese rebellion group during the liberation war against Sudan that lasted until 2005. Since the independence in 2011, the SPLM symbolizes the dominant political party, the government, the state, and the army in South Sudan.

10 The number of non-state armed groups is reported to have reached, at a certain point, 40 (Kuol, 2018).

made illegal ownership of guns much easier among civilians, especially youths. The militarization of social life allowed for civilians' use of violence means to achieve their personal crusade for justice in cases of perceived wrongdoings from other groups or individuals (Jok, 2013). The widespread circulation of SALWs led to an internal disruption and an increase in violence in South Sudan. Weapons became easily accessible, and consequently, violence outside the sphere of the State proliferated throughout society.

The formation of ethnic groups for self-defense and intercommunal hostilities aggravated the multiplication of uncontrolled weapons possession (Lacher, 2012). Despite gaining independence, South Sudan experienced, mainly because of its high militarization, an insecurity problem. Urban areas experienced surge in crime rates, violence against civilians became widespread across regions, and confrontations between local communities also escalated into more catastrophic levels (Jok, 2013). The proliferation of weapons and the militarization of society exacerbated the severity of violent acts. The use of violent resources became one of the most affordable commodities and easily materialized outside the control of the State. The impact of the widespread circulation of SALWs contributed to the transformation of social relations. Instead of the use of peaceful ways to deal with social tensions, people tended to rely on military means to resolve disputes. The violent resolution of local matters had deadly results for local communities. In that sense, the widespread proliferation of weapons pervaded social harmony in South Sudan, as just a month after independence in 2011, communal confrontations led to the death of hundreds of civilians and the destruction of local economic resources (Agbor and Taiwo, 2012). The capacity to rely freely on the use of SALWs allowed the emergence of groups that engaged in acts of violence outside local leadership structures. This led to a breakdown in local leadership and unregulated use of violent resources, potentially leading to further anarchic situations (Hutton, 2014).

### **SALWs and South Sudanese Actors' Reliance on Violence**

State-building and state formation efforts during the Transition Period (2005-2011),<sup>11</sup> which occurred due to the peace agreement between Sudan and the South Sudanese rebellion movement, did not address the deep-rooted injuries that occurred among South Sudanese elites and between local communities. Several intercommunal hostilities continued

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11 The year, 2005 represents the date of the peace agreement between Sudan and the South Sudanese rebellion movement, and 2011 is the date of independence. In other words, the Transition Period symbolizes a period when South Sudan existed as an autonomous region of Sudan while preparing itself for independence through a referendum.

to take place because of the absence of proper mechanisms of national reconciliation. As a result, atrocities of the past continued to be relevant in the South Sudanese society, appearing as a ticking time bomb that could trigger further internal instability if not dissolved properly (Johnson, 2016).

Besides the unresolved past grievances, the prospect of intense and large-scale violence came to be true with the outbreak of civil war in 2013. This situation exacerbated the vulnerability of the South Sudanese society, as local violence between communities continued to be an issue. According to Johnson (2016), the country became prone to dynamics of repeated intercommunal frictions which, in some cases, occurred in the form of acts of vindictiveness through deadly means. The use of SALWs intensified the impact of violence between individuals or local groups, contributing to the disastrous consequences for South Sudanese society. Hence, the prevalence of acts of violence constituted one of the biggest challenges to the survival of South Sudan as a state. The country became trapped within a vicious circle of instability due to pervading brutality, aggravating the poor economic and social conditions of its inhabitants. Resource-based ethnic rivalries were fueled by the use of force, resulting in a cycle of poverty, rivalry, and violence that became deeply intertwined (Jok, 2012).

The South Sudanese State's vulnerability towards internal instability became more obvious at the advent of independence with the surge of local violence between ethnic groups. Contrary to expectations, the accession to independence did not usher in an era of intercommunal peace. Rather, it represented the continuation of the local violence that had characterized the country's history (Jok, 2013). The perception of injustice in South Sudan was no longer tied to opposition to Sudan, as the country had become an independent state after seceding from its neighbor. However, it remained susceptible to disruptive internal dynamics. Within weeks of its independence in 2011, South Sudan was embroiled in multiple violent confrontations between communities. In the analysis of South Sudan's state-building challenges as an independent country, Bereketiab (2013) mentions the disruptive nature of local hostilities on South Sudan's internal stability: in one of the intercommunal hostilities, hundreds had been killed and wounded by criminal groups, whereas thousands of households and livestock were respectively destroyed and plundered by the same criminal actors. Between 2017 and 2018, Saferworld<sup>12</sup> (2018) reported 107 incidents

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<sup>12</sup> It is a London-based international non-governmental organization specializing in peace-building and conflict prevention projects.

related to the use of SALWs, which led to 159 injuries, 200 deaths, and the destruction of properties. The organization indicates that in some areas, such as Western Lakes State, some youths are armed and involved in cattle-raiding, looting, and revenge killings, and in other areas, such as Rumbek East, local authorities reported the possession of SALWs by 80 to 90 percent of the population (Saferworld, 2018).

The outbreak of the 2013 civil war constituted the outcome of the country's internal instability and vulnerability since its independence. The country's elites' power struggles were not alien to the prevailing vulnerability of the society. The excessive militarization of South Sudan was made possible by the widespread proliferation of SALWs, making the use of military force to achieve political and economic goals unavoidable. South Sudanese leaders relied heavily on violence to accomplish these goals as if there was a consensus that violence was the most reliable and effective tool of action. To ensure its long-term survival, the ruling regime, the Sudan People's Liberation Movement, did not hesitate to use military force against the opposition. Before the 2013 civil war, an internal security dilemma became prevalent among South Sudanese political competitors, especially after the Government of South Sudan became convinced of the opposition's likelihood of relying on violence to achieve its political ambition. This situation caused each side to perceive one another as a source of military threat (Johnson, 2016).

The increase of mutual suspicions and mistrust was followed by an accusation of coup plotting against opposition groups, leading to the adoption of measures of further militarization by the ruling power (Rolandsen, 2015). The inexistence of institutional structures that addressed political rivalry meant that reliance on violence was inescapable between the competing South Sudanese elites. Consequently, the internal security dilemma between the ruling power and opposition elites turned into a military crisis (Johnson, 2016). What started as a political rivalry within the state apparatus ended up in armed conflict, perpetuating the dynamic of the high vulnerability of South Sudan to instability and violence (Badiey and Doll, 2018). Undoubtedly, the proliferation of SALWs and their use by various non-state actors enabled the high militarization of society, a situation indicating that the recourse to violence became a necessary and inescapable means to an end in the social and political landscape of the country. In this sense, South Sudanese political actors found themselves trapped in a vicious circle, in which the security dilemma, self-help, and the possibility of mutual destruction tended to prevail.

## Conclusion

Among other aspirations, South Sudan gained its independence with the hope of more stability and order, especially after decades of armed struggle. Yet, the state-building project, particularly concerning military and security challenges, came to be overwhelming for the youngest African nation. The case of South Sudan leads to an understanding of a circular relationship between the spread of SALWs and state fragility. Internal conflicts are symptomatic of fragility but are also made possible by gun prevalence. As fragility becomes profound, the flow of weapons consequently becomes unmanageable by the State. The proliferation of SALWs in a state with high levels of fragility undoubtedly leads to more internal instability. The conditions of fragility in South Sudan, characterized by the State's lack of stable security structure, absence of monopoly of force, and weak internal and external borders, create conditions for the spread of SALWs. But once in circulation, these weapons not only worsen the situation of fragility but also reach a point where controlling them becomes nearly impossible as protracted acts of violence tend to fuel more supply and demand. However, in my opinion, addressing the issue of the proliferation of SALWs and the state fragility in South Sudan requires prioritizing the choosing of legitimate and effective leadership and the strengthening of the country's institutional and security structures. This state-building project should mostly rely on the agency of national leaders, local communities, and citizens and avoid dependence on externally imposed models of intervention.

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## 7

## Participatory Decision-Making: How Local Community helps to Counter Organized Crime in the Lake Chad Area

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Questions about why the Lake Chad area has remained a hotbed of conflict have been extensively researched (Omenma, 2020; Omenma and Hendricks, 2019; Christmann, 2012; Comolli, 2015; Mercy Corps, 2016; Connor, 2017). Different social groups dominate the Lake Chad area, and they are categorized by their socioeconomic status as close migrants, far migrants, and distant migrants (Platte, 2000). In security studies, these social groups are somewhat considered as part of the problem rather than part of the solution. In this regard, this chapter focuses on the decision-making practices of the Kanuri ethnic group to elaborate on two intertwined dynamics: what works for such social groups and how best policymakers can draw upon the knowledge of such a highly complex social formation to counter criminality and violent extremism.

The Lake Chad area presents every characteristic of a place with profound vulnerability to organized crime and violent extremism, which affect large swathes of the lake area and its people. The causes of violence in the area are typically rooted in local grievances, competition for local resources, horizontal inequalities, extreme poverty, and the inability of the

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State to assume its sovereign functions (Marc, 2021; IPE, 2020). As Felbab et al. (2017) assert, some of these conflicts are rooted in historical violence. As a result, militias, rebels, guerrillas, and other loose networks of criminal associations tend to use specific ethnic grievances to their advantage. Recent data show that the Democratic Republic of Congo (DRC) and Nigeria are the two African countries that rank among the five countries most affected by organized crime globally, at first and fifth positions respectively (ENACT Organized Crime Index, 2021). The lake is equally an area where violent jihadist groups (*Jama'atuAhl al-Sunnablil-Dawawal-Jihad* or- JAS) and the Islamic State's West Africa Province (ISWAP) are thriving across four riparian countries: Cameroon, Chad, Niger, and Nigeria. As of 2020, JAS and ISWAP have caused "over 37,500 combat-related deaths and over 19,000 deaths since 2011" (Institute for Economics and Peace, 2020, p. 16), while over 2.3 million people have been displaced from their homes by conflict (Omenma, Onyishi and Okolie, 2020). Every conflict has its local context or dimension (OSCE, 2014), and given the contradictions of the neo-liberal order, states are no longer the sole security providers.

Increasingly, scholarly and policy attention continues to shift from a whole-of-government approach to a whole-of-society solution. Decision-making in most African local communities still revolves around small clusters of communities, and decisions reached at such levels are often valued and trusted more than top-down policies. We, therefore, seek to understand the social structures of the Kanuri people who live in the study area, their decision-making practices, and how these practices could contribute to building relations, attracting broader public support, and responding to the challenges of organized crime.

For this chapter, data on both the dependent variable and the explanatory variable were collected from diverse sources. These include a fragile state index, organized crime datasets, and in-depth interviews with the village, ward and deputy ward heads, palace historians, and local stakeholders, specifically focusing on the Kanuri ethnic group in the northeast state of Borno. Also, this chapter uses interviews conducted by media outlets and other organizations, field reports on the Kanuri compiled by non-governmental organisations (NGOs), newspapers, magazines, and other related sources, particularly on the Kanuri ethnic group. In addition, the chapter builds off several secondary sources including monographs, edited volumes, and published articles. This approach reinforces and validates or disapproves primary data sources. Moreover, consistency is an important factor that corroborates data and substantiates claims in political science.

Thus, the evidence that supports the arguments and conclusions in this chapter are evidence-based. In our study, one limitation was the inability to conduct interviews with the district heads and Waziri (Prime Minister and Kingmaker). This was addressed (made up) through the views expressed by the palace historian. The respondents represent the Maiduguri Metropolitan Council (MMC) and the Jere Local Government because the outskirts of Borno State are still out of reach due to the conflict. These limitations do not detract from the robustness of the study given 11 key informants generated the data: three village heads, three ward heads, three subjects, and one member of the Civilian Joint Task Force (CJTF) and one lecturer/palace historian. From 21 to 31 March 2022 the interviews took place. To articulate concrete evidence on how security decision-making and response measures address the illicit sale of drugs, human and arms trafficking, non-renewable resource crimes, and the activities of terrorist organisations, the research process relies extensively on interactions with the village and ward heads and their subjects. The diversification of sources allows the chapter to trust accounts of opinions expressed on participatory decision-making and security for the communities.

### **A Perspective on the Theory of Deliberative Democracy**

This chapter is theoretically underpinned by the theory of deliberative democracy. Deliberative democracy has been traced to ancient Greece and the Enlightenment Era. Mill (1863) and Dewey (1927) are the earliest scholars of deliberative democracy, while Manin (1987), Cohen (1989), Rawls (1993), and Habermas (1996) are the later scholars associated with this theory. For Mill, democracy is not held together by sameness or agreement (Mill, 1863), but “rather by public participation in the process of opinion formation and exchange” (Urbinati, 2002, p. 345). With regard to Dewey, democracy relates to critical theory oriented towards the progressive emancipation from oppressive forces by protecting “... individuals against the tyranny of the majority” (Dewey cited in Bianchi, 2008, p. 100). For both Mill (1863) and Dewey (1927), what is central to democracy is public participation, exchange of opinions, and equality among citizens deliberating on public matters. Deliberative democracy is not a representative democracy, but rather the participation of groups of people, representing a wide cross-section of society, who learn, deliberate, and develop collective recommendations that consider the complexities and comprises required for solving multifaceted public matters. The deliberative framework should however focus on the substance, consensus, and rights as the focus of deliberation (Habermas, 1984, 1996; Rawls, 1993).

As a political theory and concept, deliberative democracy hypothesizes that political decisions should be an outcome of fair and reasonable discussion among citizens (Habermas, 1996), and is more than a discussion; it is a “talk-centric” approach (Curato et al., 2017, p. 29). From this standpoint, Gutmann and Thompson (2004) identify four characteristics of deliberative democracy, which include the reason-giving principle that presents deliberative democracy as a form of government in which free and equal citizens and their representatives are involved in the decision-making process. Also, there is the principle of making the process of justification accessible to others, that is, giving one another reasons that are mutually acceptable and generally accessible. Deliberative democracy also involves the principle of binding process, which suggests reaching conclusions that are binding for all citizens in the present. Finally, the principle of the dynamics of the process, whereby the decisions reached at the present are open to challenges in the future, is also characteristic of deliberative democracy. These are common attributes that make deliberative democracy “crucial to the functioning of democratic institutions” (Sass and Dryzek, 2014, p. 5) because “...citizens can and do influence policies” (Barrett et al., 2012, p. 181).

These principles were basically drawn upon the three broad tools of deliberative democracy: participatory decision-making, communicative action, and an inclusive approach to reaching conclusions (Pateman, 2012; Carson and Elstub, 2019; Elstub, 2018; Bouricius, 2013; Schechter and Sullivan, 2018; Habermas, 1981). First, participatory decision-making as the central tenet of deliberative democracy demands the widespread engagement of citizens in decision-making, which goes beyond merely choosing representatives through periodic elections. It takes seriously the numbers, categories, and demographic selection of participants in order to bring out the best among the citizens and increase citizens’ capacities and level of involvement in governance (Carson and Elstub, 2019; Pateman, 2012). In terms of the outcome, it is not necessarily the individual opinions that matter, but the collective and considered decisions that help to bridge the gap between citizens and the government. The second principle is the communicative action, which Habermas (1996) describes as the “ideal speech situation,” where people talk to one another in the conditions to secure perfect equality for a sufficiently long period of time to reach a consensus based on rationality. As Habermas notes, communicative action:

... is oriented to achieving, sustaining, and renewing consensus, and indeed a consensus that rests on the inter-subjective recognition of criticizable validity claims. The rationality

inherent in this practice is seen in the fact that a communicatively achieved agreement must be based in the end on reasons. And the rationality of those who participate in this communicative practice is determined by whether, if necessary, they could, under suitable circumstances, provide reasons for their expressions (Habermas, 1984, p. 17).

Public deliberative communication can help the broader public to learn about issues, encourage citizens to participate in politics, support the decision-making process, and achieve the public goal as well as assist in counteracting disinformation and polarization. The third principle is the inclusive approach, where the interests of all members of the community must be incorporated in deliberation. It assumes free public reasoning, equality, the inclusion of different interests, and mutual respect (Ryan and Smith, 2014). This suggests the participation of a broadly inclusive subgroup of an affected population representing a wide range of views. Demographic stratification and sortition (random selection) help in designing stakeholder participation and obtaining a diverse body of participants, particularly the underrepresented groups in participation processes. Habermas (1984), therefore, sees communication (dialogue) as the cardinal point of participatory representation or egalitarianism, where everyone: women, racial minorities, and the poor is included in the participatory process, thereby improving the democratic perspective on governance.

Deliberative democracy operates in the higher macro dimension or the lower micro dimension, which is close to citizens. In any dimension, the framework provides the most acceptable foundation for solving conflicts in politics (Dryzek, 2002), and serves primarily as the means of actualizing the goals of security (James, 2004; Dryzek, 2002; Przeworski, 1998). The concern of this chapter is not whether these deliberative tools should apply only in the macro dimension or the micro dimension; instead, it is interested in how participatory decision-making tools can be leveraged for goal-oriented programs. In light of this perspective, this chapter uses a deliberative democratic framework to provide answers to the puzzling security questions in the Lake Chad area through an in-depth analysis of Kanuri socio-political structures vis-à-vis the collective approach to criminal organisations in the lake areas.

### **A Brief Explanation of the Complexities in the Lake Chad Area**

One of the most complex crises in the world is found in the Lake Chad area. Its complexities manifest in three interrelated dimensions. First, the lake occupies an area of 2,397,424 km<sup>2</sup> or 8% of the African continent

and consists of freshwaters traversing four countries: Cameroon, Chad, Niger, and Nigeria (Omenma, 2020). It provides water resources for more than 37 million inhabitants that engage in different economic activities and cross-border trading (UNEP-GIWA, 2004). Second, it is a plural region of mixed identities and population movements categorized as 'close migrants,'<sup>3</sup> 'seasonal migrants,' 'far migrants,' and 'distant migrants' (Platte, 2000). The settlers reflect a diversity of local languages, dialects, ethnicities, and indigenous groups. Third, the lake area harbors a vast expanse of ungoverned spaces for transnational criminal groups. Over the years, illicit trading has become common and profitable, given that it is a low-risk way to make a profit facilitated by centuries of ubiquitous trade routes in the region. The Lake Chad area remains a melting point for trafficking arms, drugs, humans, contraband, natural resources, and cultural property transported across the Sahel and Sahara desert and to the present enclaves of JAS and ISWAP.

