Beyond Crime and Corruption: Confronting Criminal Governance

Maurício Vieira, Ph.D.
Editor

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Preface

Corruption and Organized Crime: A New Threat and Blackmail Against Democracy and Peace

Dr. Francisco Rojas Aravena [1]

The first quarter of the 21st century has witnessed profound global transformations and ruptures. Notable among these breakdowns are the disregard for international law, the collapse of dialogue between science and politics regarding climate change, and an increasing use of force and disrespect for state sovereignty, including the nuclear threat. These factors have completely transformed the landscape of international and national security, its analysis, and the design of public policies to address these new security perspectives as a global public good. Likewise, we observe a great geopolitical transition, in which evident signs of the superpowers' return to imperial practices are emerging, including a disrespect for international law and an increasing use of force. Similarly, new forms of violence have arisen – such as transnational organized crime – which increasingly challenge State authority and the resilience of their democratic institutions.

The impact of these changes has disrupted international cooperation and states' ability – particularly smaller countries and middle powers – to consolidate development and welfare programs. This has deeply weakened the capacity of receiving societies to promote sustainable progress. Within the realm of the use of force, violence has generated new forms of collective violence, including international hybrid wars, disruptions by transnational organized crime, situations of extreme polarization across various regions, and diverse expressions of terrorism. They represent the new challenges and threats to States and their populations.

1 Rector, University for Peace.

Among these new challenges is criminal governance, which has become one of the most complex and transcendental phenomena shaping the contemporary global security agenda. These same phenomena and actors have radically altered power relations across different societies. This goes beyond the conventional understanding of organized crime, encompassing the capacity of criminal actors to exercise authority, regulate economic and social activities, influence political decision-making, and establish systems of order that coexist with, or directly compete against, State institutions. They correspond to "failed areas" within different States, where the presence of the State has disappeared or is very weak. These are areas where civil society institutions, churches, and educational and sports institutions also have a very limited presence or have migrated elsewhere.

Understanding these dynamics requires moving beyond traditional analyses that portray criminal organizations solely as illicit enterprises motivated by financial gain. In different regions of the world, criminal actors have progressively diversified their functions, expanded their territorial presence, and strengthened their capacity to influence communities. In many contexts, they no longer operate exclusively in the shadows. Instead, they administer informal governance systems, resolve disputes, provide sources of income, regulate access to both illicit and licit markets, and establish mechanisms of coercion that shape daily life. This new criminality seeks to exercise effective power and influence over territories and local governments. Currently, its influence extends from neighbourhoods and local governments to transnational financial networks, illustrating that criminal governance represents not only a security concern, but also a profound challenge to democratic governance, human development, and international cooperation.

In this context, drug trafficking and the crimes associated with it have expanded significantly across a broad range of areas, including money laundering and the illegal transfer of weapons. New forms of crime have emerged and expanded, such as human trafficking, the control of migration flows, extortion, illegal mining, and cybercrime. In addition, this range of illicit activities increases corruption, which serves as a gateway to transnational organized crime. The most visible manifestation of organized crime is the increase in violence in neighbourhoods and cities, reflected in a very rapid rise in intentional homicides. Latin America, with only 8 or 9 percent of the world's population, accounts for more than one-third of intentional homicides worldwide (CSIS, 2024). Nearly 90 percent of both victims and perpetrators are young men (UNODC, 2019). One direct consequence is that security has come to dominate national agendas across Latin American countries.

The consequences of these transformations are multidimensional: criminal governance undermines the rule of law, erodes public trust in institutions, distorts legitimate economic activity, weakens public administration, and undermines democratic accountability. It fuels violence, corruption, environmental degradation, forced displacement, illicit financial flows, and the exploitation of vulnerable populations. At the same time, it reveals structural weaknesses that extend beyond the criminal justice sphere itself: persistent social inequalities, institutional fragility, political polarization, insufficient public services, low levels of government efficiency, limited State presence across territories, and shortcomings in international coordination, all of which affect legitimate business and social processes.

The Challenge of Corruption

Regarding corruption, it is well known that it has accompanied human societies throughout the evolution of their institutions, often emerging as a convenient alternative to legality and the established order. Although its definitions and manifestations vary across historical, political, and cultural contexts, its corrosive effects are remarkably consistent. Together with impunity, corruption creates the conditions through which illicit actors infiltrate State institutions, capture governance structures, and exploit them to expand their influence over territories, markets, and public decision-making. As we have noted in various works, corruption becomes both a facilitator and a consequence of organized crime.

At the same time, the growing scale and sophistication of money laundering have deepened these challenges by distorting financial and commercial systems, reinforcing criminal economies, and enabling transnational organized crime to consolidate its power across different societies and act as a regional and global actor. Understanding these interconnected dynamics is therefore essential to addressing the increasingly complex forms of criminal governance that characterize the contemporary global landscape. For this reason, these new contexts demand the construction of new conceptual maps. The analytical frameworks that guided earlier stages have become completely outdated. New compasses are needed to chart the paths that must be followed to understand these new phenomena, confront organized crime successfully, and, more broadly, address the major challenges and threats facing States and humanity.

The contemporary landscape illustrates the extraordinary adaptability of criminal ecosystems and the high degree of diversification of illicit markets. These markets have transformed and today, beyond traditional activities such as drug trafficking and human trafficking, have expanded to encompass cybercrime, environmental crime, illegal mining, wildlife trafficking, counterfeit medicines, intellectual property violations, illicit trade, migrant smuggling, and increasingly sophisticated forms of financial crime. Digital technologies, encrypted communications, cryptocurrencies, artificial intelligence, and globalized supply chains have expanded both the opportunities available to criminal actors and the complexity of confronting them. New ways of operating involve extensive coordination rather than isolated organizations. Criminal groups frequently operate through flexible networks that cooperate across countries and continents, exploit legal markets, infiltrate public institutions, and establish alliances that transcend national borders. In this way, transnational networks are established that may be disrupted and suppressed, yet the network itself remains in place and can rebuild its branches.

Examples from every region demonstrate the global nature of this phenomenon. The consolidation of criminal organizations across Latin America; the expansion of drug production and trafficking, together with the trafficking of synthetic drugs destined for North America and Europe; environmental crimes affecting the Amazon, as well as forested regions in Central America, Central Africa, and Southeast Asia; the exploitation of irregular migration routes in the Mediterranean and the Americas; illicit mining operations linked to armed violence in Africa; and cybercriminal organizations targeting critical infrastructure worldwide all illustrate the scale of the challenge. Likewise, the growing convergence of corruption, illicit financing, and organized violence illustrates how transnational organized crime and criminal governance have become defining features of the contemporary international system. No country, regardless of its level of development or military power, remains immune to the capacity of criminal actors to exploit institutional vulnerabilities and governance gaps.

Although there is evidence that criminal organizations can be dismantled through police and military responses, from a global perspective, criminal organizations continually adapt to institutional pressure by diversifying their activities, replacing leadership structures, and expanding into new territories or markets. Developing renewed capacities in intelligence, foresight, anticipation, and institutional transformation is essential. Consequently, confronting criminal governance requires strengthening institutions, promoting social cohesion, expanding economic opportunities, and restoring public trust in democratic governance, addressing its weaknesses with the same determination devoted to prosecuting criminal activities. It is in this context that we are witnessing a global process of democratic backsliding. Therefore, State resilience becomes a central concept for understanding contemporary criminal dynamics. Resilience should not be understood solely as the capacity to respond to crises, but rather as the capacity of institutions and societies to anticipate risks, adapt to changing circumstances, recover from disruption, and transform while preserving democratic values and the rule of law.

States that can deliver public services effectively, guaranteeing access to justice, promoting transparency, reducing inequalities, and maintaining legitimate authority throughout their territories are considerably better equipped to prevent criminal organizations from assuming governance functions. Conversely, where institutions remain absent, fragmented, or captured by private interests, criminal actors frequently occupy these spaces, constructing alternative forms of authority that become increasingly difficult to dismantle over time. As I have noted in previous publications, equally concerning is the growing phenomenon of State capture by criminal actors, reflected not only in the governance structures established by criminal organizations, but also in their increasing influence within prison systems (Rojas Aravena, 2025). This does not necessarily imply that communities embrace criminal economies or condone illicit activities. Rather, it underscores a far more troubling reality: for many, survival takes precedence over ideology, and necessity may outweigh loyalty to the rule of law (Rojas Aravena, 2025). It is precisely within this space of democratic institutional fragility that criminal governance emerges, challenging the traditional boundaries of State authority and the State's monopoly on the use of force, while forcefully introducing illicit trade and calling social legitimacy into question. For this reason, defending the collective values of a democratic society, as part of the core cultural values of those societies, becomes a central task (Rojas Aravena, 2024, 2025).

These observations reaffirm the perspectives that have guided much of my academic work over the past decade at the University for Peace: studying, understanding, and developing new conceptual maps in areas related to security, organized crime and illicit trade, intentional homicides, and, more broadly, criminal governance. These phenomena cannot be understood exclusively through the lens of criminal justice, harsher penalties, or lowering the age of criminal responsibility for young people. In this regard, recognizing the role of intelligence is essential, particularly in prevention and in safeguarding democratic stability. In democratic contexts, this issue is fundamentally linked to opportunities for economic growth, development, and progress, and, centrally, to democratic development, governance, transparency, and the stability necessary for peacebuilding. Therefore, addressing the governance of citizen security and its manifestations in judicial and criminal security requires a comprehensive public policy approach that integrates security with economic and social development, institutional reform, education, international cooperation, environmental sustainability, and economic inclusion, while pursuing the stability needed to build better societies and advance toward peaceful societies. Citizen participation and inclusion are essential to the design and development of State policies.

The global nature of criminal governance further reinforces the need for multilateral cooperation. Criminal actors do not recognize national borders. Their financial transactions move through international banking systems; their supply chains cross multiple jurisdictions; their digital operations are facilitated by technologies that transcend territorial boundaries; and their political influence frequently extends beyond the countries in which they originate or from which they operate. No single State possesses the institutional capacity to address these dynamics successfully on its own. International organizations, regional institutions, academia, civil society, and the private sector must therefore strengthen collaborative mechanisms capable of producing coordinated responses based on shared knowledge, mutual trust, and common objectives.

The Role of Academia in Confronting Criminal Governance

Academic research is assuming an increasingly strategic role in new contexts characterized by high levels of uncertainty. Universities and research institutions contribute not only by producing empirical evidence, but also by developing conceptual frameworks capable of explaining the changing nature of national and global criminal phenomena. Political science, criminology, economics, sociology, international relations, law, public administration, environmental studies, and peace and conflict studies offer indispensable perspectives for understanding the complexity of criminal governance. This requires the creation of platforms that promote encounters and dialogue, as well as the development of shared knowledge, information, and hypotheses that are pluralistic, multilevel, and cross-sectoral, with a clear orientation toward public policy recommendations.

This book reflects precisely that interdisciplinary ambition. Rather than limiting itself to describing criminal activities or documenting individual manifestations of corruption, *Beyond Crime and Corruption: Confronting Criminal Governance* invites readers to examine how systems of criminal authority emerge, evolve, and interact with formal institutions across diverse contexts. The contributors explore the multiple dimensions through which criminal governance manifests itself, emphasizing that criminal actors increasingly influence governance processes rather than simply challenging them from outside formal institutional structures. This approach represents an important evolution within the broader literature on organized crime, recognizing that governance and its conceptualization have themselves become contested spaces. It is within criminal governance that State and non-State actors frequently coexist, compete, negotiate, and, unfortunately, at times collaborate. In these cases, recognizing these dynamics is essential to analyse, in detail, how they affect the foundations of democratic systems, erode the social fabric and democratic solidarity, and prevent societies from achieving global public goods.

Within the academic community, we have a fundamental responsibility in this effort. Beyond generating knowledge, universities contribute to shaping public debate, strengthening institutional capacities, and preparing future leaders capable of confronting increasingly complex global challenges. Research, education, and international cooperation are essential pillars for advancing innovative, evidence-based responses to criminal governance. As criminal organizations continue to adapt, they also make use of our analytical frameworks and proposed public policies. Only through interdisciplinary dialogue and sustained collaboration among governments, international organizations, academia, civil society, and the private sector will it be possible to strengthen democratic governance and build societies that are more resilient to the threats and influence of global criminal actors and their national partners, which challenge the rule of law and democracy's foundations.