The absence of governance is of material importance in the security landscape of the region or what Platte (1999) describes as the occasional presence of security agents on market days or harvesting periods only; the security agents move out when the market day or season is over, thereby leaving the region highly vulnerable to groups associated with crime and extremism. The vulnerability of the region and the thriving of illicit businesses go almost unchecked and become appealing to terrorist and insurgent organizations interested in generating operational funds and arms and ammunition. The Lake Chad area, therefore, provides an ideal environment/sanctuary for transnational criminal organizations and violent extremist groups that not only synergize but also become well funded, better armed, and pervasive, which exacerbates the fragility of the region. At the level of sub-regional grouping in Africa, available data indicate that West Africa (5.47) and Central Africa (5.11) have the highest overall levels of criminality in Africa after East Africa (5.66) (ENACT Organised Crime Index, 2021). Incidentally, Cameroon, Chad, Niger, and Nigeria are located

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3 Close migrants are ethnic groups living along the shores of the Lake Chad, namely the Shuwa, Kanuri, Kanembu, and Kotoko living in Nigeria and the neighboring countries. They are mainly seasonal migrants that migrate from a close place (in the physical sense). They and their families are known. Seasonal migrants are occupational farmers that get access to farming land from close migrants and pay contributions to landowners or officials for using the land. Far migrants are people whose family backgrounds are unknown but that share common language, religion, and culture. The Hausa, Fulani, Mali-migrants, Masa from Cameroon, or Mandara from Nigeria fall into this category. Although they are not seen as indigenous people, they are among the first settlers in many settlements. Distant migrants are the group of other ethnic people, mainly the Christian communities of the Banana, Margi, Higi, and Igbo from Nigeria and the Chad Republic. They are of different language, regional, and cultural backgrounds.

both in Central Africa and West Africa sub-region, while the violent jihadist groups (JAS and ISWAP) are thriving across these four riparian countries.

The State is central to our understanding of fragility, organized crime, and ungoverned space because political science is concerned with the science of the State or the legal-institutional framework within a specific geographical entity that exercises sovereign authority under a government for the populace. Max Weber conceives the state “as a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory” (cited in Di John, 2010, p. 12; The Fund for Peace and Foreign Policy, 2005, p. 58). For Weber, the lack of state capacity to use legitimate force to control its territorial areas is an indicator of state fragility. Beyond this threshold, Wolfensohn (1999) and Sen (1999) argue that state failure can also be juxtaposed with institutional failure to provide a set of public goods. This approach agrees with Stiglitz’s (2002) comparison of the state with the provision of economic needs by addressing market failure. These perspectives point to state failure either to assume its monopoly over legitimate violence or provide public goods. The State fulfils its contractual relationship with its population by providing these services. The failure or lack of capacity to provide these functions is described as a social contract ‘gap’ (Call, 2010).

The Fragile States Index places more weight on violent conflict, which can be seen both as a definition and cause of state fragility (Institute for Economics and Peace (IEP), 2022). Steputat and Engberg-Pedersen (2008) note that several fragile states have experienced or are presently experiencing conflict. The relationship between a fragile state and conflict is often described as circular: conflict both creates and is created by weak authority and legitimacy of states. Conflict is the ultimate manifestation of state fragility, that is, both mutually reinforce one another. Collier (2021) describes the circular scenario as a ‘fragile trap,’ an interconnection that can start off in conflict/disaster, move to post-conflict/post-disaster, and then fall back into conflict (Gelbard et al., 2015; Deléchat et al., 2018). This chapter’s concept of a fragile state focuses on weak capacity and/or lack of political will to provide services and sustain a development partnership with the contiguous states on one hand, and the international community on the other hand. To present it differently, states are categorized as fragile when their governments are unable to deliver the core functions to their populace, which include securing their territorial spaces. The absence of these factors increases state vulnerability and fuels the growth of criminal organizations.

Max Weber’s bureaucratic discourse brings us closer to organized crime as groups of people with specific and regular activities for the

fulfilment of the groups' defined goals (Weber, 1976). What differentiates a bureaucratic organisation from organized crime is that the former is a group of people who cooperate to accomplish formal and legal objectives, while the latter group is illegal and prohibited. Organized crime is conceived therefore as an outcome of highly structured criminal groups with a unit of command and clear rules, regulations, objectives, and lines of authority and specialization. It is defined as "illegal activities, conducted by groups or networks acting in concert, by engaging in violence, corruption or related activities in order to obtain, directly or indirectly, a financial or material benefit. Such activities may be carried out both within a country and transnationally" (Global Initiative against Transnational Crime, 2021, p. 4). This definition is in consonance with the United Nations Convention against Transnational Organized Crime's definition of an organized criminal group as

a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention in order to obtain, directly or indirectly, a financial or other material benefit (United Nations Office on Drugs and Crime (UNODC), 2004, p. 5).

Criminal organizations are of numerous types: those that have strong familial or ethnic ties; those that are from a specific region or neighborhood; those that come from military or police backgrounds; those that share a religious or a political ideology; and those that have economic motives, just to mention a few (Dudley, n.d).

The trajectory of organized crime is placed on rules and regulations or what Lampe and Johansen (2004, p. 1) call "bonds of trust," distinguishing organized crime from other crimes. Lampe and Johansen (2004) assert that trust remains paramount in organized crime as most illegal and black market businesses have their foundations on kith and kin. Family, community, or ethnic members are usually relied upon to meet a range of obligations whether in the illegal market of cigarette smugglers, cocaine trade, resource crime, or human smuggling. That kind of father-and-son team, husband-and-wife, community, or ethnic criminal business relations are based on trust, a sense of similarity, and shared norms and values, which usually increase the opportunities for success and cooperation. Trust in family, community or ethnic members is built over a long period of time, connected not only to illegal business activities but also to other aspects of life, such as politics, sports, and education, among others. Lampe and Johansen (2004) state that smugglers have been found to receive moral and logistical support from their family members (e.g., in the cigarette illegal market in

Germany, cooperation between husbands and wives appears to be the most common type of family-based criminal relations). The strong social fabrics cut across other activities, from politics to sports and education, where local communities produce trust through familiarity and conformity (Giddens, 1990; Luhmann, 1988). The bond of trust is the comparative advantage organized crime has over other types of crime.

To draw clear analytical boundaries across 'state fragility,' 'organized crime,' and 'ungoverned space' may be difficult, if not impossible. What is discernible across these concepts is the contractual failure of the State to provide domestic security or basic services to its citizens, which results in the delegitimization of the government by a significant proportion of the population as well as a contestation of the space.

### **The Kanuri Ethnic Group, its Decision-Making Model, and its Response to Organized Crime**

The aim here is not to fit the Kanuri governance institutions into Western cultural essentialism (liberal or republican), but rather to underscore the cultural peculiarities of the Kanuri people vis-à-vis dialogue and inclusive governance. First, through in-depth interviews and focused group discussions, the research process entailed aggregating information on the **socio-cultural and political organization** of the Kanuri from the local population and found that the Kanuri people are organized under a Muslim emirate. The Kanuri people are "numerous and the largest non-Hausa Muslim ethnic group in Nigeria" (Blench et al., 2006, p. 42) and are found predominantly in the central<sup>4</sup> and northern<sup>5</sup> parts of Borno State. Kanuri ethnic group occupies 17 Local Government Areas (LGAs) out of the 27 in Borno State (Borno State, n.d). Their origin (cultural, economic, and political backgrounds) is reflected in their present geographical locations, which extend eastwards into present-day Cameroon and Chad and north to the Fezzan, in southwestern Libya. The Kanuri language is classified as a member of the Nilo-Saharan group of languages and of the twenty-six Chadic languages spoken in Borno (Borno State, n.d).

The Kanuri society is stratified into several distinct classes. The family of the Shehu of Borno, the political and religious head of all Kanuri, forms a royal lineage. Below the Shehu are the Waziri, district heads (*Aja*), ward heads (*Lawan*), and village or hamlet (*Bulama*) heads. At the base of the social and political organization is the household. The household

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4 Central Borno has seven local government areas: Maiduguri Metropolitan Council, Ngala, Kala/Balge, Mafa, Konduga, Bama, Jere, and Dikwa

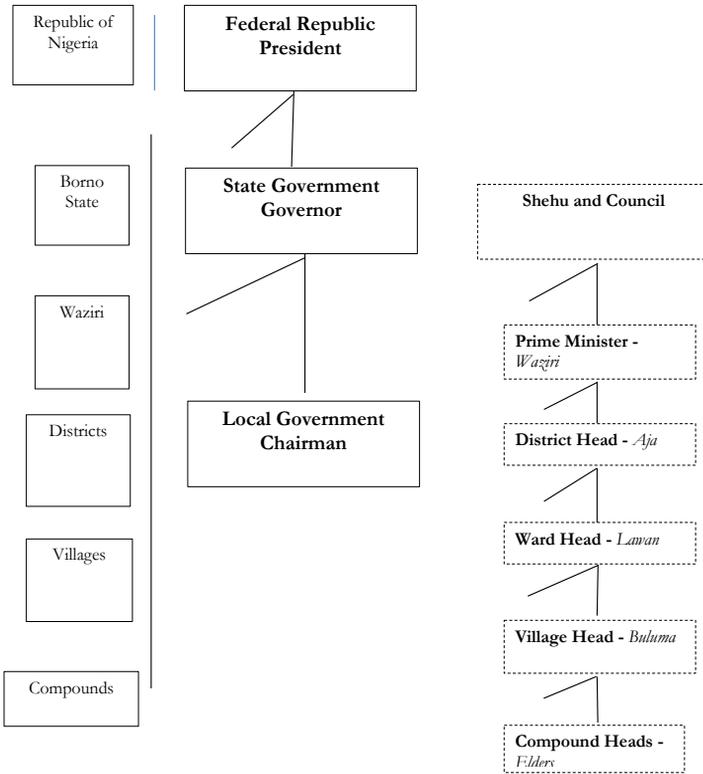
5 Northern Borno has ten local government areas: Kaga, Nganzi, Gubio, Magumeri, Mobbar, Monguno, Kukawa, Guzamala, Abadam, and Marte.

can comprise wives, children, clients, sons, and an ageing mother of the compound head. Traditionally, the household has been and remains the basic decision-making unit, and a collection of households forms a compound. Compound heads are the authoritative leaders of the compound, and each relates with the individuals in the residence to higher echelons in the political hierarchy. The compound heads are also known as elders. The Imam is the religious leader recognized in the authority structure of the Kanuri. Indeed, the entire political system in its basic outline is a series of links from household heads to the *Bulama*, *Lawan*, *Aja*, *Waziri*, and up to the monarch: Shehu of Borno (Cohen, 1965; Seidler, 2011; Borno State, n.d; Rosman, 1959; Boahen, 1962). These layers of governance structure (see Diagram 1) define the lives, needs, and concerns of the grassroots people, as well as regulate communal disputes.

Over the years, the Kanuri people have built and maintained a *degree of social cohesion* in the various layers of their settlements: compound, village, ward, and district. Basically, Kanuri settlements are contiguous in nature, which makes it easier for everyone to know one another, while the identification of strangers or visitors becomes a seamless exercise. The settlement structure also helps in daily behavior monitoring and control among neighbors, which the *Lawan* of Fori calls “peer-to-peer monitoring.” In *Fori*, strangers are welcomed but they are tactfully and thoroughly investigated, and if anyone (that is, strangers) passes the character check the person will be integrated into the community. The trading of illicit goods and smoking of marijuana (known locally as *Indian hemp*, or *we we*) are prohibited in the community; however, any community member found to be trading in illegal goods or addicted to marijuana receives counselling. The counseling usually involves the parents, elders, Imam, and the village head. When counseling fails, the person is reported to the police or the military for appropriate legal actions. To forestall the trading of illegal goods and the engagement in violent extremism, the *Fori* youths are organized into a local enforcement team, which has been in place before the emergence of the Civilian-JTF.

In the *Bale* community, at the Jere Local Government Area, character building through counseling involving parents, elders, and Imams remains the model for social cohesion and control of youth extremism. Youths, as well as adults, found contravening the local norms and ethos of behaviour are disciplined at the village and ward level, before being reported to the district head for further adjudication. The village head of *Bale*, just like others interviewed, noted that organized crime and youth extremism are a global phenomenon which is not peculiar to the Kanuri ethnic group.

**Diagram 1 - Socio-Political Structures of Kanuri<sup>6</sup>**



Sources: Authors' Fieldwork, (March 2022); Seidler, (2011, 1, p. 11)

However, youths are regularly counseled by their parents, elders, and Imam against such vices (Anonymous, 2022a). Village and ward heads continue to play a significant role in modeling youth behaviors as well as enforcing community norms and standards of behavior despite the significant influence of Western culture.

Similarly, the Kanuri ethnic group maintains a *traditional and stratified decision-making structure* that is participatory and collective in style. Interviews with head leaders and their subjects reveal that authority and

<sup>6</sup> *Shehu of Borno* - is the political and spiritual leader of the Kanuri emirate, and he rule's in conjunction with the council members; *Wazir* - is the Prime Minister; he reports directly to the Shehu of Borno, and primarily relates directly with all Ajas, *Aja* - is the district head in charge several wards; *Lawan* - is the ward heads in charge of several villages or hamlets; *Bulama* - is the village or hamlet head in charge of compounds/ settlements; at the lowest ladder is the Elders - these are collection of heads of households, which forms compound heads.

power of administration exist at the various strata, and the flow of decision-making is both bottom-up and top-down, as represented by the local suzerains and the Shehu of Borno and his council members respectively. The interviews equally reveal that heads of hamlets/villages are the first reference points for all legal, land, security, and political matters. The *Bulama*, as the lowest institution of authority, calls for and presides over regular meetings of elders, Imams, *Yamaira* (woman leader/organizer), and *Wakili* (the deputy) to deliberate on matters before the village or hamlet. The decisions are taken on the basis of popular agreement (consensus) and implemented by the elders or the family members. However, matters beyond the powers and jurisdiction of the village heads are referred to the Ward head (*Lawan*), the next institution of governance. The *Lawan*, as the ward head, repeats the same decision-making process through the convocation of meetings of village heads in his ward and/or elders and Imams to deliberate on matters before it. The resolutions arising from the village and/or ward deliberations are forwarded to the district head (*Aja*) either for notification or for further action at the level of the Emirate Council. The top-down decision-making institution constitutes the Shehu of Borno and the 16 members of the Borno Emirate Council: Shehu as the President, the Waziri, District heads, and other kingmakers. The decision-making is collective; however, the views of the Shehu are always treated with veneration down to other layers of authorities and subjects.

Finally, the issue of *civilian self-defense* response to criminalities and violent extremism remains important in achieving relative peace for the community. There have been in existence local civil defense forces, hunters and vigilantes, before the emergence of both JAS and ISWAP and the creation of the CJTF in 2013. The self-defense approach has been helping the community to regulate untoward behaviors of the youths and the trading of illicit goods. The *Lawan* of the Fori community thus says,

In this community, if anybody is caught in [an] act such [as illicit trading], they will be punished and if the person is not from *Fori*, we will make sure that the person is evicted. Furthermore, parents have been reporting such cases to me and we have set up a patrol team to checkmate such illegal activities. And lastly, the *Lawan* makes sure that [an] environment is created for those that have given up on such acts, including giving...start-up business capital to such individuals (Anonymous, 2022b).

At *Galtimari*, the ward head notes,

As a leader, it is expected that you have control over the behavior of your subjects, relating to illegal trading in the community. The *Lawan* knows all the parents around this community, and once we detect that a youth is behaving contrary to our norms and values, we call the parent of such child to discipline that fellow. We normally settle issues traditionally, before we then involve the police in matters that have to do with theft or sale of hard drugs. Well, it is not only the *Lawal* that is solely taking responsibility for decisions; the Imams and the elders are also involved in such processes. Furthermore, if one commits an offense, we involve both the *Bulama* and the elders in the community for a decision to be taken. In such meetings, parents of the defaulters are also invited for questioning in regard to what is happening (Anonymous, 2022c).

By making it possible for youths (vigilante groups) to participate in the local security architecture, it gives concrete reasons for inclusive support of particular customs and norms, and it becomes easier to expose local collaborators or participants in organized crime and to foreground the abuses perpetrated by particular groups such as law enforcement agents. It is also in the spirit of local security architecture instituted by their leaders that the predecessor of the Multinational Joint Task Force, the Multinational Joint Security Force (MNJSF) was formed in the 1990s to deal with cross-border security issues in the Lake Chad area. Many of these civilian defense forces highlight the importance of traditional institutions in addressing cases of organized criminalities, which can best be understood in historical and cultural contexts.

## **Conclusion**

Maximizing the potential of local structures to address organized criminalities has been under-utilized, especially when the state security agents provide the gang members legitimacy, such as bribe-takers, informants, money couriers, and brokers facilitating illegal commerce, sexual abuse, and exploitation. In such communities, organized crime becomes a set of techniques that anyone can adopt, from terrorists and militias to states and individuals, which exposes inhabitants to all forms of criminalities. Thus, an internal intervention in the form of locally generated operations through mini-publics (local assemblies) and community security outfit usually provide a minimum level of stability and predictability for the local population, thereby assisting in altering the structure of organized crime transactions.

Our findings show that sub-groups at the village, ward, and district levels among the Kanuri have, in many ways, strengthened cohesion, assisted them to learn about issues, counteracted disinformation, and complemented the existing state forms of security. Focusing on the macroeffects of participatory decision-making, which is represented by the Shehu of Borno and his Emirate Council that processes decisions of the lower levels, the macro effects strengthen participatory decision-making in two ways: (in) directly, by giving sub-groups a voice in decision-making, and in a more direct way, by encouraging citizens to disclose security information and consider one another as social capital in terms of peer-to-peer monitoring.

Organized crime is transnational in nature but manifests locally in different forms of violence. However, the Kanuri social structures that include a diverse range of sub-group members serve as a critical part of improved information sharing that helps the local security outfit to provide neighbor-to-neighbor security as well as reduce financial gains of the members of the organized crime. Our findings indicate that security provisions by the CJTF limit illicit economic activities as organized crime operators are denied local protections.

Overall, the Kanuri decision-making structure is a collective decision-based system, and different layers of authority are recognized by the Shehu of Borno in mediating local conflicts and behavior control. Our analysis shows that politicians are influencing the local institutions and structures by bypassing these local institutions and using the sub-national (state) and/or central government to command federal police or military to settle disputes. Here again, a parallel institutional structure has evolved competing with (and in fact displacing) the autochthonous governance system, without filling the traditional institutional gaps. Society moves toward private autonomy in the form of a legally protected autonomy that every person can use to realize his or her personal life project. As Kirscht (2001, p. 77) notes, the new political elite (sometimes, known as 'big men') are "to some extent filled with former traditional leaders and men loyal to the Shehu," but marked by significant inequalities of power and wealth.

The new political elite thrive on the patron-client system. This dynamic seems to have diminished the security impact of the deliberative processes because the new political elite are hesitant about or even averse to giving power to citizens. It is from this perspective that one of the interviewees noted, "nowadays, youth are easily manipulated with material things and money unlike in olden days when youth were patriotic" (Anonymous, 2022c). The evolution of youth culture is a factor that helps to create and

sustain organized crime in the Lake Chad area despite the community-level social structures of security decision-making and implementation.

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## 8

## Political Elite, Horizontal Inequality, and Instability in Nigeria

Jude Cocodia<sup>1</sup>

Nigeria, once upon a time referred to as the giant of Africa and a country of which its citizens were proud since its independence, had great prospects for the future but now embodies the trappings of a state with high levels of fragility, assuming the 14th position in the Fragile State Index (Fund for Peace in World Population Review, 2022). The country also ranks 143<sup>rd</sup> out of 163 states on the Global Peace Index (Institute for Economics and Peace, 2022), being classified as least peaceful country in the world. In 2020, the country earned for itself the classification of the poverty capital of the world, despite its vast human and natural resources (Uzoho, 2021). In the same year, life expectancy was at 55 years which was among the lowest in Africa (The World Bank, 2022a), while the percentage of educated people was at 62% amid rapidly falling standards of education (The World Bank, 2022b). The unemployment rate in Nigeria is at its highest at 33.3 percent, which means that one in three adults is jobless (National Bureau of Statistics, 2021).