In this context, the University for Peace (UPEACE), established by the United Nations General Assembly in pursuance of its Resolution 35/55 of December 1980, has assumed an increasingly relevant role in advancing research and education on peace, security, and sustainable development. Guided by its unique international mandate, UPEACE expanded the global conversation on transnational threats through the establishment, in August 2020, of the Chair for Countering Illicit Trade and Preventing Transnational Organized Crime. Since its creation, the Chair has become an important platform for interdisciplinary research, policy dialogue, professional training, and international cooperation, bringing together academics, practitioners, public officials, and international organizations committed to understanding and addressing the evolving dynamics of illicit trade, organized crime, and criminal governance. Since its establishment, the Chair has been coordinated by Professor Mauricio Vieira, whom I thank for his dedication and efforts toward the institutionalization of this UPEACE Chair.

By promoting comparative research, strengthening institutional capacities, and fostering evidence-based policy discussions, the Chair reflects the conviction that peace, economic and social progress, and at the same time sustainable democratic development are not achieved without addressing the challenges and problems produced by criminal governance and illicit economies. They are a reality that impacts different regions on the planet, and particularly the whole of the Americas, with an emphasis on Latin America.

It is precisely in this spirit that Beyond Crime and Corruption: Confronting Criminal Governance makes an important contribution to the contemporary literature. The chapters brought together in this volume demonstrate that confronting criminal governance requires moving beyond conventional approaches focused exclusively on criminal repression or anti-corruption measures. They invite readers to examine how criminal actors interact with institutions, communities, markets, and governance structures and, from this perspective, offer innovative insights into strengthening democratic governance, institutional resilience, and international cooperation. The diversity of disciplines, geographic perspectives, and methodological approaches represented throughout this volume reflects the complexity of the phenomenon itself and underscores the need for comprehensive responses grounded in rigorous research.

Overview of the Book

This book, Beyond Crime and Corruption: Confronting Criminal Governance, is organized into four sections, in addition to the Presentation by the Rector of the University for Peace and the Introduction by the coordinator of the Chair on Illicit Trade and Organized Crime. The four sections are: 1) Criminal Networks, Governance, and Democratic Fragility; 2) Illicit Economies and Criminal Markets; 3) Corruption, Justice, and Human Rights; and 4) Building Resilience: The Role of Multilateralism and Civil Society. Each section consists of two or three chapters, for a total of ten chapters. We extend our recognition and gratitude to the authors for their valuable contributions. Their analyses, comparative perspectives, and proposals provide a broad and in-depth understanding of a complex and dynamic subject of enormous relevance to peace, democracy, the rule of law, and human security: the evolving ways in which transnational organized crime must be understood. Special recognition is due to Dr. Maurício Vieira for coordinating this publication.

The book offers a broad, rigorous, and multidimensional examination of transnational organized crime, addressing its manifestations across different regional and sectoral contexts. Throughout its ten chapters, the volume examines the relationships among criminal networks, political power, illicit governance, and democratic fragility, with studies spanning Africa, the Amazon, and the Balkans. It also analyses the expansion of illicit economies and criminal markets, including the counterfeiting of medical supplies during the COVID-19 pandemic, criminal convergence, and gold-based money laundering in Colombia.

The publication also explores the links among organized crime, corruption, justice, and human rights, proposing responses that move beyond exclusively securitized approaches. From the everyday experiences of justice among youth in urban settlements in Nairobi to the challenges corruption poses for businesses and bribery-prevention policies, the chapters demonstrate how these dynamics affect both institutions and communities. In its final section, the book highlights the importance of multilateralism, international legal frameworks, civil society, and independent media in strengthening resilience to complex and transnational threats.

This publication also reaffirms the indispensable role of education as a catalyst for social transformation and for the strengthening of democracy, stability, well-being, progress, and peacebuilding. Knowledge remains one of the most effective tools for preventing violence, strengthening institutions, and promoting peace. Investing in education, research, and capacity development is, ultimately, an investment in more democratic and resilient societies that are better equipped to confront the evolving challenges posed by criminal governance.

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Introduction

Dr. Maurício Vieira

Organized crime is the most pervasive threat to peace, security, and development in the world. Its consequences disrupt social cohesion, undermine institutions alongside democratic legitimacy, fuel conflict and political convulsion, influence the cost of living through the incidence of money laundering, damage the environment through illegal exploitation of natural resources, and produce thousands of victims through murder, trafficking, smuggling, and technological crimes. This list is not exhaustive in nature, but it reflects some of the most pressing issues organized crime entails as part of a global challenge. In essence, it is the umbrella under which a diversity of criminal activities and actors intersect, creating a relationship between underworld dynamics with upper-level political elites, which makes organized crime more complex in our current times.

In the face of the global challenge organized crime represents, the structural conditions for mitigating and countering it is another issue of concern. It is known that normative mechanisms were adopted aiming to bring a concerted understanding of the problem, its causes, and a call to action. The Organization of American States (OAS), for example, introduced a regional agenda on these topics in 1971, and its frameworks amplified our contemporary challenges posed by organized crime, terrorism, corruption, and the manufacturing and proliferation of illicit firearms (Organization of American States [OAS], 1971, 1996, 1997, 1999, 2002). Although these instruments[1] address different dimensions, they are interconnected by the

1 Convention to Prevent and Punish the Acts of Terrorism Taking the Forms of Crimes Against Persons and Related Extortion That Are of International Significance, A-49 (1971); Inter-American Convention Against Corruption, B-58 (1996); Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, A-63 (1997); Inter-American Convention on Transparency in Conventional Weapons Acquisitions, A-64 (1999); and Inter-American Convention Against Terrorism, A-66 (2002).

notion of illicit power dynamics acquired by the use of violence and coercion, the trafficking and availability of weapons, corruption, and institutional penetration.