The country also faces some of the worst infant and maternal mortality rates in the world, at 5.8 maternal deaths for every 1,000 live births, and approximately 262,000 babies die at birth annually (UNICEF, 2021). These numbers depict the abysmal level of education and health care. Except for the elite, a good number of its citizens speak of the country with disdain, are ashamed of being identified as Nigerians, and stand in disappointment and trepidation at how things have turned out (NDTV, 2014; The Guardian, 2020, Sunday, 2021). Terrorism, banditry, and

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organized crime in Nigeria have reached levels where the country is classified as a failing or failed state due to its high level of fragility. Compounding this issue is the high level of unemployed and uneducated youth who are prime targets for recruitment by crime and terrorist syndicates, porous land and maritime borders, foreign interference, complicity of security agencies, corruption, ethno-nationalism, horizontal inequality, poverty, and ungoverned spaces. For a country whose people were steadily ranked as the world's happiest up until 2013, where the state is the spate of insecurity and wanton bloodshed, Nigeria is now ranked as one of the most insecure places in the world, devoid of a civil war.

Unfortunately, rather than working together to address the issue of security, the country becomes more polarized by the ruling elite. The high level of horizontal inequality they perpetrate through the skewed distribution of political power and economic resources in favor of a small parcel of society increases the attention for secession across society thereby weakening state authority and spurring rebellion. Amid these challenges, this chapter is centered on analyzing the scenario of whether Nigeria's political class can get its act together, resort to horizontal equality, and consequently pull the country back from the precipice of collapse in which its actions have placed it.

### **A Review of Issues Propelling the Failure of the Nigerian State**

State failure is always a gradual process of social decay that goes unchecked. As Rotberg (2003), Collier (2007), and Levitsky and Ziblatt (2018) point out, states fail because they are ridden by internal violence, are unable to protect and sustain the welfare of citizens and lose legitimacy as the disparity between the political elite and the public widens. Even Machiavelli (Cliffs Notes, 2022; Sparknotes, 2022) notes that the best fortress for the prince (State) is the loyalty of his people. The people's goodwill and support are always the best defense against domestic insurrection and foreign aggression. For this reason, the prince should treat the people well and do all that can be done to secure their loyalty because it ultimately consolidates state power and ensures stability in the polity. In a similar vein, Forde, Kappler and Bjørkdahl (2021) attribute state weakness to structural violence, which is the product of increasing social/horizontal inequalities that can be addressed through the fairer distribution of resources. Public disenfranchisement with the State is often caused by state sponsored horizontal inequality that fans the embers of structural violence. Such fractionalization has led to the destabilization of states in Africa (Østby et al., 2011; Solomon and Cocodia, 2021). Examples include William Tolbert,

the Americo-Liberians,<sup>2</sup> Samuel Doe, and the Krahn,<sup>3</sup> whose regimes of state sponsored horizontal inequality led to the Liberian civil war (Ellis, 2001), and Siad Barre's factional politics that began Somalia's decline to failed statehood<sup>4</sup> (Møeller, 2009; Global Security, 2013; Centre for Justice and Accountability, 2014; Cocodia, 2018). In these cases, these political elites empowered their ethnic groups at the expense of other groups and the result was civil war and failed statehood. Since its civil war (1967-1970), Nigeria has arguably never been close to breaking up as a nation, being far from entering into a post-civil war phase due to President Muhammadu Buhari's legacy on ethnic politics that led the country in a situation of horizontal inequality and structural violence (Akhaine, 2019; Omolaoye, 2021; Olugbemi, 2021).

Structural violence derived from social exclusion explains the existence of large swathes of ungoverned spaces all over Nigeria (Galtung, 1969; Høivik, 1977). While this did not begin with the current crop of political elite,<sup>5</sup> it has reached a point where bandits, terrorists, crime syndicates, and rebels roam unhindered in the suburbs with little or no government intervention. In urban towns, cultism, kidnapping and ritual murders have reached frightening proportions, and more worrisome is the fact that the perpetrators are mainly youths, Nigeria's unemployed legion (Usman, 2017). As Obadare (2022) rightly notes, the rising incidence of

- 2 Liberia used to be composed of two economic groups: the minority Americo-Liberians (freed slaves from the US who resettled in Liberia) who were the 'haves' and the multiple indigenous groups who were the 'have nots'. In what was a role-reversal-minority, the Americo-Liberians who were better educated controlled political and economic power and kept the indigenous groups on the periphery. Though President Tolbert who was an Americo-Liberian was lauded for being a liberal reformer, his administration kept with this dichotomy. The growing instability led to his assassination in 1980 by Samuel Doe in a coup (see AAREG, 2022a and b).
- 3 Samuel Doe of the indigenous Krahn ethnic group in Liberia came to power through a bloody coup in 1980. He was unpopular among Liberians because of his brutal tactics in suppressing dissent and the country's dwindling economic fortunes. His undue favoritism toward his Krahn ethnic group sparked a rebellion against him in late 1989 that degenerated into a civil war that led to his overthrow and death in 1990 (see Marmon, 2015; Encyclopaedia Britannica, 2021).
- 4 A significant part of Siad Barre's twenty-one-year rule of Somalia was the intensified identification with clan politics. Having suffered a crushing defeat at the hands of Ethiopia in the Ogaden war (1977-78), Barre's popularity plummeted. To reaffirm his control of state affairs, he armed members of his clan to quell civil dissent and reassert his authority. This marked the beginning of the clan wars that destabilized Somalia (Cocodia, 2018: p. 100-101). Some analysis however notes that from the beginning of his rule, Barre favored the lineages and clans of his own family, the Daarood. The distribution of political power and resources to members of this group to the exclusion of others fanned the grievances that escalated into Somalia's civil war that began in 1988 (US Department of the Army, 1993).
- 5 There has been an ever-increasing gulf between the rich and the poor in Nigeria as the country possesses a Gini coefficient of 35.1 as of 2021. Many of the country's poor, especially in the rural areas do not experience any form of governance as they lack every public facility imaginable, especially when resources are unevenly distributed. This has been the bane of Nigeria's politics and development through successive regimes since independence.

ritual killings in Nigeria reflects weakening state control and a desperate attempt of Nigerians to escape poverty by all means, even if it involves murder.<sup>6</sup>

As the State gets weaker and loses legitimacy, ethno-nationalism grows as citizens lose faith in the ability of the weakened State to protect their interest and be a fair arbiter. In the absence of State protection, citizens turn to their ethnic groups for protection and to cushion the impact of structural violence, while pushing to achieve through the ethnic group what the State cannot guarantee. Shiller (2016) supports this position, arguing that economic weakness and a rise in inequality are the causes of a disturbing growth in ethno-nationalism. Similarly, appeals to ethnic identity by the elite is widespread, and a consequence of this is an increase in the polarization of multiethnic states. This has been a major issue with politics and group identity in Nigeria, and the impact has been negative, as group suspicion hinders their ability to work effectively together, being a pervasive phenomenon in politics at all levels.

It is obvious that youths in Nigeria have taken to crime largely in a bid to survive, a situation that is the product of social exclusion and government failure. While the southwest region of Nigeria has seen a rapid and astronomical rise in criminality bordering on fraud, kidnapping, and ritual murders (Adebayo, 2013; Chiedu, 2015; Akhaine, 2019; Oluwaleye, 2021), in the north of the country, youths are being recruited by terrorist groups and organized crime syndicates (Okonkwo, 2017). Adelaja and George (2020), in relation to the level of crime in the north, aver that, “there is a positive relationship between youth unemployment and domestic terrorism, conditional upon different development factors including corruption, government ineffectiveness, and the absence of the rule of law.”

The discussions above support the notion that government failings since they provide a reference to the existence of structural violence. It is necessary to note that sometimes states are constrained from acting in the best interest of their people by external pressures in the form of major State players, aid donors, and international patrons. Suša (2018) refers to these external pressures as global risks, and the author argues that the influences they place on states often yield negative consequences that become increasingly unsustainable and less manageable (Perkins, 2004; Chomsky 2007). The interference of the United States (US) in Iraq and Libya that culminated in

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<sup>6</sup> Ritual killings have been on the increase especially in Southern Nigeria and purportedly for acquiring quick wealth. Whether these rituals achieve their goals could be the subject for further research.

the growth of the Islamic State in the Levant (ISIL) and the destabilization of Africa's Sahel, respectively, are vivid cases. Interferences carry on within national boundaries of most African states as major international players dictate events through the politics of humanitarian aid (Moyo, 2009). Due to these external pressures, most African governments, including Nigeria, are often adrift as performance falls below expectation, yet their benefactors are often satisfied with the benefits they derive.

### **Addressing the Problem of Nigeria**

It is obvious that Nigeria is either a failing state or a failed one given the comatose state of public services and the falling standard of living. However, the reason for this cannot all be placed on the doorstep of external pressures. Given that all states face these external pressures, Nigeria, like other countries, has stayed vulnerable to their impact and thus, cannot improve the standard of living of its citizens (Nicholas, 2015). As noted by Akhaine (2019), in spite of the international goodwill enjoyed by Nigeria's President, Buhari (full name, please), Nigerians across the country rate Jonathan's (full name, please) regime (2009-2015) as having promoted better standards of living, since they were higher despite the international ill-will he faced for the larger part of his tenure. So, while external pressures exist and play a role in state failure, they can be managed to harness a state's potential toward stability. It all boils down to the leadership and the political will of the elites in charge.

### **Political Will and Transparency**

Political will and transparency stand as priorities for country stabilization. In consonance with Adegoroye's ranking of the vital requirements to drive public service reforms, Nigeria's political will is at the heart of development, sustainability, and public governance (Magbadelo, 2021; Ormond, 2010). Supporting this view, Lonsdale (2006) asserts that meeting developmental objectives is not solved by throwing money at the problem but by putting committed people to work: "people who are willing to share the living conditions of those they are going to help." Although his example is drawn from the experience of the success of Cuba's health care system (Lonsdale, 2006), coincidentally, this is the dominant view on the streets of Nigeria in relation to the political elite. When the political elite are compelled to use public services such as schools and hospitals, these institutions will improve. Unfortunately, this argument is rarely discussed by scholars as a factor in addressing the nation's dwindling fortunes.

One major public opinion in Nigeria is that infrastructure in the country will improve if the political elite compel themselves (or are compelled by whom??) to use local facilities. From this perspective, if legislation were passed banning political office holders from using any other form of service except that which is locally provided and meant for the general public, then public services would improve. Education across all levels of society will do better if all political office holders send their wards to public schools and public funds saved were allocated to development program (Kurniaty, 2014; Kanu and Okonkwo, 2019; Baiyewu, 2022). As it stands, most political elites' children study abroad. The same applies to the health sector where if the political elite got treatment in local public hospitals rather than being flown abroad, the country would lose less money. The need to survive and commitment to the growth and development of elites' children would necessitate the development of public facilities and services.

Public opinion also goes as far as prescribing bans on political elites from having generators in their homes which is the alternative source to the nation's power supply. The cost of maintaining these generators even if they run all day is insignificant when compared to the lump sum that they award to themselves (see Table 1). Since they can easily provide power for themselves, it matters not whether the public has access to power, hence Nigeria's power generation has experienced a steady decline. In reference to consistently declining standards, Alexander (2007, p. 29) avers that "deceleration in standards and the filth that accrues overtime escalates corruption... Lack of political will is the chief block to success."

### **Income Inequality and the Need for Social Parity**

With a Gini coefficient of 35.1, Nigeria bears one of the world's worst social disparities, which is evident in earnings between political elites and public servants. This explains why most members of the governing elite try to keep their earnings secret. It is inconceivable to think that in a country where negotiations for a monthly minimum wage of ₦30,000 (US\$72), which has still not been implemented by most states, dragged on for over six months in 2020, federal legislators earn as much as ₦8,000,000 (US\$19,277), for members of the House of Representatives, and ₦13,000,000 (US\$,31,250), for members of the Senate. The clamor by the public is that the country cannot sustain these lump wages especially when considered that the 2019 Poverty and Inequality in Nigeria report states that 40 percent of the total population, which converts to 83 million people, live below the country's poverty line of ₦137,430 (US\$330), annually (The World Bank, 2020). Against the country's meagre minimum wage, it is worthwhile to capture the earnings of its federal legislators.

**Table 1 - The Earnings of a Member of Nigeria's Senate**

<b>Basic Salary</b>	
Monthly Basic	₦0.750m (US\$1,803)
Annual Basic Salary	₦9m (US\$21,634)
<b>Monthly Running Cost</b>	
Newspaper Allowance	₦1.24m (US\$2,981)
Wardrobe Allowance	₦0.62m (US\$1,490)
Recess Allowance	₦0.25m (US\$601)
Accommodation	₦4.97m (US\$11,947)
Utilities	₦0.83m (US\$1,995)
Domestic Staff	₦1.86m (US\$4,471)
Entertainment	₦0.83m (US\$1,995)
Personal Assistant	₦0.62m (US\$1,490)
Vehicle Maintenance Allowance	₦1.86m (US\$4,471)
Leave Allowance	₦0.25m (US\$600)
<b>Monthly Total Running Cost</b>	<b>₦13.33m (US\$32,043)</b>
<b>Annual Total Running Cost</b>	<b>₦159.96m (US\$384,519)</b>
<b>Consolidated Salary</b>	
<b>Projects Execution Annual Sum</b>	<b>₦200m (US\$480,769)</b>
<b>Grand Total (that accrues to a Senator annually)</b>	<b>₦359.96m (US\$865,288)</b>

Source: Adebajo (2018); Busari (2018); Odunsi (2020)

On a monthly basis, senators are entitled to ₦14.080 million (US\$33,846), which equivalates to ₦168.960 million (US\$406,153) in a year. The annual sum for constituency projects brings a senator's total to ₦359.960 million (US\$865,288). This amount is close to N1,000,000 (US\$2,400) daily. The table below (Table 2) captures the issue of parity in earnings between the poor, represented by the minimum wage, the middle class, represented by the average wage of a university professor. and the political class, represented by federal senators. A university professor's wage and a judge of the supreme court are used on the grounds that they are among well paid public servants and sit well within Nigeria's middle class.

**Table 2 - Disparity in Income between the Political Class and Skilled and Unskilled Public Servants**

Class	Profession	Monthly Salary	Annual Salary
Upper Class	Federal Legislator	₦14.08 million (US\$33,846).	₦159.96 million (US\$384,519)
	Professor	₦0.450 million ((US\$1,081).	₦5.4 million ((US\$12,980).
Middle Class	Judges (Supreme Court)	₦0.751 million ((US\$1,805).	₦9.012 million (US\$21,664)
	Worker	₦30,000 -mini- mum wage (US\$72)	₦360,000 (US\$865)

Source: OXFAM (2017); Cole (2020); Akubo (2021); Nigerian Tribune (2022)

Drawing from the table above, the disparity in wages is odious when legislators are compared to the rest of the group. While it will take a laborer 15 months to earn a professor's salary, it will take 25 months to earn a judge's annual salary and 38 years to earn a legislator's salary. It will take a university professor 30 months to earn a legislator's salary and 18 months for a supreme court judge to earn the same amount. There have been calls from various sectors of society on how grossly overpaid the political elite are and how the country cannot keep up with such payments, especially when three percent of the national budget is used to run the National Assembly (Baiyewu, 2021). In this scenario, how does such income disparity affect the fortunes and stability of the country?

This study is not against income inequality occasioned by hard work in which case, the greater the expertise and work done, the greater the reward received. Though capitalist oriented, this argument advocates for a merit-based society where to make money, everyone works hard. Economists of a capitalist bent agree that such a merit-based society is better for any economy as it leads to higher national input (Pettinger, 2019). Unfortunately, the income inequality depicted in Table 1 is not a result of hard work or greater expertise but, instead, of the unfair allocation of resources. According to Pettinger (2019) and Hansen and Musa (2013), this situation leads to social friction, riots, and higher crime levels as citizens respond aggressively to the institutionalized and psychological violence to which they have been exposed by the State. Between 1960 and 2021, Nigeria lost an estimated US\$582 billion to corruption, which is largely

promoted by the elite (Ogune, 2021). The poverty and misery it evoked precipitated the rise of terrorist groups such as Boko Haram and militants such as those of the Niger Delta; their justification for resorting to violence is often hinged on the State's mismanagement of resources, corruption, and insensitivity to the poor (Hansel and Musa, 2013; Cocodia, 2020; Adelaja and George, 2022).

Similarly, the Equality Trust (2019) contends that, from an economic perspective, high levels of income inequality are damaging for any economy because they increase inflation, debt, and instability due to the people at the top of the income spectrum who use their positions to increase their personal gains beyond the amount needed to sustain their positions. This situation is called rent seeking, and it creates inefficiency in the economy as social benefits decrease at the expense of personal gains. Those at the top use their increased power to hijack policies for the common good for their selfish ends. While Oluwayele (2021) and most national dailies complain of the rising crime in Nigeria, Bourguignon (2000), Kelly (2000), and Anser et al (2020) relate this trend to income inequality, which they stress as a strong predictor for violent crime. They argue that while poverty significantly affects property crime, income inequality propels violent crime. In support of this position, OXFAM (2017, p. 5) and Kaur (2020, p. 173) agree that the high cost of governance in addition to the waste of public funds engendered by elite capture, rent seeking, and corruption leave too little resources to provide essential services for Nigeria's growing population. This situation worsens economic disparities that have played important roles in generating political conflicts.

In summary, high-income inequality promotes financial crises, erodes democratic governance, diminishes social cohesion, and obliterates equal opportunities for all, and this has been Nigeria's story especially since the return to democracy in 1999. Supporting this view, Onwuka (2021) asserts that to address the problem, Nigeria's political elite have to embrace policies that are all-inclusive and targeted at the economic wellbeing of the poor to improve the welfare of the population. Contrary to some authors' views, who argue that income or economic inequality do not lead to conflict, recent videos aired by terror groups in northern Nigeria show that the disparaging income inequality in Nigeria is the justification for their grievance and resorting to arms. In view of the economic impact of high-income inequality in societies, The Equality Trust (2019) denotes the effect on security. It contends that there is a correlation between high-income inequality and an increase in violence. Conversely, the Equality Trust (2019) notes that permanent decreases in inequality, no matter the percentage, also

impacts the ability to diminish the levels of homicides and robberies. As Hegre and Nome (2010) mention, democracies are particularly unstable under conditions of poverty. Hence, as poverty increases in Nigeria, violence, crime, secession movements, cultism, and group intolerance have increased.

### **Horizontal Inequality and Utilization of Group Cohesion**

Horizontal or group inequality is experienced in several ways, which includes class, religion, and ethnicity cleavages. The earlier segment of this chapter discussed the economic, class, or income aspect of inequality. This section discusses inequality from a political and cultural perspective and its implication for instability in Nigeria, beginning with the view that inequalities between groups defined by religion, ethnicity or regional identity are linked to a significantly higher risk of conflict (Canelas and Gisselquist, 2018; Nygård, 2018). When inequalities exist in these political and cultural or ethnic realms, they are known as horizontal inequalities because irrespective of size, all groups should be at par, having equal access to resources and exercise of freedoms. Of the factors that give rise to horizontal inequality (Stewart and Langer, 2007; Canelas and Gisselquist, 2018), discrimination by governments and non-governmental institutions are major causes.

The 1967 Biafran civil war in Nigeria was fueled by ethno-nationalist perceptions of injustice. Based on these and other compelling examples, Deiwiiks et al (2012) contend that in cases where regions with distinct ethnic identities perceive ethnic discrimination through economic and political disadvantages, there is often an upheaval that triggers ethno-nationalist grievances, which increases the risk of secessionist conflict. This was certainly the case with the Tuaregs of Mali<sup>7</sup> who have been at the fringe of politics and development since the country's independence and so have sought secession. Studies have shown that ethnic grievances deriving from economic or political marginalization serve as motivation for the onset of civil war (Wimmer et al, 2009; Gubler and Selway, 2012). When a region strongly feels marginalized, it pushes for secession, which is spreading round Nigeria's south.

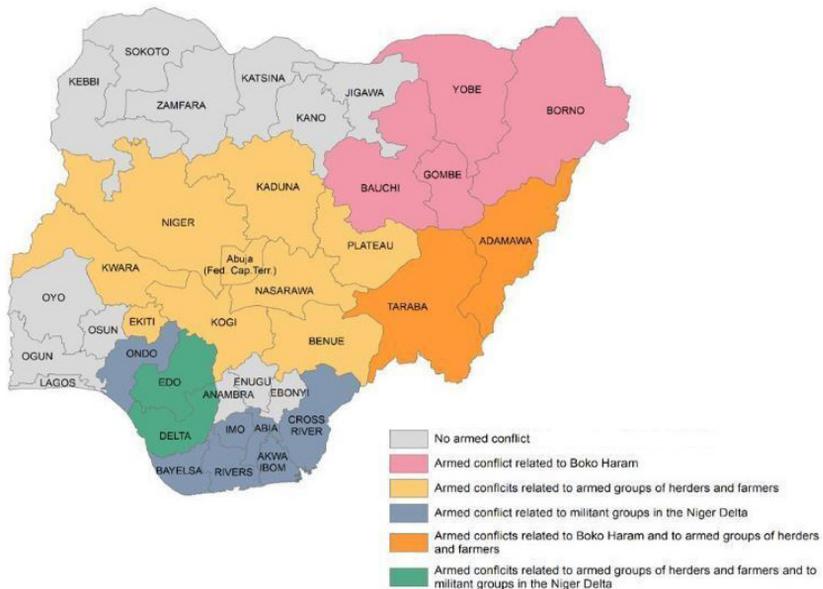
The views of several authors are in tandem with public opinion that no administration in Nigeria has been as blatantly nepotistic as the current regime (Alechenu, 2016; Amaechi, 2021; Daily Post, 2021; Omolaoye,

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<sup>7</sup> The Tuaregs have been responsible for four rebellions namely those of 1962-1964, 1990-1995, 2007-2009, and 2012. Each of these rebellions were directed at registering their dissatisfaction with the Malian State and push for the actualization of their sovereign state of Azawad.

2021). The regime's display of nepotism and ethnic bias in policy formulation and sensitive appointments have made the polity unstable as insecurity is on the rise, militant groups are scattered across the length and breadth of the country, bloodletting is a regular occurrence, and the calls for secession across the country are at their loudest. Figure 1 captures the spread of violence in Nigeria, considering also that Zamfara and Katsina states have become hot spots of banditry. There have also been sporadic terrorist attacks on Nigeria's capital city, Abuja. Nigeria has certainly never been this insecure, unstable, and uncertain of its future.

**Figure 1- Armed conflicts in Nigeria (as of September 2018)**



Source: European Union Agency for Asylum: <https://euaa.europa.eu/country-guidance-nigeria/332-armed-conflict-international-or-internal>

While poverty and economic disparity fuel instability, nepotism and state-sponsored horizontal inequality compounded with the latter two make a recipe for widespread mutual distrust, increase probability of secession, stimulate instability, and propel disintegration. The Nigeria State has seldom been as fragile as it is now, just as ethnic bias is proportionately more brazen under the current regime than it has been in the past. The lopsided arrangement of resources is aptly captured in Table 3, which includes the appointment of Nigeria's security service chiefs.

**Table 3 - Appointment of Heads of Nigeria's Security Services for 2016 and 2021**

Position	2016	2021
	Name, Region, and Religion	Name, Region, and Religion
Chief of Army Staff	Tukur Buratai North (Borno State) - Muslim	Farouk Yahaya North (Sokoto State) - Muslim
National Security Advisor	Babagana Monguno North (Borno State) - Muslim	Same
Chairman, Economic and Financial Crimes Commission	Ibrahim Magu North (Borno State) - Muslim	Mohammed Umar Abba North (Kano State) - Muslim
Minister for Defense	Mansur Muhammad Dan Ali North (Zamfara State) - Muslim	Bashir Salihi Magashi North (Kano State) - Muslim
Chief of Defense Staff	General Abayomi Gabriel Olonisakin South (Ekiti State) - Christian	General Lucky Irabor South (Edo State) - Christian
Chief of Air Staff	Air Marshal Sadiq Abubakar North (Bauchi) - Muslim	Air Marshal Isiaka Oladayo Amao South (Osun State) - Muslim
Chief of Naval Staff	Vice Admiral Ibok-Ete Ekwe Ibas South (Cross Rivers State) - Christian	Vice Admiral Awwal Zubairu Gambo North (Kano State) - Muslim
Inspector General of Police	Ibrahim Idris North (Niger State) - Muslim	Abubakar Mohammed Adamu, North (Nasarawa State) – Muslim Usman Ali Alkali North (Yobe State) - Muslim
Commandant General, Nigeria Security and Civil Defense Corps	Abdullahi Gana Muhammadu North (Katsina State) - Muslim	Ahmed Abubakar Audi North (Nasarawa State) - Muslim
Comptroller General, Nigeria Immigration Service	Martin Kure Abeshi North (Nasarawa State) - Christian	Muhammed Babandede North (Jigawa State) - Muslim
Comptroller General of Customs	Col. Hameed Ibrahim Ali North (Bauchi State) - Muslim	Col. Hameed Ibrahim Ali North (Bauchi State) - Muslim
Director General, National Intelligence Agency	Ambassador Ayo Oke South (Oyo State) - Christian	Ahmed Rufai Abubakar North (Katsina State) - Muslim
Director General, Department of Security Services	Lawal Musa Daura North (Katsina State) - Muslim	Yusuf Magaji Bichi North (Kano State) - Muslim
Chief of Defense and Intelligence, Defence Intelligence Agency	Air Vice Marshall Mohammed Saliu Usman North - Muslim	Maj. Gen Samuel Adebayo South - Christian

Source: authors' research.

Table 3 lends credence to the popular view that the current regime has been quite unfair in the distribution of political power (Alechenu, 2016; Amaechi, 2021; Daily Post, 2021; Omolaoye, 2021). Between 2016 and 2021 of the 28 appointments made across the 14 major security parastatals in the country (inclusive of the army, air force, navy, police, and state security service), southerners were appointed six times, as opposed to 22 appointments to northern indigenous people. Of these, only six of the appointees were Christians while 22 were Muslims. Just one of these appointees, the 2016 chief of naval staff represented the south, while none came from the southeast. This trend pervades most federal government agencies. If this were to be explained as coincidental, then the explanation falls short when taking into account the compulsory retirement of Nigeria's top military personnel in 2016 of which 90 percent of those affected were non-Muslims from the south, with the southeast being worst hit and all occurring within a year of the current regime taking office (see Adebowale, 2016). In view of these acts of state-sponsored horizontal inequality, it is understandable why the calls for secession have been loudest in the southeast and the south as there are fears of a Fulani domination agenda or Fulanization. In view of this horizontal imbalance, Omokri (2018) argues,

There are three intelligence agencies in Nigeria, namely DSS<sup>8</sup>, NIA<sup>9</sup>, and DIA<sup>10</sup>. Each of them is headed by Northern Muslims. Two out of the three are from the same Katsina State as President Buhari. One out of the three comes from the president's hometown, Daura.... With no Christian or Southerner in the top intelligence strata, how can intelligence on issues like killer Fulani herdsmen and other national security challenges not be biased in favor of those who share religious and ethnic affinity with these intelligence chiefs?

The question posed is hinged on the observation that the majority of the members of Nigeria's Violent Non-State Actors (VNSAs) are from the north. In this regard, sharing geopolitical and religious affinity with northern political elite and security chiefs, there is an unwillingness to rein in these VNSAs (Opejobi, 2020; Eya et al, 2021; Lakemfa, 2021).<sup>11</sup>

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8 DSS means Department of State Services. It is Nigeria's State Security Service.

9 NIA means National Intelligence Agency.

10 DIA means Defence Intelligence Agency.

11 Owei Lakemfa (2021) makes an interesting argument that if Nigeria's Minister for Communications and Digital Economy Isa Pantami, an Islamic cleric, could be so exalted despite once advocating that Christians be killed, then nothing stops bandits and terrorists from contesting elections or holding political office once they declare that they have repented like Pantami did.

Various NGOs have called on the need to promote Nigerian unity through diversifying appointments for key institutions. They contend that rather than make appointments based on kinship, religion, and filial relationships, governments should bring people together through making appointments based on merit and competence, as this would surely cut across religion, tribe, and geographical areas (Akhaine, 2021; Olaniyi, 2021). The benefit of this approach is stressed by Gubler and Selway (2012) who contend that civil war is twelve times less likely to occur in societies where ethnicity is crosscut by socioeconomic class and access to political participation, power, and economic resources. The spread of political power and resources fosters stability within states.

The benefit of horizontal equality, therefore, is that civil war is less likely to occur. But states should also avoid horizontal inequality, as it encourages instability. Horizontal equality can only be achieved when governmental ethnic bias and nepotism take a back seat in policy formulation and when citizens have equal access to political power and distribution of resources. Nigeria's elite should strive for horizontal equality if they are to reverse the ill fortunes of the country to which they have been major contributors.

## **Conclusion**

Hegre and Nome (2010) hold that development (or its deficit) is fundamentally linked to the conditions and onset of conflict. Sawhney (2001) and Alexander (2007) place political will at the heart of solving issues relating to corruption and structural imbalances of which political and economic inequalities are a part. This chapter has made a case for economic and horizontal inequality as major issues at the base of Nigeria's fragility. It also notes that these were problems that stemmed from the greed of the political elite, and as such, it can best be checked by this group, which means mustering the political will to tackle the issue. Their inability to develop the spine to address Nigeria's problem has led to the worsening of Nigeria's instability. Still, forging the political will is what needs to be done.

Ormond (2010) holds that the principal weapon to check the elite is to inconvenience their sacrificing public institutions on the altar of expediency. But the problem of who will execute this task to make the elites more responsible continues to loom. The responsibility to check the excesses of Nigeria's political elite is a collective effort involving local and international forces. To compel the elite to patronize local institutions, this group should first not have access to certain facilities outside the country, particularly those relating to tourism, education, and health. If elites cannot

spend money in foreign lands, then they will have to spend it within the country. This chapter advocates that Nigeria's political elite should push for wage parity, strive for a merit-based society and so create a society built on horizontal equality. These three pillars are at the base of stable societies yet are impossible to achieve in the current Nigerian context. Until the country's political elite muster the political will to make way for more equitable selection processes, services, and spending, the country will only further recede into worsening fragility and uncertainty.

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## 9 | Exploring the Role of Civil Society in Countering Organized Crime in South Africa

Dorcas Ettang<sup>1</sup>

Organized criminal networks critically affect global peace and security and play an integral role in understanding the key contributors to conflict, insecurity, and underdevelopment. Various countries worldwide present case studies in trying to understand and explore the trends, developments, actors, and effects of organized crime (Blum, 2016; UNODC, 2010; UNODC, 2013 and Alum and Gilmour, 2021). Furthermore, these countries provide lessons and information on how to counter organized crime through the various responses by states, civil society, and other stakeholders. The persistent presence of poverty, unemployment, inconsistent social assistance, weak law enforcement, fragile State interventions, and porous borders have all resulted in high levels of criminality. Organized crime, therefore, continues to be a looming threat everywhere. In Africa, organized crime is most prevalent in the continent's East African region where "illicit economies, from drug markets to illegal mining and weapons smuggling are drivers of conflict and instability; and [where] conflict zones and fragile states create conditions where organized crime can flourish" (ISS, 2021). This form of crime has longstanding effects on individuals, families, communities, and the State, thus requiring continued efforts in preventing and combating it. This chapter examines and analyzes data collected from questionnaires developed by the author and completed by organizations working in the field of organized crime in South Africa. These questionnaires focus on understanding the nature of organized crime in South Africa, the roles played by civil society organizations and the challenges they continue to face, and recommendations on how to address these challenges.

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According to the United Nations Office on Drugs and Crime (UNODC, n.d.), organized crime is defined as “a continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand.” The UNODC (n.d.) complements, stating that its continued “existence is maintained through corruption of public officials and the use of intimidation, threats, or force to protect its operations.” From the data collected from questionnaires for this study, another definition emerges from the South African context, which defines organized crime as “criminal activities performed by criminal groups that act as criminal enterprises that are highly organized and structured, that exist over time (not opportunistic), whose activities are planned/rational and who intend to profit from their activities.” This type of crime has a level of method and premeditation to it and is orchestrated by criminal syndicates. It was noted from the questionnaires that a distinct difference between organized crime and other forms of crime is that the former is highly organized, evident through strong communication networks, well-planned activities, interconnected syndicates, and these are usually linked to corruption and money laundering (Ettang, Questionnaire, 2022). The different forms of organized crime include cybercrime, illegal mining, trafficking in persons, trafficking of small arms and light weapons (SALW), drug trafficking, wildlife trafficking, and the production and trafficking of counterfeit products like fuel (Ettang, Questionnaire, 2022).

While COVID-19 seemed to stall significant business and economic activity, organized crime increased during the pandemic, according to the 2021 Organized Crime Index (Global Initiative against Transnational Organized Crime, 2021). But there have been tremendous efforts to combat organized crime globally and locally. At the top of this is the United Nations Convention against Transnational Organized Crime and the Protocols thereto (UNTOC) and the Mechanism for the Review of the UNTOC. South Africa has also developed legislation and strategies to combat Transnational Organized Crime (TOC) in various forms, including the Prevention of Organized Crime Act (POCA). This last Act deals with organized crime and other policies and legislation centered on specific transnational organized crimes such as money laundering, wildlife trafficking, and drug trafficking. South Africa is also a signatory state to several international, continental, and regional instruments that deal with TOC. According to respondents (Ettang, Questionnaire, 2022), the South African government has usually approached the challenge of TOC purely from a law enforcement perspective such as through the police and prosecuting authorities. For example, the South African Police Service

(SAPS) has several specialized departments and task teams dealing with different types of TOC in the country. These specialized departments include the Directorate for Priority Crime Investigation (DPIC), responsible for investigating, responding, and countering organized crime and corruption, the Crime Intelligence Unit, the Organized Crime Unit, and the Narcotics Unit. Furthermore, the prosecuting authorities have dealt with several TOC cases in their bid to stem the scourge of TOC in the country. In addition, social workers, prosecutors and investigators have contributed despite limited resources to ensure some successful prosecutions (Van and Watt, 2019).

While extensive research has been conducted on understanding and contextualizing organized crime, its history, nature, content, and effects (UNODC, 2010, 2013; ENACT, 2019, 2021), this chapter aims to shed light on this phenomenon from the South African perspective. Using a case study approach and both primary and secondary data, this chapter examines the nature of organized crime in South Africa, the role civil society actors have played as countering agents, the challenges to their role as effective counter agents, and how these challenges can be addressed. This chapter is grounded in the well-established idea that successful interventions to combat threats to human security require the involvement of civil society organizations. This argument is supported by evidence in the 2019 Organized Crime Index (ENACT, 2019), which acknowledges the contribution of civil society and non-state actors in contributing to South Africa's high resilience score against criminality. Therefore, the argument is that countering organized crime can only be achieved by the inclusion of civil society both as preventative and reactive agents. The index states that embedded institutions and state actors are key players in criminality and capacitating them could be counterintuitive. Thus, the focus should be on equipping civil society and non-state actors with the right skills and capacities as they fight against organized crime and help the vulnerable groups impacted by these activities (ENACT, 2019).

While there are different definitions of civil society, this chapter adopts the definition provided by the World Bank (2002), in which "the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious, or philanthropic considerations" is defined as civil society. The focus of this chapter is on civil society organizations who are involved in countering organized criminal activities. On that basis, the following questions underpin this chapter:

1. How can and what should be the role of civil society in countering organized crime in South Africa?
2. What are the challenges faced by civil society in countering organized crime in South Africa, and how can these be resolved?

This chapter is divided into five parts. The first section examines organized crime and some of its different forms in South Africa's landscape, the second section examines civil society from an African perspective looking at its rise and evolution, and the third section delves into the different roles and responsibilities of civil society in countering organized crime in South Africa. It discusses the challenges and concludes with recommendations for action to improve the function and capacity of civil society.

### **South Africa and Organized Crime**

The choice of South Africa as a case study is because of the high levels of organized crime in the country and its standing as the most impacted by organized crime in Southern Africa. According to the 2021 Global Organized Crime Index (Global Initiative Against Transnational Organized Crime, 2021), South Africa sits 19<sup>th</sup> out of 193 countries, the first out of all Southern African countries on the index and the 5<sup>th</sup> on the African continent. It is among the top ten countries in Africa with high levels of criminality, starting with the Democratic Republic of Congo (DRC), Nigeria, Central African Republic (CAR), Kenya, Libya, Mozambique, Sudan, South Sudan, and Cameroon (ENACT, 2021). This high ranking is due to the wide range of illicit activity facilitated by criminal organizations. These lucrative and illegal activities have become well organized and planned, thus leading to high levels of success. Organized crime then results in "vast social, economic, political and environmental damage; from human trafficking for sexual exploitation to corruption, fraud and money laundering, and poaching of endangered wildlife" (ISS, 2021). The crime statistics released for 2010/2011 to 2019/2020 showed a 133% increase in reported kidnappings – from 2,839 to 6,623 (SAPS Crime Statistics, 2020).

Organized crime has also grown in leaps and bounds because of the breakdown in trust between citizens, the state, and law enforcement. According to the primary data, there is very little trust between the state and community members in many instances. There are also levels of fear communities have of the police and the state. There has been an erosion of trust between communities and the police as community members felt that the South African National Defence Force (SANDF), in its deployment to fight gangs, did very little in countering these groups. From the data (Ettang,

Questionnaires, 2022), while there are different State-led structures and units (such as national and provincial task teams) responding to organized crime and its various forms, their level of proactivity and effort is determined by who is leading each team. Because of this condition some of these task teams are functional and making huge strides in their work, while others are barely functioning. Furthermore, there has been development and adoption of official training manuals; however, only one round of (externally funded) training sessions took place just before COVID-19 started, and these have been mainly online and very sporadic/ad hoc efforts.