In the case of the United Nations (UN), the three UN conventions[2] on transnational organized crime, corruption, and cybercrime provide a complementary international legal framework for addressing these challenges. Collectively, these instruments demonstrate the evolution of international responses from addressing specific criminal activities toward a broader approach focused on criminal networks, institutional vulnerabilities, transnational cooperation, and the capacity of criminal actors to exploit legitimate systems and exercise illegitimate authority (United Nations, 2000, 2003, 2024).

Although these instruments bring to the surface the need for a concerted approach to counter organized crime and the manifestation of a diversity of criminal activities, the challenge remains not only in recognizing organized crime as a common global threat, but in how states are acting against it. On this, legal reforms and institutional capacity become central tenets that go hand in hand. While legal reforms are necessary for updating and adapting challenges to new and more appropriate security and judicial responses, institutional capacity comes as the cornerstone for political legitimacy. Here, the discussion is not whether a state is strong or weak, but what is the level of its capacity to act at national, regional, and global levels, since there is no state exempt from organized crime's impact. At this point, the role of multilateralism and regional blocs is crucial for reinforcing the sense of urgency while fostering international cooperation and promoting technical assistance to leverage financial, technical, and human resources in this area.

Beyond the collective response needed and already in place by the instruments mentioned above, the fight against organized crime encounters other challenges regarding controversial political regimes' behaviors. In times of resurgence of political authoritarianism, this scenario becomes blurred. It is known that the fight against organized crime becomes more prominent in the security agenda during and after electoral campaigns, and such agenda

2 The United Nations Convention against Transnational Organized Crime and the protocols thereto (UNTOC); The United Nations Convention against Corruption (UNCAC); The United Nations Office on Drugs and Crime; United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes (UNCC).

recovers militarized response narratives embedded on the notion of "more prisons, less crimes" in detriment to the autonomy and enhancement of democratic institutions. Hence, the killing or arrest of criminal gang leaders – and its members – is a strategic tactic as part of this narrative with a particular aim: the recovering of state security capacity. Although a security model based on this assumption tends to influence politicians to implement the same strategy in their respective countries, a successful replication is impeded by the specificities of national contexts, in which no one size fits all. I argue that law enforcement initiatives are necessary – now more than ever – but the protection of democratic institutions must follow the same path to avoid a spread of authoritarianism and the loss of citizens liberty.

Another challenge refers to how to disarticulate criminal groups beyond the incarceration of their leaders and members and design strategies to disrupt their economic power. During the first few months of 2026, for example, an action against organized crime that took place in Mexico and Costa Rica reinforces this paradigm shift. On the one hand, the murder of the Mexico's leader of the Jalisco New Generation (CJNG) drug cartel, Nemesio Oseguera Cervantes – known as "El Mencho" – during a security operation in February. On the other hand, operations "Riverside" and "Némesis" captured the most wanted gang leaders of Costa Rica: Edwin Danney López Vega, known as "Pecho de Rata"; and Alejandro Arias Monge, "El Diablo", in June and July, respectively. Far from assuming that these actions are part of authoritarian regimes, it is argued that the killing and captures evidence police intelligence efficiencies aligned with the narrative of security capacity to act against organized crime. Nevertheless, these police actions also reveal the other side of the criminals besides the violence they commit: their economic influence through a combination of criminal market and conflation of illicit money into the legal economy throughout the years.

Official estimates from 2017 affirmed that companies linked to the CJNG under "El Mencho" leadership held assets of approximately $50 billion (Izquierdo, 2026). This figure illustrates the financial reach the criminal organization accumulated in less than a decade. In the case of the Costa Rican "Pecho de Rata" (Córdoba & Murillo, 2026) and Alejandro Arias Monge, "El Diablo" (Castro, 2026), there is a common ground in regard to assets they inject into the legal economy through a diversity of services and legal businesses: their strategy to launder money included hotels, cattle raising, construction, luxury segment as cars and real estate. Despite their arrest, their business criminal legacies still operate in the country.

Hence, the confluence of illegal and legal economies is an expected outcome from criminal dynamics. Nevertheless, criminal leaders do not operate solely with the aim of laundering money or obtaining greater financial benefits from crime. They also seek to exert influence over political and judicial actors to protect their illegal activities from detection, investigation, and prosecution. Taking Costa Rica as an example once more, this condition became evident through the relationship between the criminal leader "Pecho de Rata" and the former Public Prosecutor Celso Gamboa Sánchez, who went from holding five high-ranking positions in seven years in the justice sector to facing extradition to the United States for alleged international drug trafficking in March of this year (Montero, Vargas and Loaiza N., 2026). Gamboa assumed the positions as deputy minister to the Third Chamber of the Supreme Court and now is a Costa Rican national extradited to the United States due to his involvement in allowing narcotrafficking to spread in the country under the criminal leadership of "Pecho de Rata".

The relationship between Celso Gamboa and "Pecho de Rata" is compared to a political corruption practice, following Bustamente (2020), in which it is not simply a conflict between the private interests of an individual or group and the public sphere (Bustamente, 2020), but a corrupt network that operates in coordination with other criminal networks to generate high capital accumulations, and therefore have the capacity to offer large sums of money to state officials and agents to guarantee the operation of their criminal enterprises (Bustamente, 2020). Since Bustamente's analysis predates the Costa Rican case, his conceptual framework helps explain Celso Gamboa's role as a hybrid actor and a central node within the State apparatus, providing criminals with the institutional guarantees necessary to manage and protect their interests. He did so by obstructing the normal functioning of state institutions and facilitating access to confidential information concerning routes and accomplices.

In this regard, the examples discussed above demonstrate that current research on organized crime needs an interdisciplinary approach, moving beyond the manifestation of armed violence and narcotrafficking only, to a multidimensional analysis, compared to an ecosystem in which "it is embedded … all around us" (GI-TOC, 2024), and the level of difficulty in countering it resides in the notion that "it operates discreetly, lurking in the same institutions, businesses and practices as licit actors" (GI-TOC, 2024). In this sense, organized crime intersects legal and illegal arenas, influences political processes, and fuels political corruption, while operating through forms of enterprise. For the argument of this book, the term *enterprise* emphasizes the organizational, economic, and relational dimensions through which criminal actors pursue and protect illicit interests, often by exploiting or infiltrating legitimate institutions and markets, while maintaining the fundamentally illegal nature of their activities. This argument is relevant for understanding that organized crime should not be regarded as a source of employment (Vaquero Simancas, 2023). Rather, its engagement with legal economic structures serves to facilitate the pursuit and protection of illicit interests and to undermine the stability and functioning of state institutions.