Any action to prevent insecurity and conflict on the African continent must therefore address the causes and reasons for increased organized crime and the illicit economy underpinning it. In South Africa, these illegal activities are heightened by the failure of the State to address its causes and effects. In understanding it from this perspective, the absence of quality education, lack of resources, and meaningful opportunities contribute both now and in the future to the challenge of organized crime, according to a primary source. To achieve the above, there is a need for a holistic approach that looks at the socioeconomic factors linked to organized crime, such as poor education, poverty, unemployment, and lack of entrepreneurship, some of which have been longstanding and entrenched in South African society. The top ten criminal activities in the Southern Africa region include human trafficking, human smuggling, arms trafficking, flora crimes, fauna crimes, non-renewable resource crimes, heroin trade, cocaine trade, cannabis trade, and synthetic drug trade (ENACT, 2021). While there is a wide array of organized criminal activity, as established above, this chapter focuses on three main ones: human trafficking, drug trafficking, and gangsterism as the three top sources of criminality in South Africa, particularly because of their strong links to human security and the structural challenges in the country, like poverty and unemployment.

### *Human Trafficking (Trafficking-in Persons)*

South Africa increasingly has become a major destination for human trafficking both locally and globally with victims as young as ten (Stoltz, 2022; US Department of State, 2021). The South African Police Service (SAPS, n.d.) notes the following forms of exploitation in human trafficking: sex trafficking, illegal adoptions, organ, and body part trafficking, forced begging and participation in criminality, forced and child labor, maternity trafficking, and trafficking for non-commercial sex purposes. According to the Trafficking in Persons Report (US Department of State, 2021) human traffickers exploit both South African and foreigners in South Africa and South Africans victims abroad. From a local perspective, victims of human

trafficking are taken from the poor rural areas to more urbanized cities like Johannesburg, Bloemfontein, Durban, and Cape Town where they are coerced against their will into activities like sex trafficking, domestic work and forced labor on farms. From a global perspective, these victims are exploited and used for drug trafficking, commercial sex, or domestic work (US Department of State, 2021) Victims are recruited from rural and poor areas to urban areas and sometimes out of the country without valid documentation. These victims include migrants from Mozambique, Lesotho, Malawi, and Zimbabwe (Global Initiative against Transnational Organized Crime, 2021). The threat of human trafficking is further amplified by the role of corrupt actors who provide support to these clandestine groups. Groups involved in human trafficking are highly organized and professional and engage in cash-based transactions, sometimes with the help of South African police and immigration (Global Initiative against Transnational Organized Crime, 2021).

### *Drug Trafficking*

South Africa has become a major trafficking point for illicit drugs such as cocaine and heroin (UNODC 1999; McCain, 2022; Ford, 2021). Its international ports make it an important route in drug trafficking (Makhafola, 2021a; Singh 2022; Rall, 2022). Drugs routed through the country end up in Mozambique, Angola, and other parts of the world like Europe, Hong Kong, and Australia (Ford, 2021). This transit is made possible by South Africa's strong transport networks, police corruption, and insufficient resources to fight it (ENACT, 2019). While the National Drugs and Drug Trafficking Act 140 of 1992 focused on prohibiting the use, possession, and dealing of drugs, this largely continues unabated. For example, in August 2021, police recovered 1 ton of cocaine in a shipping container in Durban from Brazil and 6,056 tons of cocaine between March 1 and July 9, 2021 (Ford, 2021). International criminal syndicates have been reported to be behind these shipments having links to major drug syndicates in South Africa (Makhafola, 2021b). According to the South African Police Service (SAPS, 2021), while drugs are shipped out to other transit points, some are used as drug payment locally while others are sold in local drug markets.

### *Gangsterism*

Gangsterism is a form of organized crime in South Africa. As put forward by the data (Ettang, Questionnaires, 2022) at the community and grassroots levels, such as in the Cape Flats townships of Cape Town, gangsterism could be considered an organized crime due to "the histories,

hierarchical structures, and discipline of the gangs”. Beyond being criminal groups, they have highly organized networks and fit the characteristics of organized crime groups. Gangsterism is highly common in communities like Elsies River, Bishop Lavis, and surroundings in Cape Town and its rise has been detrimental to communities where these groups exist” (Ettang, Questionnaire, 2022). Gangsterism has had significant effects on communities, according to the primary data, such as losing loved ones to gang violence, others being silenced and threatened, thereby preventing them from reporting these illicit activities, and children being groomed by gangsters from a young age and to participate in activities like moving weapons between locations. Individuals searching for belonging, purpose, and identity are drawn into gangs that provide some economic opportunities and a sense of belonging/brotherhood. These activities show clearly that success in prevention can only be achieved with civil society organizations established at the grassroots, thus working with both victims of organized crime, and fighting those who carry out these activities indirectly and directly.

### **Civil Society in Africa**

The State’s continuing fragility reverberates as an appeal for civil society to counter these illicit activities. In the different forms that they come in, civil society is a critical factor in Africa’s political, socioeconomic, and security processes (Jus-Sherriff, 2004). Jusu-Sherriff (2004) provides the key components of traditional civil society as:

- Formal and organized groups located between the state and the household levels of participation.
- Occupy public space and follow general rules of engagement while representing private interests.
- Independent of the government and resisting its invasion of civic spaces.
- Committed to ideas of free-market capitalism and liberal democracy.

Jusu-Sherriff (2004) is correct in saying that while the above provides some ideas of civil society and its role, it is more complex and varied, particularly in the African political and social context. Their roles have evolved due to changes in information communication technology (ICT) and the wide range of security threats such as terrorism, cyber-crime, the COVID-19 pandemic, and climate change. Civil societies are seen as

organic movements that embrace and represent the community's interests as these interests emerge, shift, and evolve. They have become a strong source of support and assistance for communities and the marginalized and vulnerable. Existing research shows the need for locally designed responses, the inclusion of the public, and cooperation among stakeholders to counter organized criminal activity (UN, 2021). The Kyoto Declaration acknowledges the role of civil society and other stakeholders like academia, the private sector, and the scientific community in preventing and combating organized crime (UNODC, 2021).

In setting the stage for the next section, civil society in South Africa that is focused on countering organized crime seeks to protect the needs of vulnerable communities and develop resources, programs, and research to shed light on this illicit sector and limit their activities (Ettang, Questionnaires, 2022). Civil society organizations, in many instances, help vulnerable groups regardless of their identity, status, citizenship, belief system and ideologies. This victim-centered approach is one of the main reasons civil society groups are critical actors in preventing the effects of organized crime on societies and communities. In instances where governance systems have failed to prevent the spread of organized criminal activity or play a role in furthering these illicit agendas, it is important to shift the focus to other non-state actors like civil society groups. The main idea here is that repeated failure of the State to address illegal activities and continuing State fragility requires that other stakeholders like civil society play an even stronger role. In responding to the shortage in the literature on the part of civil society in countering organized crime in South Africa, this chapter presents key findings on how to better equip and solidify the responses of civil society organizations.

Since this chapter examines how civil society organizations can be better effective in curbing organized crime in South Africa, the argument that foregrounds this chapter is that civil society organizations have a significant role in contributing to the success of curtailing organized crime in South Africa. The main crux of this study is that lessons can be learned from civil society's engagement on how to better curtail and prevent organized crime in various communities worldwide. This chapter's value and contribution are to shed light on the importance and value of civil society organizations in protecting vulnerable groups and communities from the threat of organized crime, which includes drug trafficking, human trafficking, arms trafficking, and other illicit activity. A civil society and grassroots inclusive process can better track the origins, spread, and movement of illegal activities and the actors that fund, fuel, and participate in them. Curbing organized crime

cannot be left to the State alone; this requires inclusive processes that engage civil society.

### **Role of Civil Society in Countering Organized Crime in South Africa**

This section examines civil society's current and ongoing role in countering organized crime in South Africa. According to a primary respondent, civil society is an important resource for governments against organized crime, and it should explore ways of improving and strengthening their partnership. Primary and secondary data attest to the significant work civil society organizations are doing to counter organized crime, except for lack of resources and corruption, which impedes their success. From the responses in the questionnaires (Ettang, 2022), a few factors make South African civil society critical actors in the fight against organized crime. First, they sufficiently understand organized crime and its effects on communities. Second, they also understand their roles and responsibilities and their benefits in countering organized crime in neighborhoods. Third, they can often achieve more in communities because they have a relationship built and embedded in trust with community members (more so than state organizations). Fourth, they can build bridges across intercommunal divides while jointly supporting communities.

Civil society organizations as citizen-centered and citizen-led entities are further driven by a responsibility to their members and communities (Ingram, 2020; Paffenholz, 2014; UN-DESA, 2009). This personal responsibility emerges from their existence in communities that face the threat of organized crime. And so, while the South African government and various law enforcement and prosecutor agencies can counter organized crime, there is a depth and relevance that civil society groups bring in the following ways: playing an oversight and monitoring role, developing trauma support programs, providing victim and witness assistance, conducting research and shaping discourse, sharing information, community development and training and upskilling (Ettang, Questionnaires, 2022). These are discussed in more detail below.

#### *Oversight and Monitoring Role*

According to the data from respondents, the role of civil society should be like an oversight body in that it monitors the developments and new trends in organized crime in the country or region and helps state actors combat and prevent the threat of organized crime. In this role, civil society could identify the gaps in policy documents, legislative frameworks, strategies, and the current implementation responses to organized crime. Furthermore, civil society could also support the State where possible,

especially when capacity is lacking. This involves technical advice, strategic support, and collaboration in implementing specific strategies. Civil society organizations have contributed to monitoring and reporting organized criminal activity, sometimes at great risk to their staff.

### *Trauma Support*

From the responses to the questionnaires, some civil society organizations provide trauma-informed programs. They help adults work through their trauma and incorporate mindfulness practices for children to help them regulate and feel emotionally secure. A key role of civil society is to provide ongoing support and programs that address both the individual and collective trauma found in communities targeted by organized crime. A victim-centered approach, particularly against gangsterism as a form of organized crime, focuses on programs that create spaces for belonging and a triangle of trust. From the questionnaire responses, these foundational principles include relationship building that nurtures a sense of belonging and community, promoting love and attachment where attachments are formed and trauma is addressed, and skills transfer where victims are guided in discovering their purpose with the provision of tools to realize that purpose.

### *Victim and witness assistance*

Social support for victims and witnesses of organized crime is weak in South Africa (ENACT, 2019). In response to activities like the trafficking of persons, civil society's role includes victim and witness assistance, according to a respondent. In achieving this successfully, civil society organizations must raise awareness of the support and prevention programs they offer. Civil society organizations can assist these individuals with counselling, training, and empowerment programs and protect them as needed.

### *Research and Shaping Discourse*

Organizations continue to take part in dialogues and discourses on organized crime. They have also provided their inputs at policy and practice levels on working against the effects of organized crime (UNODC, 2020). In shaping discourse and responses to countering organized crime, the primary data shows that civil society organizations can inform policymakers based on their findings and research on the various forms and new developments in organized crime at the grassroots, national, regional, and continental levels. Their conclusions can then feed into evidence-based recommendations for developing stronger and more successful responses to

organized crime. Other avenues through which civil society can contribute to discourse and research are by providing their subject matter expertise, technical support, and advice to policymakers as they develop strategies and responses. From the data, the starting point is civil society's provision of support to regional structures, such as the Southern African Development Community<sup>2</sup> (SADC) in the amendment of the Protocol on Firearms and Ammunitions and other Related Materials<sup>3</sup>, the development of the SADC Organized Crime Strategy and its implementation plan<sup>4</sup>, the development and facilitation of the signing of the Eastern Africa Police Chiefs Corporation<sup>5</sup> (EAPCCO) and the Central Africa Police Chiefs Corporation<sup>6</sup> (CAPCCO) agreement. This last agreement aims to facilitate collaboration between the two organizations in dealing with organized crime, and provides support to EAPCCO in developing their Protocol on Cattle Rustling.

### *Community engagement*

The high resilience to organized crime is due to the work of civil society in engaging with communities and independent media reporting on organized criminal activity, according to the 2019 Global Organized Crime Index. Through relationship building, trust is built, and information can be better obtained from communities. Civil society organizations continue to engage communities and their leadership structures at the local level to counter organized crime. They do this through holding inter and intra-community dialogues and programs to educate, inform and equip actors at the grassroots level. Civil society can support community security structures to develop and enhance their responses to organized crime activity.

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- 2 Situated in Gaborone, Botswana, the Southern African Development Community is an intergovernmental organisation with 16 member countries mainly working on regional cooperation amongst its members states which include Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.
  - 3 The SADC Protocol on Firearms and Ammunitions was developed to "prevent, combat and eradicate the illicit manufacturing of firearms, ammunition and other related materials" (Stott, 2003:1). This Protocol adopted in August 2001 by the Heads of Governments of SADC member countries, was also created to regulate the importation and exportation of legal firearms.
  - 4 SADC's Organized Crime Strategy and its implementation plan was devised to create a clear and comprehensive regional response mechanism to combat organized crime in the SADC region. This plan is in response to the cross-border nature of organized crime and focuses on regional challenges and responses.
  - 5 The Eastern Africa Police Chiefs Corporation is a regional organisation composed of 14 Chiefs of Police from the following countries: Burundi, Comoros, Seychelles, Djibouti, Somalia, Ethiopia, Uganda, Kenya, Tanzania, Sudan, South Sudan, Rwanda, Djibouti, and Eritrea. Created in 1998, EAPCCO is focused on building cooperation among the police and increase collaboration against transnational organized crime.
  - 6 The Central Africa Police Chiefs Corporation with a membership of police chiefs in key central African countries including Cameroon Gabon, Cameroon, Gabon, Chad, Central African Republic, Republic of Congo, Democratic Republic of Congo, Equatorial Guinea, and Sao Tomé and Príncipe is a consultative organ that jointly work on combatting various threats to public and human safety.

### *Training and up-skilling*

Civil society organizations can also create opportunities for training and up-skilling of community members so that individuals are better equipped to find work. This reduces their vulnerability to the impact of organized criminal groups that recruit them to engage in their illicit activities. It also provides them with a legitimate income source. Civil society organizations can provide capacity building and training (whenever possible and needed) to law enforcement officials in order to raise their awareness and conduct better and more successful investigations. This is due to the high likelihood that law enforcement officials may not be familiar with the various types of organized crime or what these illicit goods look like (for example, rhino horn, pangolin scale or manufactured illegal drugs).

### *Information-sharing*

Information sharing among various agencies is a contributing factor to the success of hindering the activities of organized criminal groups. Thus, reporting structures and mechanisms must be formalized and used between communities (in many instances represented by civil society) and the police. According to the collected data, investigating officers provide various contact options for reporting any organized criminal activity and identifying key actors involved in illicit activity. It has become the norm for investigators to rely on the public for information. To improve this, civil society should develop awareness campaigns to inform local populations about the various types of organized crime prevalent in the country, what kinds of evidence and information are useful, and what mediums are available for confidential and anonymous reporting.

## **Challenges Hindering Civil Society**

A key component of this chapter is understanding the current challenges civil society organizations face in their efforts in combating organized criminal activities in South Africa. Through the data collected from respondent's questionnaires, it was evident that these challenges will inhibit future successes in addressing the ever-increasing threats of organized crime in South Africa. These challenges include security risks, corruption, inefficiency, lack of trust, poor political will, poor capacity, insufficient resources, and the criminalization of organized crime. Understanding these challenges is important for identifying the links between structural issues like unemployment and poverty and the rise in organized criminal activity and why prevention efforts have been limited in success. The challenges also highlight the failures of the State's responses and why it is critical that civil

society play a more important role in curbing organized criminal activities. The challenges, grounded in evidence from the experiences of organizations engaged in curbing organized crime, speak to the recommendations presented in the next section of the chapter.

### *Safety and Security Risks*

Members of civil society organizations put themselves at risk in working against highly armed and destructive syndicates as they affect their profit-making schemes. An environment of fear and mistrust hampers the efforts of civil society to prevent the spread of organized criminal activity in the community. For example, beneficiaries of civil society programs fear backlash from the gangs where they work with victims and witnesses. Communities<sup>7</sup> who are scared to work with civil society do not participate in research and conversations around curtailing and preventing gangsterism, or report to the police because of a lack of trust in these security institutions. Primary data shows that this environment of fear precludes the reporting of cases, leading to skewing actual statistics, which negatively impedes appropriate or relevant responses.

### *Corrupt and inefficient law enforcement agencies*

While many positive cases have been reported on successful investigations and arrests by law enforcement agencies (Ryklief, 2020; eNews Channel Africa, 2022; and Hosken, 2022), corrupt officials and inefficient responses continue to affect civil society's work negatively. Fear of reporting or acting due to corruption is probably one of the biggest hindrances when it comes to reporting. Data shows that when law enforcement cannot respond to these reports and threats brought by civil society, the latter is forced to take up these responsibilities to stop criminal activity and assist victims, which can be dangerous. Corruption results in victims or witnesses being off the radar or hidden in efforts to guarantee their protection. The effects of corruption cannot be understated as it will impede progress even with the best policies, programs, and actors. While various factors fuel the increase in human trafficking like poverty, underdevelopment, and the

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<sup>7</sup> According to the United Nations (2020:5), while community "is usually defined as a geographical subset of society at the local level, it can also be defined by commonalities such as but not limited to, norms, religion, shared interests, customs, values and needs of citizens". Taking this into context, communities are therefore distinct from civil society as the latter "act or organize formally or informally on behalf of, or to advance, shared interests, values, objectives or goals within or across communities (United Nations, 2020:5). Communities in this context are therefore made up of local populations whose interests are represented by civil society which can include community-based groups, faith groups and other organized groups within the community.

lack of opportunities, corruption has been identified as one of the most important factors (Bales, 2005; Zhang and Pineda, 2008 and Transparency International, 2011). A joint issue paper by Anti-Slavery International, Transparency International and UNODC (2011) highlights the conclusion based on the data analyzed by Zhang and Pineda (2008) that “corruption is probably the most important factor in explaining human trafficking” and that “countries that make the least effort to fight human trafficking also tend to be those with high levels of official corruption”. This idea that corruption is a bigger indicator for Trafficking-in persons (TIP) than even poverty (which is a high vulnerability risk factor) is evident in South Africa as seen through the multiple actors involved in human trafficking (sex traffickers, home affairs/immigration officials, SAPS, brothel owners, diplomats and embassies), how trafficking is enabled and facilitated, and the high level of impunity and lack of accountability when it comes to cases of this nature (Van and Watt, 2019).

#### *Absence of trust*

Another key challenge is the lack of trust between civil society organizations and the state, especially law enforcement agencies. The threat of extortion and violence impedes civil society/citizens from countering illicit activities. In such instances, some law enforcement personnel work with organized criminal groups to ensure the smooth and successful facilitation of their actions. From the questionnaire responses, civil society should report what they suspect or know to law enforcement and let investigations occur. Still, law enforcement doesn't always perform their role due to lack of knowledge, no training, apathy, corruption, or other reasons. All these factors then limit trust and confidence in law enforcement agencies.

#### *Lack of Government Political Will*

The inefficiencies of the South African government mean that the burden often falls on civil society organizations to do what the government is supposed to do. The big question is how governments can begin to play a stronger role, and this is where political will and commitment come into play. These failed State responses are due to a lack of political will and personal egos, and due to personal/political agendas that don't have a victim-centered approach as part of its work's/efforts' pillar, according to a respondent. The gains made toward curbing organized crime will continue to be riddled by a lack of political will and a desire to end it. In improving commitment, resources must be used to address the causes and effects of organized crime. Data suggests that taxes paid to build and maintain infrastructure in schools and communities are used ethically and transparently by avoiding corruption and ensuring that the funds respond to relevant community needs and improve their quality of life.