The idea that organized crime undermines state institutions was conceived as part of the narrative on *fragility* adopted by the Chair on Countering Illicit Trade and Preventing Transnational Organized Crime at the University for Peace. In a 2023 publication, it was argued that "fragility is non-static, changeable, and varies gradually depending on structural causes, be they direct (internal) or indirect (external)" (Vieira, 2023: 21) and 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 increases the level(s) of fragility in the state where organized crime operates" (Vieira, 2023: 22). Based on this assumption – and replicating Wendt's (1992) contribution to International Relations into a different analysis – fragility is what states and criminals make of it, in which the cause of fragility does not rely on the state inefficiency alone, but on the level of permeability for criminals to engage in accordance with state apparatus and the practice of corrupt personnel combined. Hence, fragility is socially constructed by a concomitant interaction between criminals and state officials. The paradigm shift for understanding organized crime nowadays is centered on the role of capacities and strategies aimed at counter criminals, their networks, their economic power and their political relationships altogether. At this stage, the role of multilateralism, civil society and the private sector become a cornerstone for strengthening state capacity.

In this regard, *criminal governance* has become a central concept for this book since it helps understand beyond the traditional way criminals operate. It amplifies the ecosystem approach through focusing on who their connections are and what are the *fragilities* that enable their criminal activities to flourish, while the analysis of power manifestation over local communities. As Lessing explains, "criminal governance is puzzling precisely because of this juxtaposition with state governance" (Lessing, 2022: 11), which enable "criminal organizations [to] elaborate bookkeeping, recruitment, and internal management practices draw parallels to corporate governance" (Lessing, 2021: 3-4). It is undeniable that in the *criminal governance* approach, states play a bifold role: to what extent their decisions are addressed to mitigate the criminality, or to manage it. Since criminal governance refers to the "imposition of rules or restriction on behavior by a criminal organization [which] includes governance over members, non-member criminal actors, and non-criminal civilians" (Lessing, 2021: 3), such dominance makes criminal governance a form of illegitimate authority in territories neglected y states, creating a social invisibility condition, reinforcing what Lessing explained, that "criminal governance flourishes in pockets of low state presence" (2021: 1).

Although *criminal governance* "has cropped up across Latin America, particularly in areas where state infrastructural power is weak or nonexistent" (Feldmann and Luna, 2022: 449), the term characterizes spaces where "crime constitutes an integral part of the existing order, not a deviation from it" (Feldmann and Luna, 2022: 449). It is known that *criminal governance* pertains to a logic of dominance over physical territory and communities. Nevertheless, in times where criminal markets intersect and online spaces represent the virtual dimension of social, economic, and criminal interactions, the notion of *criminal governance* can extend beyond those territories to encompass the control, regulation, and exploitation of digital spaces and networks through the confinement of exploited and trafficked humans. The example of scam centers is crucial for understanding that *criminal governance* also depends on the type of criminal market, and that it can extend to micro-dynamics of social interaction and control through a modus operandi particular to detention centers. In a recent study, Amerhauser and Goodwin evidenced that "the secluded location of villas helps avoid detection by neighbours or authorities" (2026: 10) since "villas provide operational self-sufficiency – with full kitchens, private rooms and outdoor space – which reduces the need for occupants to leave the premises and risk drawing attention" (2026: 10). Such conditions enable *criminal governance* in these micro dynamics to acquire a different modus operandi when compared to the control criminals perform in physical territories.

The difference between the manifestation of *criminal governance* in physical territories and digital spaces lies in the notion that, on the one hand, in physical territory, criminals exert control through physical presence, territorial dominance, and the regulation of behavior within a defined geographical space. On the other hand, in micro-dynamics, criminals also exert control through physical presence, but technological mediation and isolation are requisite, allowing criminal actors to exercise authority beyond the immediate physical environment. In this sense, micro-dynamic criminal governance does not necessarily eliminate physical territoriality. Rather, technology expands the reach and modalities of control exercised from a particular physical setting. This is particularly relevant to the villa example: physical space provides isolation and operational self-sufficiency, while digital connectivity allows criminal actors to interact with, manipulate, and potentially control individuals located outside that space. Based on this distinction, these micro-dynamics exemplified by the villas constitute a type of "hybrid crime" (Amerhauser and Goodwin, 2026: 10) that "depends on the use of technology to maximise psychological manipulation" (Amerhauser and Goodwin, 2026: 10), while interacting to those outside the micro-dynamic.

Be it the micro-dynamic exemplified by the villas or an exclusive physical territory, *criminal governance* reflects the capacity criminals have to identify opportunities to flourish and perpetuate their practices and consolidate their power over territories and citizens. Since "new illegal opportunities for criminal network expansion emerges" (Duijn, Kashirin, and Sloot, 2014: 13) gradually, confronting criminal governance goes hand in hand with criminals' capacity and ability to reorganize themselves through what is called criminal resilience (Duijn, Kashirin, and Sloot, 2014). And such resilient criminal conditions allow criminal groups to exploit emerging opportunities, recruit new members, diversify and preserve their networks, and perpetuate their illegitimate authority despite law-enforcement interventions and changing patterns of criminal activity.

The Structure of the Book

Beyond Crime and Corruption: Confronting Criminal Governance celebrates the fifth anniversary of the Chair on Countering Illicit Trade and Preventing Transnational Organized Crime at the University for Peace (UPEACE), created in 2021. The book is divided into four parts:

i. Criminal Networks, Governance, and Democratic Fragility
ii. Illicit Economies and Criminal Markets
iii. Corruption, Justice and Human Rights

iv. Building Resilience: The Role of Multilateralism and Civil Society

Contributions to this book address the challenge of organized crime in the context of a diverse cases: Africa, the Balkans, the Amazon region, Latin America, and in a more in-depth analysis on the case of counterfeiting, gold-based money laundering, corruption and human rights, independent media, and the role of the United Nations Conventions on Transnational Organized Crime and Corruption (UNTOC-UNCAC).

For discussing Part 1 – *Criminal Networks, Governance, and Democratic Fragility* – the book starts with an analysis by Dr. Samuel Kale Ewusi and Dr. Esther L. Ndutu about how criminal networks intersect with political power within formally democratic systems in Africa. Through a state capture approach, Dr. Ewusi and Dr. Ndutu argue that criminal political entanglements are not peripheral anomalies, but structurally embedded features of governance shaped by historical legacies, political economies, weak institutionalization, informal markets, conflict, and transnational illicit flows. Chapter 2 is centered on the Amazon region. Dr. Ferreira elucidates that illicit markets associated with criminal governance undermines democratic institutions and state legitimacy in the Amazonian borderlands. His analysis draws on qualitative data from Amazonian border regions in three countries – Brazil, Peru, and Colombia – to discuss the notion on coexistence between criminals and state, creating a hybrid governance arrangement. Chapter 3 discusses corruption, organized crime, and democracy in the context of the Balkans region. Written by Dr. Priebe, Dr. Weisner, Dr. Ivanović, Nevena Stanković, and Luka Ilić, the main argument is centered on the institutional vulnerabilities exploited by criminal networks in the context of reinforcing democratic principles and the rule of law, particularly in the context of European Union membership and accession processes.

In Part 2 – *Illicit Economies and Criminal Markets* – Julia C. Jeng and Dr. Shelley examine the expansion of counterfeit markets during the COVID-19 pandemic. In Chapter 4, they use counterfeit medical masks as a case study to illustrate how criminal networks adapted to pandemic-related market conditions and exploited weaknesses within international supply chains. Chapter 5, by Zacarias Saderup, examines the relationship between terrorism and organized crime through an analyzes of Foreign Terrorist Organization (FTO) designations, which can be used to disrupt financial flows associated with Colombia's illegal gold trade. The chapter argues that these designations can increase the exposure of companies and financial and commercial actors involved in the gold supply chain to legal, financial, and compliance risks.

In Part 3 – *Corruption, Justice, and Human Rights* – Ana Paula Oliveira provides an analysis beyond the securitization process as traditional response to counter organized crime, corruption, and human rights combined. In chapter 6, Oliveira argues that organized crime is not limited to a security agenda only, since it also constitutes a systemic human rights issue that could benefit from a more integrated approach connecting crime prevention, anti-corruption measures, institutional accountability, and the protection of democratic governance. In Chapter 7, Dr. Arai discusses the legal consciousness of youth in Nairobi's informal settlements. Through a qualitative field research, Dr. Arai explored everyday experiences of justice that shape youths' perceptions of law and justice in the locations of Mathare and Majengo, in Kenya, between 2024 and 2025, discovering that young people's legal consciousness is characterized by mistrust, disappointment, and a faint yet persistent expectation of justice. In chapter 8, Dr. Guerra Hernández discusses the risks of corruption to corporations. Centering his analysis in the Anti-Bribery and Anti-Corruption (ABAC) principles and practices, Dr. Guerra Hernández argues that ABAC programs can protect corporate's interests and improve the level of trust among stakeholders.

In part 4 – *Building Resilience: The Roel of Multilateralism and Civil Society* – Dr. Zabyelina explores the convergence between the two main United Nations Conventions on the topic: the one against Transnational Organized Crime (UNTOC) and the other against Corruption (UNCAC). Based on the argument that these conventions are mutually reinforcing, Dr. Zabyelina emphasizes the importance of treating both instruments as interconnected frameworks through a coherent implementation by States that have ratified both conventions. To conclude, Chapter 10 by Shaazka Beyerle, discusses the role of civil society as a cornerstone for bottom-up initiatives that complement top-down approaches to countering organized crime. Beyerle argues that independent media, investigative journalism, advocacy, and nonviolent collective action should be incorporated into the institutional landscape for addressing corruption and organized crime.

Taken together, each chapter of this book demonstrates that an ecosystem approach to understanding organized crime, corruption, and criminal governance is relevant to delving into the challenges these threats entail. Since criminal governance depends on State vulnerability to exist – and coexist

– it becomes essential for policymakers and practitioners to design more adaptative responses aligned with strengthening democratic institutions, protecting human rights, promoting multilateral cooperation, and engaging civil society.

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Part 1

Criminal Networks, Governance, and Democratic Fragility

1 Captured States or Resilient Democracies? Criminal Networks and Political Power in Africa

Dr. Samuel Kale Ewusi
Dr. Esther L. Ndutu

Abstract

This chapter examines the tension between state capture and democratic resilience in Africa by an analysis on how criminal networks intersect with political power within formally democratic systems. It argues that criminal political entanglements are not peripheral anomalies. They are structurally embedded features of governance shaped by historical legacies, political economies, weak institutionalization, informal markets, conflict, and transnational illicit flows. Drawing on political economy, neo-patrimonialism, and hybrid governance literature. The chapter conceptualizes state capture as a process through which elites and criminal actors reshape laws, institutions, and enforcement to secure private advantage while maintaining the appearance of democratic order. Through comparative illustrations across African regions, it shows how capture operates in practice through electoral financing, political parties, judicial and security institutions, and strategic economic sectors such as extractives and public procurement. The chapter also highlights countervailing forces, including judicial intervention, civil society activism, investigative media, electoral reforms, and regional norms, demonstrating that democratic erosion is neither uniform nor inevitable. Framing these dynamics through a human security lens, the analysis links criminal political capture to democratic erosion, political violence, declining public trust, and socio-economic exclusion. The chapter concludes that African states exist along a continuum between capture and resilience. Strengthening democratic resilience is essential not only for institutional integrity but also for protecting livelihoods, justice, and social cohesion.

Keywords: State Capture; Criminal Political Networks; Democratic Resilience; Organized Crime; Hybrid Governance.