### *Internal Challenges and the Lack of Resources and Capacity*

Primary data notes three main challenges that emerge from civil society structures that impact their ability to do their work. For instance, infighting demoralizes civil society organizations and raises questions of what value key individuals are adding to the organization's work. In addition, the poor or lack of capacity, whether due to lack of training or lack of skills, kills enthusiasm and destroys functioning systems. Civil Society Organizations (CSO) struggle with a shortage of capacity and few resources, which is not enough to respond to the immense need in the communities they serve. They do so much with so few resources and often to their detriment. More importantly, employees and volunteers in CSOs are also often overburdened and need mental health/trauma support, especially those whose work relates directly to organized crime.

### *The criminalization of Organized Crime*

A challenge for civil society is that organized crime is perceived as situated purely in the criminal domain; thus, a "security" or "criminalized" approach is used as a countering force. The predominant approach to targeting/combating organized crime is through law enforcement which then excludes civil society as its work and operations exist outside the mandate of criminal investigations and prosecutions. This poses a difficulty for civil society in engaging or contributing to the "law enforcement approach of combatting organized crime". Linked to this is the limited access to information that civil society has, especially from law enforcement. The lack of access to data in the hands of state officials might be key in determining the threat levels or trends in organized crime. This unwillingness of law enforcement to share this information then excludes civil society from contributing significantly to curbing the spread and limit the effects of organized crime. Still, it could be justified based on the risks these pose, such as using sensitive information and ongoing criminal cases.

### **Recommendations**

Based on the data obtained from primary sources, the following recommendations are presented on how to enhance and improve the work of civil society in countering organized crime in South Africa and how to address the challenges that restrict them from more success.

#### **Government of South Africa**

- The South African government should deliver services and improve the quality of life of vulnerable groups to curb their recruitment and

involvement in gangsterism, human trafficking, drug trafficking and animal poaching.

- The government of South Africa must lead the rebuilding of community and civil society organization' trust in it as this is important in curbing organized criminal activity and the actors. It can restore confidence and improve its reputation by increasing its communication, engagement, and collaboration with civil society and act on the findings obtained.

### **Law Enforcement agencies**

- There is a need to recruit and appoint trusted law enforcement officials into units that work on organized criminal activity to prevent and reduce corruption.
- Law enforcement agencies must establish structures to curb corruption among their personnel, particularly in units and departments that deal with organized crime, like officers deployed to all border points.

### **Academic Institutions**

- Academic institutions should provide available and accessible information to civil society organizations through research.
- Academic institutions can utilize their research to develop various capacity building and training programs for civil society organizations working against organized crime in communities.

### **Funding Organizations**

- Philanthropic and funding organizations should devolve more resources to improve the capacity of civil society organizations to respond to the needs of communities. These funds should be allocated to recruit more staff, develop strategies, enhance their work efficiency, and provide mental health/trauma support.
- Civil society, in the search for funding, should engage with philanthropic and funding agencies to better understand the role civil society organizations play in the context of organized crime within the community, country, and region and what key contributions they can make.

## Civil Society Organizations

- Civil society organizations should continue to seek collaboration with other like-minded organizations. This collaborative focus will involve connecting on similar goals and outcomes, conversating on key threats and innovative responses against organized crime and including marginalized and silenced voices in their joint programs. This will contribute to building networks of trust in communities.
- Civil society organizations should continue to invest in understanding the context in which they work in both South Africa and the SADC region. This also involves understanding the political context and the government landscape of South Africa and determining the government's needs and how best to address those needs.

## Communities

- Local populations must build internal unity and resilience against organized crime threats. This will involve identifying untapped resources in their geographical locations that can be channeled into infrastructural development projects, skills development initiatives and job creation opportunities through which individuals contribute to overall economic development. Building stronger social networks amongst the local population will create less isolation, build stronger support structures, reduce vulnerability to extortion, and build a sense of connection, which strengthens the work of the civil society in preventing organized crime from affecting communities.

## Conclusion

As one of Africa's biggest security challenges, countering organized crime requires better preventive measures by states and non-state actors, such as civil society. The starting point for this chapter is that civil society promotes grassroots involvement and participation and is well-versed in the causes, spread, effects and solutions to organized crime. South Africa is highly vulnerable to organized crime, sitting as one of the countries most affected. This is seen through various organized criminal activities like drug trafficking, illegal mining, trafficking of SALW, animal poaching, and human trafficking (or trafficking in persons). The role of civil society in countering it includes oversight and monitoring, trauma support, victim and witness assistance, research and shaping discourse, community engagement, training and upskilling and information sharing. It faces safety and security risks, corrupt and inefficient law enforcement agencies, absence of trust,

lack of government political will, internal challenges and the lack of funding and capacity, and the criminalization of organized crime. As a response to these challenges, recommendations have been outlined for the government of South Africa, law enforcement agencies, academic institutions, funding organizations, civil society, and communities.

Essentially, organized crime cannot be curtailed unless governments have stronger determination and commitment to resolving the crisis. Still, it takes political will and a desire to see its end. This political will requires a South African government that acknowledges and capitalizes on the benefits of civil society organizations as important stakeholders in the fight against organized crime because their focus is on protecting and supporting vulnerable individuals and groups. Reducing organized crime in South Africa will involve ongoing multi-level engagements and interventions in schools, communities, and homes while addressing societal issues like food insecurity, unemployment, and poverty.

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# 10 | The Interlink between the Trafficking of Women and State Fragility: An Asian Perspective

Thilini R. Galappaththige<sup>1</sup>

Human trafficking is one of the world's most hazardous activities and plays an important role within the organized criminal dynamic (Global Initiative against Transnational Organized Crime, 2021), which causes societal vulnerabilities and impedes state development. It affects millions of men, women, and children. According to the United Nations Office on Drugs and Crime's (UNODC), in every ten victims found, five are adult women and two are girls, proportionally (UNODC, 2021). Women are trapped in a terrible network of trafficking, where they are subjected to forced labor, sexual exploitation, and other crimes that have both manifest and latent impacts for them and their countries. Particularly, a large number of women and girls are trapped in Asia, which is a continent of origin for human trafficking. Considering Asia in general, women represent the largest share of detected victims (UNODC, 2021).

In South and Southeast Asia specifically, about a half of the detected victims are adult women of total victims detected in 2018 (UNODC, 2021). Based in this scenario, this chapter examines the nexus between state fragility and trafficking of women in the South Asian<sup>2</sup> and Southeast Asian<sup>3</sup> subregions, along with Afghanistan, Pakistan, and Myanmar as examples. Without confining its study to a single aspect, this chapter recognizes trafficking of women, both as a cause, symptom or consequence

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of fragility. This study discusses the key dimensions of fragility, namely security, economics, political, societal, and environmental (OECD, 2016), all of which hinder the achievement of the Sustainable Development Goals (SDGs). Most of the time, countries with weak law enforcement mechanisms, low economic well-being, and inadequate government capability provide a haven for organized crime, because of the freedom and space that criminals have in conducting their illegal activities. Such reality enables an aggravated condition for trafficking of women. In this perspective, women's vulnerability to human trafficking could be seen as a consequence of state fragility. Conversely, organized crime such as trafficking in women further erodes state legitimacy and capacity by encouraging illegal and illicit activities and undermining the State's ability to provide public goods, and services, demonstrating trafficking as a cause or driving force toward State fragility. This chapter also highlights the challenges that exacerbate fragility and hinder progress through the SDGs, including the impact of the COVID-19 pandemic, which is one of the main challenges in the current global context. Based on a qualitative analysis from international and national instruments, official documents, institutional reports, and legal and policy documents and a literature review on the topic, this chapter argues that the correlation between state fragility and trafficking of women in South Asia and Southeast Asia demonstrate its detrimental impact on the SDGs.

### **Understanding State Fragility**

'Fragility' is a complex and multifaceted concept (Mata and Ziaja, 2009), and yet, there is no universally accepted definition for this term. However, there is some general understanding on what constitutes a fragile state based on states' authority or level of control, legitimacy, and capacity to provide public goods and services (Berkes, 2021; Miraglia, Briscoe and Ochoa, 2012). Several actors, including universities, researchers, think tanks, media corporations, policy makers, and various international organizations, such as the World Bank and the Organization for Economic Cooperation and Development (OECD), which have tried to conceptualize fragility and to develop different rubrics for determining whether a country should be considered fragile (Caldwell, 2022; Mata and Ziaja, 2009). The OECD's report in 2020 characterizes fragility as "the combination of exposure to risk and the insufficient coping capacity of the State, systems and/or communities to manage, absorb, or mitigate those risks" (OECD, 2020). It further highlights that fragility can lead to negative outcomes including violence, poverty, inequality, displacement, and environmental and political degradation (OECD, 2020). The Fragile States Index contains

various indicators to measure a country's level of fragility, which include the level of social cohesion, economic performance, political stability, and societal dynamic (Fund for Peace, 2021). There are several common characteristics of state fragility, such as weak administrative and institutional structures, insufficient basic infrastructural services, loss of physical control of its territory or a monopoly on the legitimate use of force, the erosion of legitimate authority to make collective decisions, and the inability to interact with other states as a full member of the international community (Fund for Peace, 2021). When a state's capacity and legitimacy are undermined by its inability to provide basic public goods like safety, security, and other essential services, its authority is recognized as challenged. As Fouladvand and Ward (2019) explain, the combination of lack of capacity and lack of legitimacy is sometimes referred to as 'state fragility' (Fouladvand and Ward, 2019). In such a situation, a state that fails to fulfill its fundamental duties and responsibilities unintentionally creates a fertile ground for criminal groups to start or improve their illicit practices.

While there are more than 200 definitions of organized crime (Lampe, 2022), this chapter specifically focuses on the definition presented by the Global Initiative against Transnational Organized Crime (2021) that defines organized crime as "illegal activities, conducted by groups or networks acting in concert, by engaging in violence, corruption or related activities in order to obtain, directly or indirectly, a financial or material benefit that may be carried out both within a country and transnationally". As Miraglia, Briscoe and Ochoa (2012) affirm, organized crime can infiltrate states, exploit weaknesses, and eventually increase state fragility, which is an extreme form of "institutional vulnerability" (p. 45). Although organized crime impacts all countries, despite their level of weakness or strength, more vulnerable countries face acute challenges to organized crime due to the absence of effective enforcement mechanisms, good governance, corrupted institutions, lack of effective law and order, and environments conducive to crime. In such circumstances, when governments are involved as the main actors that facilitate criminal networks to act, rather than to take actions against them, then the public may lose confidence in the government. At the same time, criminal networks benefit from this situation and are encouraged to act through the use of force, threats, corruption, or deception. Overall, state fragility creates a weak institutional framework for combating organized crime, which makes it easier for organized criminal groups to carry out their illicit activities, which in turn affect the country's long-term trajectory to development and peace.

In this context, one of the main illicit activities that organized criminal groups engage is human trafficking, in which Asia is the continent where this criminal market is most pervasive (Global Initiative against Transnational Organized Crime, 2021). Organized criminal groups that act in human trafficking deceive victims for profit by making false promises of education and/or employment opportunities, with the resort to violence or coercion in some cases. Criminals involved in trafficking include individuals operating alone or in small groups as well as organized criminal groups with massive financial resources, hidden political support, and transnational networks (European Commission, 2001; Le Roux and Dialma, 2012). Most of the time, networks embedded in human trafficking are recognized as transnational organized crime (TOC) as they may involve the coordinated efforts of individuals to achieve some common benefit through activities in more than one country. Such perspective is aligned with the definition of organized criminal group by the United Nations Convention against Transnational Organized Crime (UNTOC), also known as Palermo Convention. Since this convention does not present a definition of organized crime, its perspective on defining organized criminal groups enables a comprehension of how to identify the transnational character of such criminal dynamic. In this regard, organized criminal group is “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with the Convention, in order to obtain, directly or indirectly, a financial or other material benefit” (UNODC, 2000). The criteria for defining a group as an organized criminal group vary from country to country and by various economic, political, and other aspects (Mallory, 2012).

### **Human Trafficking as Organized Crime**

According to the United States (US) Department of State, “trafficking in persons,” “human trafficking,” and “modern slavery,” are terms commonly used to refer to a crime in which traffickers exploit adults or children for profit (The US Department of State, 2021). Article 3(a) of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, which supplements the UNTOC (also referred to as the UN TIP), provides the following detailed definition of human trafficking:

Trafficking in Persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of

deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs (The US Department of State, 2021).

The UN TIP extends special protection to women. More than 175 countries that have ratified or acceded to the said Protocol obliged to prevent and combat trafficking (The US Department of State, 2021). Considering the Asian continent, the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP) adopts the UN TIP Protocol's definition entirely (David, n.d.). According to this definition, there are three elements that must be present for a situation to be established the crime of trafficking in persons: action, means, and purpose. The crime of trafficking in persons takes place when at least one of the acts and at least one of the means are combined with the 'purpose' of exploitation (UNODC, 2019). That means that while the actions by the traffickers may be identified in the forms of recruitment, transportation, transfer, harboring or receipt of persons, they must be undertaken by one or more of the following means: force or the threat of force, other forms of coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, giving or receiving of payments, or benefits to achieve the consent of a person having control over another person (UNODC, 2019). Further, the action must be for the purpose of exploitation, which includes the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, or practices similar to slavery, servitude, and the removal of organs (UNODC, 2019). In this sense, human trafficking can take on numerous forms, including sexual exploitation, forced labor, and other different criminal activities.

According to the UNODC (2020), 50 per cent of detected victims in 2018 were victims of sexual exploitation, 38 per cent were victims of forced labor, 6 per cent were subjected to forced criminal activity by organized criminal groups, while one per cent were coerced by the criminals into begging and smaller numbers into forced marriages, organ removal, and other purposes (UNODC, 2021). Following the UNODC database, about 50,000 human trafficking victims were reported by 148 countries. Although it is difficult to accurately estimate the total number of persons trafficked and their origins because of the highly secretive nature of organ

trafficking, UNODC reports that victims from East Asia have appeared in a large number of countries across the globe (UNODC, 2021).

Although men and children can also be victims of human trafficking, numerous studies show that women are the most vulnerable. The UNODC states that human trafficking can affect people of various genders, ages, and origins, yet female victims continue to be the primary targets (UNODC, 2021). According to UNODC, 46 percent of victims were women and 19 percent were girls in 2018 (UNODC, 2021). Abioro and Akinyemi (2020) state that women are more vulnerable to become primary victims of trafficking due to the feminization of poverty, gender discrimination, and lack of educational and professional opportunities in their countries of origin. Looking more specifically at trafficking of women, the recruitment of victims takes on various forms. Most women end up being exploited sexually by organized criminals, forced into hard labor and/or services or practices similar to slavery, servitude, and non-consented removal of organs (Abioro and Akinyemi, 2020). These women are heavily trapped because of their situation as illegal migrants.

Trafficking of women is becoming the main source of income for some organized criminal groups. They profit from the vulnerable social and economic situation of women and victimize them by promising large earnings, a good life, or relief from social pressure. The spread of such crime has consequences for not only individuals who face health risks, physical and emotional abuse, and even threats on their life, but also on their families leading to family dissolution and neglect of children. Further, this issue has serious implications for the national security and rule of law in both the countries of origin and designation. The root causes of trafficking of women embrace different dimensions of manifestation, which also function as a stumbling block to break the circle of state fragility in the economic, physical, psychological, and societal spheres. Public trust in the system appears to be challenged due to states' inability to prevent trafficking of women. As a result, people move away from law and its enforcement mechanisms undermining the system, which is a significant sign of state fragility. The high rise of organized crime networks erodes the credibility of law, allowing for corruption in law enforcement authorities and other societal institutions, and also undermines the rule of law and the legitimacy of judicial institutions. The political process may also be compromised in this circumstance because organized crime networks pay bribes to public authorities or fund candidates for public office (Finckenauer, 2005). In the end, the country's fragile socioeconomic situation makes trafficking easier.

## Asia as a Hub for the Trafficking of Women

While human trafficking is one of the criminal activities with a worldwide scope, this chapter focuses on the South Asian and Southeast Asian countries that are more related to the nexus between state fragility and human trafficking. It is evident that some of the South Asian and Southeast Asian countries remain a hub for human trafficking as its members belong to both source and destination countries (CITATION). In recognition of the growing prevalence of human trafficking in the region, various initiatives have been taken for the eradication of human trafficking, with special focus on women.

The Association of Southeast Asian Nations (ASEAN) member states have adopted the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP) in 2015, in addition to complying with the two international legal regimes, the Palermo Convention and its Protocol at the sub regional level of Southeast Asia. This regional legal instrument, among its other objectives specifically aimed at preventing and combating trafficking in persons, particularly against women and children, functions to ensure just and effective punishment of traffickers and protecting and assisting victims of trafficking in persons, with full respect for their human rights (David, n.d.). The ASEAN Convention was accompanied by the ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children. Unlike the predecessor of the ACTIP, the ASEAN Declaration against Trafficking in Persons, Particularly Women and Children, the ACTIP is a legally binding instrument (David, n.d.). In addition to this key regional instrument, bilateral agreements have been a popular method for combating human trafficking. The Memorandum of Understanding between Thailand and Cambodia on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Survivors of Trafficking is an example of this (David, n.d.).

In the South Asian region, the South Asian Association for Regional Cooperation (SAARC), which consists of eight member states (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka), has adopted the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in 2022, which imposes obligations on states to take effective measures to combat trafficking in women and children. Yet despite the global and regional instruments and other mutual agreements, trafficking in women remains widespread throughout the sub regions. According to the UNODC, women continue to be the largest group of detected victims in South Asia as well as Southeast Asia (UNODC, 2021). While children and adult women are

almost equally detected in South Asia (accounting for 45 and 44 per cent of total victims detected respectively), adult women make up about half of the victims in East Asia (UNODC, 2021). These sub regions are considered one of the origin areas for trafficking of women to the rest of the world for the purposes of sexual exploitation, forced labor, forced marriages, exploitative begging, and forced criminal activities.

In consideration of the nexus between state fragility and trafficking in women in these sub regions, countries that suffer from political instabilities, significant socioeconomic pressures, humanitarian crises, and environmental degradation are highly vulnerable to organized crime, including trafficking of women. This correlation is particularly visible in specific country situations in South Asia and Southeast Asia, highlighting Afghanistan, Pakistan, and Myanmar. According to the Global Organized Crime Index, Afghanistan is ranked first out of eight countries in South Asia in terms of organized criminality rate (Global Initiative against Transnational Organized Crime, 2021), while it has the highest state fragility rate in 2021, and 2022 in South Asia according to the Fund For Peace's Fragile States Indexes (2021 and 2022). Afghanistan is also in the top ten most deteriorated countries in the world, falling into the high alert category of the FFP Fragile States Index and remaining in Tier 3, the worst category of the US Department trafficking report 2021 (The US Department of State, 2021).<sup>4</sup> As part of tier three, countries are the worst 17 in the world when it comes to fighting human trafficking (The US Department of State, 2021). Similarly, Pakistan is ranked second in South Asia in terms of organized crime (Global Initiative against Transnational Organized Crime, 2021), and it remains in the FFP fragile index's (2022) high warning category. From Southeast Asia, Myanmar is ranked first out of eleven countries in the Global Organized Crime Index (Global Initiative against Transnational Organized Crime, 2021), and it remains in the high alert category of the Fragile State Index (The Fund for Peace, 2022).

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4 The United States Department assigns each country into one of four tiers (Tier 1, Tier 2, Tier 2 Watch List, and Tier 3) in its report based on the level of adherence to the minimum standards of the United States' Trafficking Victims Protection Act (TVPA) for the elimination of human trafficking. While Tier 1 refers to countries whose governments fully comply with the TVPA's minimum standards on the elimination of trafficking, Tier 2 refers to countries do not fully meet the TVPA's minimum standards but that are making significant efforts to comply with those standards. The countries that fall under Tier 3 are those governments that do not fully meet the TVPA's minimum standards and are not making significant efforts to do so.

When examining the State fragility-trafficking of women nexus in the selected two sub regions, it is important to analyze the following key dimensions of state fragility: economic, political, security, social, and environmental. One of the foundations for this analysis is the nature of human trafficking under these dimensions. Similarly, the analysis is significant as it examines the conditions of countries that are highly susceptible to trafficking in women and most vulnerable in terms of their economies, politics, security, social systems, and environmental sustainability. First, in terms of the economic dimension of fragility, a country's economic decline, which is linked to low levels of income, unemployment, inflation, debt, and extreme poverty levels, is significantly linked to the causes for women becoming trapped in trafficking networks (OECD, 2016). The above situation is perhaps best exemplified in the situation of Afghanistan, which is one of the low-income countries according to the World Bank (2020), with the highest trafficking rates. Afghanistan is also one of the top countries that suffers exceptionally high costs of armed conflict, according to Global Peace Index (Institute for Economics and Peace, 2021). Arguably, economic fragility could be considered as one of the main reasons for the country's poorest ranking in the trafficking indexes, highlighting the government's inability to fully meet the minimum standards for the elimination of trafficking in women. According to the US Department of State's Trafficking in Persons report, Afghan women and girls are vulnerable to being trafficked for forced labor, sex trafficking, forced marriage, prostitution, and domestic servitude, primarily in Pakistan, Iran, and India (Kakar and Yousaf, 2021; The US Department of State, 2021).

Second, given the atmosphere generated by a country's political fragility, domestic political instability can create vacuums in which organized criminal groups might take advantage of the situation with impunity to commence and/or continue illicit activities such as trafficking of women. Different groups that engage in political violence during domestic instability are highly likely to be involved in organized criminal networks, including illicit trafficking. Kakar and Yousaf (2021) describe how political instability in Afghanistan plays a vital role in the escalation of trafficking of women, especially in forced marriages. Since Afghanistan has been experiencing situations of war, conflict, political unrest, and extreme political insecurities, there are significant vulnerabilities that expose many women and girls to various forms of exploitation in trafficking (Kakar and Yousaf, 2021). Similarly, political instability-related vulnerabilities are common among trafficking of women in Myanmar. Many people have been displaced in Myanmar as a result of continuous military conflict with the Ethnic Armed Organizations (EAOs) in several areas of the country, as well

as the military coup on 1 February 2021, which deposed the democratically elected government (Singson, 2022).<sup>5</sup> This situation has placed vulnerable populations, mainly women, at risk of human trafficking both within the country and throughout the region. As a result, Myanmar remains on Tier 3, the worst category of the US Department Trafficking Report 2021 (The US Department of State, 2021).

Third, shortcomings in the security dimension of fragility lead countries towards failures in carrying out their duties and responsibilities, which makes vulnerable populations like women more insecure (Koch, 2008). This dimension of state fragility captures the existing direct violence as well as coping capacities of the states in preventing and mitigating the same. In this case, the highest levels of human trafficking rates might be one of the significant indicators of security fragility. Other key indicators include the level of State control and the capacity of law enforcement mechanisms to prevent human trafficking. In particular, insufficient legal protection and imbalanced or partial enforcement mechanisms indicate the intensity of the human trafficking and contribute to state fragility. This is particularly evident in the Afghan context, which has been ravaged by violent conflicts and upheaval for decades, making security for vulnerable people, like women, extremely challenging (Kakar and Yousaf, 2021; Locke, 2012). As a result of long-running conflicts and hostilities, many women lose their family members, making them vulnerable to various forms of exploitation, including human trafficking. In another words, this situation paves the way for criminal groups to freely exploit women for their interests in the absence of adequate efforts to combat human trafficking. According to the US Department of State Trafficking Report 2021 (The US Department of State, 2021), the Afghan government has been hesitant to prosecute military or police officials who have been involved in human trafficking, trying instead to arrest, detain, penalize, and abuse many trafficking victims. According to the same report, there are unacceptable practices of punishing sex trafficking victims for ‘moral crimes’, and sexually assaulting victims who attempted to report trafficking crimes to law enforcement officials (The US Department of State, 2021). These examples from Afghanistan demonstrate how a country’s security apparatus deteriorates, resulting in fragility.

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5 The military of Myanmar launched a coup d’état against the democratically elected government of the country on 1 February 2021. They declared the results of the 2020 general election invalid and instated a one-year state of emergency. Mass communications were mostly shut down, and senior members of the National League for Democracy (NLD) party were arrested.

Fourth, in terms of societal fragility, acute poverty and social pressure can be considered as one of the key causes of the increase in trafficking of women. It is evident that as societal fragility increases, so does the number of victims of human trafficking. The current economic crisis in Sri Lanka, for example, works as a driving force for unsafe migration and trafficking in person at present. According to reports, over 300,000 Sri Lankan men and women left the country in 2022 in search of jobs as the country faced its worst economic crisis since independence (Visapra, 2023). Many of them, especially women however, may fall prey to intermediaries whose promises of jobs can lead to exploitation and entrapment in the organized trafficking loop. Despite the fact that the US State Department upgraded Sri Lanka to Tier Two in its 'Trafficking in Persons (TIP)' report for 2022, where the country had remained on the Tier Two watch list for the last three years (The US Department of State, 2022), there is an undeniable risk of trafficking faced by migrant workers, especially with the current economic instabilities. While this is not only limited to one country, most of the stories about female trafficking victims in Cambodia, Indonesia, Laos, Myanmar, Nepal, Pakistan, and Vietnam who are trafficked into the sex trade or sold as brides or surrogate mothers in China, have an undeniable impact of extreme poverty, societal pressure, or other social concerns (Afzal, 2022; Barr, 2019; Radio Free Asia, 2022). According to the 2020 State of Fragility assessment by the OECD, the societal dimension of fragility is relatively high in several of these countries (OECD, 2020). The above connection between societal fragility and the highest levels of trafficking in women corroborate to the notion of the nexus between state fragility and human trafficking.

With regard to the environmental dimension, state fragility has a strong link with trafficking in women. In many regions, women bear a disproportionate responsibility and burden from the adverse effects of environmental degradation and climate change, which amplify existing gender inequalities and pose unique threats to their livelihoods, health, and safety (McCarthy, 2020; UN Women, 2022). The environmental impact of state fragility has resulted in the trafficking of many women and girls in some instances. According to Caballero-Anthony (2018), traffickers target women displaced by natural disasters in Southeast Asian countries, who are particularly vulnerable in their urgent need for shelter and protection. Environmental deterioration and adverse weather conditions might exacerbate their insecurities, trapping them into trafficking networks and leading to a loss of livelihoods. The following two examples support the above fact. One is the 2013 Typhoon Haiyan, which took place in the Philippines, where survivors were reportedly dragged by migrant

smugglers into trafficking as servants, beggars, prostitutes, and laborers. The other example is drought-affected migrants from Cambodia who have been trafficked into Thailand by migrant smugglers. However, as the International Organization for Migration (IOM) states, climate change and natural disasters are rarely acknowledged as contributing to human trafficking in global discourses or national policy frameworks (IOM, 2016), despite the fact that the same make hundreds of thousands of people more vulnerable to trafficking in the present context. In this sense, the climate change-human trafficking crisis should be addressed holistically, without disconnecting from the political, social, and economic realities of the world. Particularly, to mitigate deep-rooted injustices and aggravate inequality against women in trafficking, it is suggested that holistic actions across a range of sectors, including policy, advocacy, and academic fields, at various levels are essential.

## **Conclusion**

Human trafficking is the most pervasive criminal market, affecting mainly affecting vulnerable women worldwide. Arguably, the offense of trafficking in women demonstrates an essential correlation in which with state fragility is both a root cause and a driving force of this criminal dynamic. Examples from Afghanistan, Pakistan, and Myanmar have been used in this chapter to illustrate this correlation in the context of South and Southeast Asia. Violence, long-running armed conflicts, weak security apparatus, extreme poverty, political instabilities, corruption, and the new challenges posed by the COVID-19 pandemic have led to the escalation of trafficking of women in these countries. These factors, in turn, contribute to a cycle of fragility that impedes the achievement of the Sustainable Development Goals.

Due to socioeconomic, political, cultural, and security issues, effective prevention and combating of this particular criminal market in the Asian sub regions is extremely challenging. Despite having sufficient legal frameworks and enforcement mechanisms, the majority of countries in the area are making little progress in the fighting against trafficking of women. The main cause for this could be a lack of political will, minimal elite cooperation, stereotypes that hinder the smooth operation of the legal and criminal justice systems, and insufficient technological facilities that are not suitable for traffickers' strategic improvements in the modern age. As a result, these countries are unable to take tougher actions against perpetrators of trafficking in women, as well as better assistance to victims. The incapacity of a state to tackle human trafficking has a transnational impact on neighboring countries, as well as the entire world. As a result,

the implications of state fragility cannot be neglected under the assumption that they only affect in the countries with high levels of fragility. In this sense, no country is safe if its neighbors continue to suffer from contexts of fragility that are engulfed by organized crime, such as human trafficking.

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## 11

## The Taliban-led Afghanistan and Transnational Crimes: National and Regional Responses

Zahid Shahab Ahmed<sup>1</sup>

The United States (US)-Taliban peace pact, which was signed in Doha in 2020 and prepared the way for a US army departure from Afghanistan, was well received by Afghanistan's neighbors. Even still, many people were surprised by how quickly the Taliban took control of the territory in July and August 2021. Now that US troops have left Afghanistan, regional actors are concerned about increasing state fragility, particularly in terms of how the Taliban want to run the country, as well as how the overall situation will likely increase organized crime, such as narcotics smuggling and terrorism, and have greater implications for regional security. Despite the Taliban's pledges that they would take strong anti-narcotics measures, as they did under the Islamic Emirate of Afghanistan (IEA) in 2000 (Ahmed, 2022), there are concerns of the Taliban's involvement in drug trafficking. In recent years, narcotics production and smuggling have expanded dramatically in Afghanistan (Saikal, 2019), and regional countries, such as Pakistan, have expressed concerns that increasing instability in Afghanistan may exacerbate this problem in the region. Similarly, other neighboring states are concerned about the presence of various terrorist groups in Afghanistan, including the Islamic State of Khorasan, Al-Qaeda, and the Tehrik-i-Taliban Pakistan (TTP), as well as the ease with which terrorist groups can now spread to other countries. Regional actors have been working on a solution to these shared concerns, and there are already two regional forums, the Shanghai Cooperation Organization (SCO) and the South Asian Association for

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Regional Cooperation (SAARC) that focus on Afghanistan. Within this context, this chapter examines both national and regional responses to non-traditional security threats linked to Afghanistan, particularly drug smuggling and terrorism, to better understand how regional actors have responded to the situation in Afghanistan and what opportunities for future cooperation exist.

Following the 2020 signing of the peace agreement in Doha, President Joe Biden of the United States said in April 2021 that the US would honor the deal by evacuating all US soldiers before the 20<sup>th</sup> anniversary of the terrorist attacks on the US on September 11, 2021 (Ryan and DeYoung, 2021). In July 2021, the White House issued a statement in which Biden said, “Our military mission in Afghanistan will conclude on August 31st. The drawdown is proceeding in a secure and orderly way, prioritizing the safety of our troops as they depart” (Biden, 2021a). As troops began to evacuate, frequently without a proper handover to local forces, a vacuum appeared, which benefitted the Taliban. US officials in charge say that their intelligence sources had informed them that the Taliban might take over Afghanistan in three months after the withdrawal of foreign troops (Mohammad et al., 2021), but those reports ignored the comprehensive failures of the Afghan National Army (ANA) and the government. Biden made some remarks that also reflect that the US was aware that the ANA could only hold back the Taliban for a certain period. After the Taliban’s takeover, Biden said, “That assumption, that the Afghan government would be able to hold on for a period of time beyond military drawdown, turned out not to be accurate” (Biden, 2021b). The Taliban’s takeover was far quicker, as the world watched, and they managed to overrun Kabul in a couple of weeks (Mohamed and Allahoum, 2021). To everyone’s astonishment, the takeover went quite smoothly, with the Taliban facing little resistance. Although there was fighting in some areas, such as Herat (Latifi, 2021), the ANA did not constitute a substantial threat to the Taliban.

The way the US and its partners handled the crisis has been called into question by these shocking events. The US is chastised for mismanaging the situation in Afghanistan by turning its attention to the war in Iraq in 2003, without fully destroying the Taliban. As a result, the Taliban were able to remobilize and begin guerrilla warfare in 2006 (Dorransoro, 2009). Some further say that the Taliban’s peace pact legitimized them by giving them greater confidence to continue their hostilities. Hundreds of Taliban captives were released and returned to the battlefield because of this peace agreement (Cullison and Shah, 2021). The Afghan government refused to sign the peace agreement and continued to criticize it. Other actors in the region, such as Iran, Russia, China, and Pakistan, have all expressed support

for the peace pact. There were several rounds of talks between the Taliban and the Afghan government after the US-Taliban peace pact but without any concrete results. The Taliban benefited enormously from the withdrawal of US troops, and on August 15, 2021, they achieved complete control of the country. Since the Taliban's takeover, there are shared concerns among regional actors in relation to the spillover effect in the shape of transnational crimes or non-traditional threats, especially terrorism and drug trafficking. Considering this scenario, this chapter mainly focuses on developments since the Taliban's control of the country.

### **A Brief Background on the Taliban in Afghanistan**

The Afghan-Soviet War (1979-1989), during which the US used proxies, such as holy warriors or mujahideen to combat Soviet soldiers in Afghanistan, laid the foundations for the Taliban. These mujahideen were gathered from all over the world and were trained by the United States' Central Investigation Agency in collaboration with Pakistan before being sent to fight the Soviet troops in Afghanistan (Ahmed, 2012). With the evacuation of Soviet soldiers at the end of the armed conflict, the US left the scene since its mission had been accomplished. Then, came the struggle for power in Afghanistan, which culminated in a civil war in 1993, clearing the path for the Taliban to arise. The Taliban was created by Mullah Omar in Kandahar, in 1994, with 50 pupils. By 1995, the gang had expanded its control to 12 provinces and 25,000 fighters (Felbab-Brown, 2021). In 1996, the Taliban established the Islamic Emirate of Afghanistan after quickly gaining control of much of the country. Some credit their achievement to Pakistan's unwavering backing in the shape of intelligence sharing and military support (Riedel, 2021, Magnus, 1997, Ellis-Petersen and Baloch, 2021). Only Pakistan, Saudi Arabia, and the United Arab Emirates had recognized the proclaimed Taliban's government. After Al-Qaeda attacked the US embassies in Nairobi in 1998, the United Nations (UN) sanctioned<sup>2</sup> Afghanistan by designating Osama bin Laden and his accomplices as terrorists (Holtom, 2007).

The Taliban's ideological movement culminated in the establishment of the Islamic Emirate of Afghanistan. They were able to install Sharia (Islamic law) in the country because of their success. The Taliban follow the Hanafi School of Islamic jurisprudence and believe

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2 The UN Security Council passed a resolution in 1999 stating, "Acting under Chapter VII of the United Nations Charter, the Security Council this afternoon demanded that the Afghan faction, known as the Taliban, turn over Usama bin Laden to appropriate authorities in a country where he would be brought to justice" (UN, 1999).

in strict Sharia and allegiance to the *amir* (leader) and a small group of mullahs. Increased restrictions were also imposed by a stringent form of Sharia, which had been in place for nearly five years under the Taliban. Pork and alcohol, both regarded *haram* (forbidden) in Islam, were banned by the Taliban. Music, television, and movies were also prohibited, as were paintings and photographs (Matinuddin, 1999). Then, movie theaters were shut down and mosques were built in their place. Further limits included restrictions on games for men and women, such as prohibiting both genders from playing football and chess. The Islamic Emirate of Afghanistan also prohibited kite-flying, keeping pigeons, and owning pets. Women were subjected to further restrictions, including the prohibition of working and the exclusion of females from entering schools and institutions. According to a report by the US State Department,

as many as 50,000 women, who had lost husbands and other male relatives during Afghanistan's long civil war, had no source of income. To feed their families, many were forced to sell everything they owned and beg on the streets, or worse. (USDS, 2001)

The Taliban acted against societal issues such as gambling, outlawing them totally. Furthermore, the Islamic Emirate of Afghanistan took major steps against opium cultivation in 2000, prohibiting it and imposing heavy penalties on drug users and sellers (Felbab-Brown, 2021). Following the terrorist attacks on September 11, 2001, Washington talked directly with the Islamic Emirate of Afghanistan and its major regional allies, such as Pakistan, to seek the arrest of Al-Qaeda leaders. As Pashtuns, the Taliban claim to observe the 'Pashtunwali' code,<sup>3</sup> which requires them to defend their visitors. They refused to hand over Osama bin Laden to the US out of respect for Pashtunwali, which demands protecting one's guests. This respect for tradition sparked the war that resulted in the Islamic Emirate of Afghanistan's fall in 2001. The Taliban commanders split and reorganized in Pakistan, primarily under the Quetta Shura in Balochistan, shortly after the entry of US-led NATO (North Atlantic Treaty Organization) troops in Afghanistan. While Pakistan aided the Taliban in many ways, such as offering asylum to their members and families, the Taliban was never completely under Pakistani authority. Instead, the Taliban learned to increase their network of sympathizers through diplomatic outreach. Their office in Doha, Qatar, also played an important role, and different geopolitical realignments moved them closer to Iran, Russia, and China, as well as normalizing relations with Pakistan, which had been strained due to

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3 Pashtunwali is the traditional lifestyle or a code of honor followed by the Pashtun people who mainly live in Afghanistan and Pakistan.