Introduction

Across much of Africa, the formal architecture of democratic governance coexists with informal systems of power that shape political outcomes in ways not captured by constitutional design alone. Elections are routinely conducted, constitutions remain in force, and state institutions continue to operate. Yet, as this volume demonstrates, the presence of democratic institutions does not necessarily ensure democratic practice. In many cases, political authority is exercised through networks of patronage, illicit finance, and coercion that blur the boundary between public office and private accumulation, legality and criminality (Shaw & Reitano, 2019). This disjuncture between form and function raises a central problem for the study of African governance: whether democratic systems are progressively hollowed out by criminal political capture or whether they retain adaptive capacities that allow for democratic resilience under sustained pressure.

This chapter engages that problem by using the concept of state capture as an analytical lens. In African contexts, capture rarely entails the overt collapse of democratic institutions. Rather, it proceeds through subtler mechanisms. This includes control over public procurement, manipulation of electoral management bodies, politicization of security institutions, and strategic appointments to courts and oversight agencies that weaken accountability from within (Williams & Brooks, 1999; Matlosa, 2018). These practices signal a shift from episodic corruption toward more entrenched governance arrangements that normalize impunity and systematically distort democratic competition.

As Hellman, Jones, and Kaufmann (2000) argue, state capture differs from ordinary corruption because it targets the rules of the game themselves. Powerful actors do not simply violate laws; they shape laws, policies, and institutional outcomes to secure durable advantage. This chapter situates such dynamics within formally democratic systems, contributing to the book's broader concern with how power is exercised in hybrid governance environments.

Empirical cases articulate the operation of capture across different political and economic settings. South Africa represents one of the most thoroughly documented examples. During the presidency of Jacob Zuma (2009-2018), networks linking political elites and private business actors systematically influenced senior appointments and procurement processes, particularly within state-owned enterprises such as Eskom, Transnet, and South African Airways.

The Judicial Commission of Inquiry into Allegations of State Capture detailed how these networks undermined institutional autonomy and diverted public resources (Republic of South Africa, 2022). National Treasury data indicate that bailouts to state-owned enterprises exceeded R300 billion between 2008 and 2021 (around US$ 18-20 billion at current exchange rates), reflecting both fiscal loss and the longer-term costs of misgovernance (National Treasury, 2021). These developments coincided with declining public trust, weakened service delivery, and sustained economic stagnation (IMF, 2020; International IDEA, 2021).

Comparable patterns appear elsewhere through different sectoral pathways. In Nigeria, criminal political capture has been closely tied to the oil economy and security institutions. Large-scale oil theft, enabled by protection from political and military actors, cost the state an estimated USD 3-5 billion annually during the 2010s, significantly constraining public revenue and development spending (NEITI, 2019; IMF, 2022). These arrangements have also fueled insecurity in the Niger Delta, where armed groups linked to illicit oil economies have been mobilized for electoral intimidation and political bargaining (Human Rights Watch, 2007; International Crisis Group, 2018). In Kenya, groups such as the Mungiki evolved from criminal and vigilante organizations into politically connected actors embedded in electoral mobilization and local governance, particularly during the 2002, 2007, and 2013 national elections, reinforcing patronage-based rule and episodic electoral violence (Shaw & Reitano, 2017).

These contemporary dynamics reflect deeper historical and structural patterns. Bayart, Ellis, and Hibou (1999) remind us that criminalization is not simply a symptom of institutional weakness but often a mode of political rule in which informal practices and illicit accumulation are integral to governance. Reno (1998) similarly shows how political leaders may deliberately weaken formal institutions to govern through commercial and coercive networks. While this logic emerged most clearly in conflict settings, this chapter demonstrates its increasing relevance to electoral democracies, reinforcing themes developed across this volume concerning hybrid authority and negotiated power.

At the same time, capture does not exhaust the analytical landscape, since democratic systems can and do push back. The concept of democratic resilience helps explain why similar pressures produce divergent outcomes. Resilience refers to the capacity of democracies to absorb stress, adapt to threat, and recover without abandoning core democratic principles (Merkel, 2025). Boese, Merkel, and Waldner (2021) further show that resilience involves both performance under pressure and the avoidance of regime breakdown. This framework allows the chapter to engage directly with the volume's broader interest in variation across African democratic trajectories.

Evidence of resilience can be found in judicial intervention, investigative journalism, civil society mobilization, and electoral turnover. South Africa's post-Zuma period illustrates this tension. Institutions remain contested, yet they have not collapsed. Public inquiries, legal reforms, and civic engagement have constrained the consolidation of capture, even as inequality and weak service delivery continue to limit democratic consolidation (International IDEA, 2021). These dynamics reflect a central insight of this chapter. African democracies are neither fully captured nor fully secure but continuously negotiating power under conditions of structural constraint.

The chapter advances three relevant arguments: first, criminal networks in Africa function as political actors embedded within governance systems rather than as external threats to the state. Second, state capture is uneven and contested rather than uniform or permanent. Third, democratic resilience depends not only on institutional design but also on social trust, economic inclusion, and credible accountability. By integrating political economy, criminology, and democratic theory, the chapter contributes to move beyond binary narratives and toward a more grounded understanding of democratic governance in contemporary Africa.

1. Conceptualizing State Capture and Criminal Political Networks

Understanding how criminal networks intersect with political power in Africa requires conceptual clarity that is sensitive to context. Terms such as state capture, organized crime, criminal governance, and political patronage are often used interchangeably in policy and public discourse, yet they describe distinct processes with important analytical differences.

State capture is central to this framework. It is best understood as a condition in which powerful actors shape laws, policies, and institutions to serve private interests rather than the public good. Unlike conventional corruption, which involves violating existing rules, state capture targets the production of rules themselves. Hellman, Jones, and Kaufmann describe this as a structural form of grand corruption in which elites influence legislation, regulation, and institutional design to lock in advantage (Hellman et al., 2000; Hellman, 2001). This distinction is particularly relevant in African contexts, where capture often concentrates in procurement systems, regulatory agencies, electoral management bodies, and executive appointment powers. These sites determine how resources are allocated, how competition is structured, and how oversight is exercised. Once control is established in these arenas, capture becomes self-reinforcing. It can finance political competition, neutralize accountability institutions, and limit the scope for reform from within.