Islamabad's 'war on terror' partnership with the US (Borger, 2010). Scholars debated the impact of the Taliban's international relations on Afghanistan's peace and stability:

to push the US out of Afghanistan, the Taliban has exhibited a readiness to form relations with erstwhile adversaries, such as Iran and Russia, and has built on relations with Pakistan for linkages with China. The Taliban's willingness to undertake these overtures is designed to enhance its credibility internationally and expand opportunities beyond its traditional links with Pakistan. (Ahmed et al., 2020)

The Taliban's increased external linkages aided them in gaining not only legitimacy (for example, Taliban representatives have attended Beijing, Moscow, and Islamabad-facilitated negotiations) but also support for the US army pullout, which has been demonstrated by the convergence of interests among Iran, China, Pakistan, and Russia, all of whom supported the US withdrawal from Afghanistan and hence welcomed the US-Taliban peace agreement in 2020. The Taliban's external connections have also proven fruitful since the group has had complete control of the country since August 15, 2021. Iran, China, Pakistan, and Russia all have diplomatic missions in Afghanistan and are still negotiating with the Taliban. While there were concerns that Iran would mobilize Shi'a militias in Afghanistan to fight the Taliban (Hassan, 2021), these did not come to fruition during the Taliban's quick takeover of the country in July-August 2021.

### **The Impact of the Taliban's Takeover on Transnational Crimes**

Compared to a long history of poppy cultivation in Afghanistan, terrorism is a recent phenomenon as the country came under in the international spotlight after the September 11, 2001, terrorist attacks on the US. By the end of the Soviet invasion of Afghanistan, poppy cultivation had reached an unprecedented level as the country was producing 70% of the world's opium (Steinberger, 2003). There is a strong correlation between terrorism and drugs in connection to Afghanistan as groups. These terrorist groups like Al Qaeda and Islamic State-Khorasan Province (IS-KP) and the Taliban have generated funds through drug trafficking and therefore have been key actors in transporting drugs across Afghanistan's borders (Rowlatt, 2019). Now that the Taliban has the control of the country and there is enough evidence to suggest its involvement in drug trafficking and links with Al Qaeda and TTP, regional actors are worried that these transnational crimes might increase with immediate impact on their countries. This section focuses on state fragility in Afghanistan and its effects on regional

security with reference to terrorism and drug trafficking and responses from regional states.

### ***Terrorism***

While a key objective of the US-led NATO mission in Afghanistan was to eliminate international terrorism, terrorism remains a major problem. While its impacts are visible in Afghanistan, where groups like Al Qaeda and the IS-KP exist and operate, Pakistan faces serious implications of rising terrorism since the Taliban's takeover in Afghanistan. Terrorism has claimed over 80,000 lives in Pakistan and cost the country more than US\$100 billion between 2001 and 2021 (Mirza, 2021). Since 2010, Pakistan has made significant progress in terms of decreases in terrorist strikes. Pakistan's progress, however, is now in jeopardy due to the Taliban's cooperation with other terrorist groups, particularly TTP, and threats linked with other terrorist groups with a substantial presence in Afghanistan, such as IS-KP. The TTP is a Pashtun Islamist terrorist group based along the Afghan-Pakistan border that was founded in 2007 as an umbrella organization for 13 different factions in northwest of Pakistan. The organization has carried out terrorist activities in Pakistan since its creation, and the US designated it as a Foreign Terrorist Organization in 2010. Because of security operations in Pakistan, thousands of TTP terrorists crossed the Durand Line into Afghanistan. According to the UN (2020), there were more than 6,000 anti-Pakistani rebels in Afghanistan, including from TTP who worked closely with the Taliban (UN, 2020). In addition, Taliban fighters not only freed TTP and other detainees from prisons across Afghanistan but also assisted the Taliban in their ultimate victory (Ellis-Petersen and Baloch, 2021; Lobel, 2021).

Pakistan's condition is already concerning, since the number of terrorist occurrences has risen dramatically since August 2021. Between August 2021 and March 2022, Pakistan experienced 272 terrorism-related incidents (SATP, 2022). This number is larger than any year between 2018 and 2020 (SATP, 2022). However, the increase is not surprising, as a UN assessment had previously warned Pakistan that there were approximately 6,000 anti-Pakistan terrorists in Afghanistan, the majority of whom were TTPs (Gannon, 2020). Since August 2021, the TTP has intensified its activity in Pakistan, mostly in Khyber Pakhtunkhwa (KP) (Geo, 2022). To address the TTP problem, Islamabad engaged in peace negotiations with the TTP that were facilitated by the Afghanistan Taliban in 2022. The increase in terrorism in Pakistan is due to simultaneous strikes by the TTP and the IS-KP. Terrorism-related deaths in Pakistan climbed slightly from 263 in

2020 to 275 in 2021, according to the Global Terrorism Index 2022 (IEP, 2022). According to the index, terrorism-related deaths in Pakistan have decreased by more than a third since 2015 (IEP, 2022), which is primarily due to military operations to combat terrorist organizations. Despite these initiatives, this hard-won victory is now in jeopardy due to Afghanistan's increased fragility since the Taliban's takeover.

### *Drug trafficking*

Opium cultivation in Afghanistan is one of the most problematic issues of concern that directly affects Iran and Pakistan. Afghanistan is one of the world's leading producers of opium, accounting for two-thirds of worldwide poppy cultivation and producing nearly 80% of the world's opium. Afghanistan has produced up to 89 % of the world's opium at times (Houk, 2011). In 2021, Afghanistan's illicit opiate sector was valued to be US\$1.8-2.7 billion, or 9-14 % of the country's gross domestic product (GDP) (UNODC, 2021: 35). In the following years, Afghanistan's illicit opiate industry rose dramatically in value (Saikal, 2019). In terms of the impact of drug trafficking from Afghanistan, Iran and Pakistan act as transit countries and have faced consequences in the shape of an alarming increase in drug addiction.

Drug trafficking from Afghanistan into Pakistan has a long history. The Afghan-Soviet War produced favorable conditions for drug traffickers who were able to transfer drugs from Afghanistan to Pakistan for sale in Europe and America during the Cold War (Haq, 1996). Until recently, the Afghan-Pakistan border remained porous, allowing drug shipments to readily enter Pakistan. However, Afghan drug traffickers do not solely rely on the Pakistan route. Despite being highly guarded, Afghanistan's illicit drug traffic extends across its border with Iran to countries in Europe and Africa (Landay, 2021). As the price of narcotics fell in the international market, the IEA (Islamic Emirate of Afghanistan) took tough steps in Afghanistan in 2000, punishing opium producers and drug consumers (Al-Jazeera, 2021b). Despite US investments worth approximately US\$8 billion in Afghanistan between 2005 and 2020 to eradicate poppy production, the country's techniques were futile because the Taliban controlled major portions of the nation even before July-August 2021 (Al-Jazeera, 2021b). According to an estimate, the Taliban made US\$400 million through the narcotics trade in 2018-2019, accounting for 60% of their yearly revenue (Al-Jazeera, 2021b). In July 2021, as the Taliban made rapid military gains in Afghanistan, Pakistani authorities were concerned that chaos would worsen the country's narcotics problem. The country's Minister for Narcotics Control, Akbar

Durrani, said that “if there is no political stability in Afghanistan... it might aggravate the problems [that the country is] already experiencing” (Stone, 2021). The minister was pointing to issues such as drug addiction, which is on the rise in Pakistan, with the number of addicts rising from 7 million in 2015 to 9 million in 2021 (Stone, 2021).

Like Pakistan, Iran also has a growing drug problem. During the last two decades, Iran has suffered greatly from the problem of drugs flowing from Afghanistan. According to the United Nations Office on Drugs and Crime (UNODC), more than 3,700 Iranian policemen have died in counter-narcotics operations during the last three decades, and Iran has spent millions of dollars on border security to block the flow of narcotics from its eastern borders (Basit, 2018). Data shows that 60 % of Afghanistan’s opium moves through Iran’s borders (Ameri, 2015). As a result, Iran has risen to become the primary transit country for Afghan opium and heroin (Ameri, 2015). At least an estimated 30 % of the narcotics imported from Afghanistan remain in Iran, exacerbating an already difficult situation in the country regarding drug consumption (Ameri, 2015). In South of Herat, there are huts known as ‘Qala-e-Biwaha’ (village of widows) where many Afghan men have lost their lives attempting to smuggle drugs from Afghanistan into Iran. From this village to Iran, smugglers can earn US\$300 per trip, which is a good sum of money for someone belonging to a poor family. As Iran has upscaled its border security, it is no longer risk free for smugglers as they can be arrested, persecuted, and killed by border security officials (Zucchini and Rahim, 2020).

Since the Taliban’s takeover, the drug problem has grown. There have already been massive drug seizures across the region. In September 2021, Indian authorities seized almost three tons of heroin originating from Afghanistan with a market value of US\$2.7 billion (Al-Jazeera, 2021a). Following the incident in India, Iran enhanced security on its border to counter drug trafficking from Afghanistan. The situation in Pakistan is alarming as the authorities continue to seize large quantities of drugs from Afghanistan. During December 2021 and January 2022, Pakistani authorities at the Torkham border seized 524 kilograms of hashish, 255 kilogram of heroin, 280 kilogram of opium, and about 22 kilograms of methamphetamine (Stone, 2022). As the Taliban has funded itself through illicit drug trade in the past, it is quite likely that it will rely on the narcotics trade as it does not have any other major sources of funding. As Afghanistan accounts for 85% of the world’s opium cultivation, it is no surprise that the Taliban is the biggest drug cartel (O’Donnell, 2021). In the current context where the Taliban regime is not recognized by many states, Afghanistan

suffers from economic and humanitarian crises. Also, several prominent terrorist organizations, such as Al Qaeda, have a presence in the country and will continue to benefit from drug trafficking; such a situation is likely to increase drug trafficking from Afghanistan. Even though the Taliban has provided assurances of countering opium cultivation, it is quite likely that it will use drug trafficking to generate funds for the organization's activities like purchasing weapons (Sufizada, 2021). The likelihood of this scenario's occurring will become more likely if the Islamic Emirate of Afghanistan does not receive international recognition as without any international pressure the Taliban will continue to do what they are doing. They have already backtracked on many of their promises, for example, regarding the girls' education in Afghanistan (Wintour, 2022).

### ***Responses***

Pakistan has been lobbying for a wider recognition for the Taliban-led government in Kabul, a move that is motivated by multiple factors, including its own geo-economic and geopolitical interests and the achievement of its economic potential. Although Islamabad views the Taliban as a pro-Pakistan group, it realizes that it is in no position to address Afghanistan's economic challenges, which can lead to serious economic and humanitarian crises in Afghanistan. This situation reflects the absence of a stable government in Kabul, which can create an environment conducive for not only a civil war but also a place where terrorist groups can exist and thrive. As a result, Islamabad is pushing the international community to continue providing humanitarian and economic aid to the Taliban. If Afghanistan becomes stable, such conditionality will also affect the influx of refugees into Pakistan.

Up until the Taliban's takeover, Pakistan enjoyed some influence on the Taliban because it was hosting some Taliban leaders and their families. As this is not the case any longer and now the Taliban is stronger and seek autonomy from Pakistan, Islamabad also realizes that it must focus on a regional mechanism to deal with today's Afghanistan. Islamabad also recognizes that it cannot handle the situation in Afghanistan alone, which will require more allies to deal with any potential crises as well as non-traditional security threats such as extremism, terrorism, refugees, and drug smuggling. To this end, Pakistan's foreign minister traveled to Central Asian Republics (CARs), Iran, and China to push the idea of a cooperative approach to today's Afghanistan (Ahmed, 2022). However, it is unclear how this regional approach would take shape and whether it will be an ad hoc arrangement encompassing all Afghanistan's neighbors or a preexisting inter-governmental institution such as the SCO.

Pakistan's interests will be served by whatever shape or form this regional approach takes, since it does not wish to be the sole or most prominent external participant in Afghanistan. This strategy is based on lessons learned in the past when Pakistan worked closely with the IEA as the agency's main supporter after 9/11. Furthermore, Pakistan's ailing economy cannot bear the weight of providing substantial economic assistance to Afghanistan. Islamabad appears to have succeeded in persuading other regional actors to support a regional approach to the Taliban-led Afghanistan. China supports a regional approach to Afghanistan, in addition to contributing US\$31 million in aid (BBC, 2021). At the Shanghai Cooperation Organization (SCO) summit in September 2021, President Xi Jinping stated that SCO countries "should promote a peaceful transition in Afghanistan and push Kabul to establish a broad-based and inclusive political government" (Patranobis, 2021).

Since all regional actors, – including Pakistan, Iran, the CARs, Russia, India, and China, – are members of the SCO, negotiations through SCO platforms appear to be the most feasible intergovernmental form of reaching conclusions on the approach to Afghanistan. While Afghanistan is not an SCO member, there is an Afghan affiliate called the SCO-Afghanistan Contact Group, originally created to facilitate the Afghan peace process involving a settlement with the Taliban.<sup>4</sup> For the time being, all members have shown a desire in using the SCO to increase contact with Afghanistan's Taliban-led government. The SCO's major goal also includes coordinated activities against radicalization, extremism, and terrorism; however, these efforts may be hampered by existing disagreements among SCO members, such as those between India and Pakistan and India and China. While India attended the SCO summit in 2021, it did not send troops to the SCO's military exercise in Kavkaz, which was held in Russia in 2020. Besides its bilateral engagement with the Taliban, the SCO can offer another opportunity to India in terms of its role in Afghanistan, where it spent about US\$3 billion between 2001 and 2019 (Chaudhury, 2019). Scholars have claimed that the chance of the India-Pakistan rivalry impacting the SCO, as it did the SAARC, is minimal because, unlike the SAARC, the SCO is led by China and Russia (Ahmed et al., 2019). Since the SCO collaboration entails intelligence sharing to combat terrorism, there are concerns about how intelligence services from some countries, particularly China, Pakistan, and India, will interact.

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4 The SCO-Afghanistan Contact Group was established the Shanghai Cooperation Organization in 2005 to develop proposals for cooperation between the SCO and Afghanistan.

As far as immediate reactions to the situation in Afghanistan are concerned, regional actors have approached the issues differently. As discussed above, there is little evidence of what has been done through regional organizations like the SCO and SAARC. On the issue of terrorism, there has been some communication between China and Pakistan, and both have shared their concerns with the Taliban. It seems that for Pakistan and China, terrorism is a top priority as little has been done with reference to drug trafficking, which mainly affects Pakistan, compared to China. In contrast, Iran and India have been communicating with each other, jointly addressing the problem of drug trafficking originating from Afghanistan (Haider and Bhattacharjee, 2021). As terrorism and drug trafficking originating from Afghanistan are likely to affect multiple countries, it is logical for regional actors to either cooperate through a viable forum or develop an ad hoc mechanism. For the time being, however, there has been no development as regional actors are either directly communicating with the Taliban or bilaterally discussing their concerns vis-à-vis today's Afghanistan. Iran and India, for example, have been discussing a joint response to handle the mutual problem of drugs from Afghanistan. Similarly, China and Pakistan have been in communication regarding terrorism, an issue that they have also discussed with the Taliban. However, the aforementioned actions are not enough as reactionary approaches might not comprehensively serve countries' interests. One viable option is to devise a regional mechanism, albeit ad hoc, which could ideally emerge through cooperation between the SAARC and the SCO.

## **Conclusion**

After being attacked by Al Qaeda on September 11, 2001, the US attacked Afghanistan to eliminate the Taliban's Islamic Emirate and Al Qaeda. As examined in this chapter, terrorism remains a major problem not only because of an Al Qaeda presence in Afghanistan but also because of the presence of other major terrorist organizations, such as the IS-KP. While Al Qaeda and the IS-KP have diverse targets, the TTP exclusively attacks civil and military targets in Pakistan. In contrast, IS-KP has been active regionally and has attacked Shi'as in Afghanistan and Pakistan, especially since the Taliban's takeover of Afghanistan in August 2021. Drug trafficking originating from Afghanistan is a major problem for two of its major neighbors, namely Iran and Pakistan, as both continue to seize drugs from Afghanistan and suffer from an ever-increasing number of drug addicts. National or unilateral responses are limited to enhancing border security to curtail drug smuggling and terrorism, but it is quite likely that drugs are still making their way into both Iran and Pakistan. Similar is the

case of terrorist incidents in Pakistan, as TTP and IS-KP terrorists manage to enter and engage in terrorism in the country. A major regional actor in South Asia, India, is equally concerned about the situation in Afghanistan and how instability in the country might influence its national security due to terrorism and narcotics smuggling. While Tehran and New Delhi have discussed the idea of jointly addressing the issue of drug trafficking, there has been no breakthrough at the regional level to address either the issue of drug trafficking or terrorism through an existing regional forum like the SCO or SAARC.

A difficult situation faces not only the Taliban but also regional and international actors because of a mutual trust deficit involving the Islamic Emirate of Afghanistan and many external actors, including Pakistan. There seems to be a consensus among regional actors that they are not going to unilaterally recognize the Taliban government, which has serious implications for how states can and will collaborate with the Taliban. State fragility is a crucial factor here and might increase as Afghanistan has historically depended on foreign aid. Currently, due to the absence of foreign aid, there are millions of people who find themselves below the poverty line, and thousands attempt to leave the country every day. With less aid and financial assistance, it is highly unlikely that the Taliban regime would take any serious actions to deal with the problems of drugs trafficking and terrorism.

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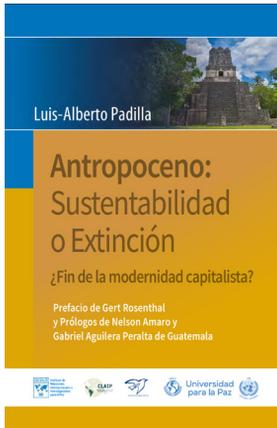
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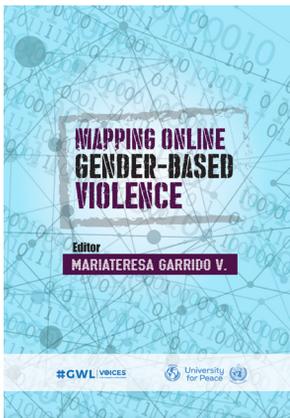
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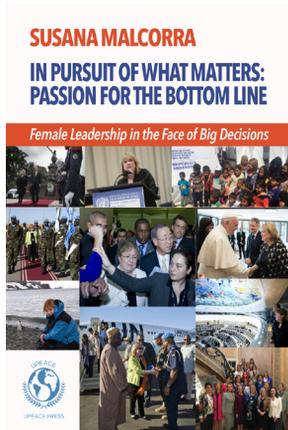
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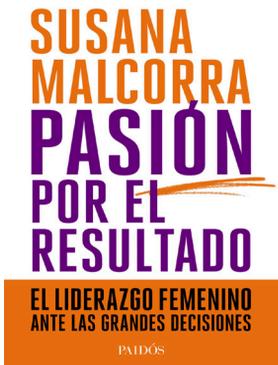
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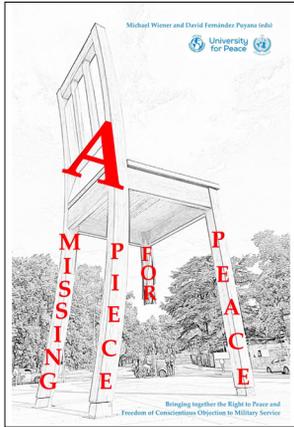
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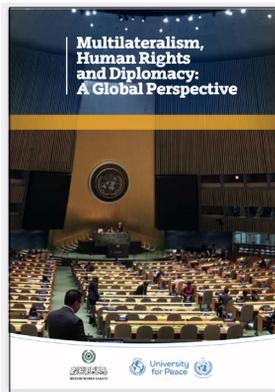
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