Africanist political economy cautions against viewing state capture as an abnormal deviation from otherwise neutral governance. Bayart, Ellis, and Hibou (1999) argue that what is often labelled criminality may reflect historically embedded political economies in which state institutions are used as instruments of accumulation, protection, and distribution (Bayart et al., 1999). Their argument is not that African states are inherently criminal, but that the boundaries between public authority and private interest have long been porous. Political power is frequently built through networks that link office holding, access to resources, and personal loyalty. From this perspective, state capture is not merely a technical governance failure. It is a political outcome rooted in how authority is constructed, maintained, and contested.

The concept of organized crime requires similar contextual care. Rather than relying solely on legal definitions, this chapter adopts a broader analytical perspective informed by both international and scholarly understandings of organized crime. While the United Nations Convention against Transnational Organized Crime focuses on defining organized criminal groups as structured associations of three or more persons, existing over time and acting together to commit serious crimes for material gain (UNODC, 2004), Klaus von Lampe (2016) gives a comprehensive and holistic definition. He argues that organized crime is best understood as a form of criminal activity characterized by the organization of offenders and/or the exercise of illegal governance, whereby criminal actors coordinate sustained illicit activities and may exert control over illegal markets, communities, or institutions through extra-legal means.

At the same time, scholarships in Africa stress that organized crime rarely takes the form of rigid hierarchies. Instead, it operates through flexible networks that adapt to political and economic opportunities. The critical issue is not whether groups resemble classic mafia structures, but whether illicit markets are protected, financed, and governed through durable relationships, including relationships with political and state actors (Shaw & Reitano, 2019).

Empirical evidence underscores the relevance of this concern. The ENACT Organized Crime Index for Africa shows consistently high levels of criminal activity across the continent alongside comparatively weak resilience. According to the Africa Organised Crime Index 2025, Africa's average criminality score increased from 5.25 in 2023 to 5.34 in 2025, reflecting a continued expansion of illicit markets and criminal actors across the continent. At the same time, the continent's average resilience score declined slightly from 3.85 in 2023 to 3.79 in 2025, suggesting weakening institutional capacity to prevent and respond to organized crime.

East and West Africa continue to rank among the regions most affected by organized criminal activity, driven by the proliferation of trafficking networks, illicit resource exploitation, financial crimes, and the growing influence of criminal actors within governance structures. These figures do not, by themselves, demonstrate state capture. They do, however, illustrate the scale of illicit markets and the structural imbalance between criminal capability and institutional response. This imbalance creates fertile ground for criminal actors to seek political protection and for political elites to extract resources from illicit economies. (Global Initiative Against Transnational Organized Crime [GI-TOC], 2025). Criminal political networks become most consequential when organized crime connects directly to political authority. Shaw and Reitano describe how criminal markets expand in contexts marked by governance gaps and weak enforcement but reach their most destabilizing phase when criminal actors gain high-level political protection or access to state institutions (Shaw & Reitano, 2017; Shaw & Reitano, 2019). At this point, the network does not replace the state, it uses it. Public institutions may be repurposed for money laundering, selective law enforcement, contract manipulation, or political intimidation. Elections, policing, prosecution, and procurement become arenas of negotiation between political and criminal actors rather than neutral processes governed by law.

Hybrid governance scholarship helps explain how such arrangements can persist without producing immediate state collapse. Bagayoko shows that security provision in many African contexts is produced through hybrid arrangements involving state agencies, community actors, militias, vigilantes, and sometimes criminal groups (Bagayoko, N. 2016). Meagher extends this analysis by demonstrating that informal and criminalized networks can become durable systems of governance rather than temporary responses to institutional failure (Meagher, K. 2014). These arrangements may generate a degree of order and predictability, but they are rarely accountable. Authority is negotiated rather than institutionalized, and access is mediated through power and loyalty rather than rights.

Political patronage forms a critical bridge between democratic politics and criminal economies. Patronage refers to the targeted exchange of public resources, employment, contracts, or protection for political support. It often operates through clientelism, elite brokerage, and party-based distribution networks. Neo-patrimonialism literature explains why patronage remains central even where formal bureaucratic institutions exist. Bratton and van de Walle argue that many African regimes combine legal-rational structures with personalized rule, strong executives, and the use of public resources for political legitimation (Bratton & van de Walle, 1994; 1997). Erdmann and Engel refine this view by defining neo-patrimonialism as a system in which formal rules coexist with, and are often overridden by, informal practices based on loyalty and personal exchange (Erdmann & Engel, 2007). The implication is not that African politics is uniquely informal, but that informal power frequently shapes how formal institutions function.

This neo-patrimonial lens helps explain why criminal political alliances can persist even under competitive elections. Electoral competition increases demand for funding, mobilization capacity, and sometimes coercion. Patronage networks provide votes and loyalty. Criminal economies provide finance and enforcement capacity. In return, political actors offer protection, contracts, and influence over regulatory and security institutions. When these exchanges become entrenched, patronage can evolve into a pathway to state capture and criminal governance, where access to services and security is mediated through networks rather than guaranteed through law (Bayart et al., 1999; Bagayoko, 2016; Shaw & Reitano, 2017).

2. Structural and Historical Roots of Criminal Political Power in Africa

The intersection of criminal networks with political power in Africa is best understood as the outcome of long-term structural and historical processes rather than as a recent deviation from otherwise functional governance. Criminal political power has evolved through layered interactions between colonial legacies, post-independence state formation, uneven institutional development, informal economic systems, and the enduring effects of conflict and militarization (Ungar, M. 2016). These factors have been further reshaped by globalization and the expansion of transnational criminal markets, which have amplified both the scale and the political significance of illicit activity.

Colonial rule laid many of the foundations for contemporary patterns of criminal political power. Colonial states were primarily designed for extraction and control rather than representation or accountability. Administrative systems emphasized coercion, indirect rules, and fiscal extraction, often relying on intermediaries such as chiefs and local strongmen. Mamdani's (1996) analysis of the bifurcated colonial state shows how authority was divided between urban spaces governed through civil law and rural areas ruled through customary power structures, producing durable patterns of mediated governance and localized coercion. Young (1994) similarly demonstrates that colonial administrations fused domination, extraction, and bureaucratic hierarchy in ways that shaped postcolonial institutions long after independence. These arrangements normalized rules through intermediaries and personalized authority. Creating political cultures in which access, loyalty, and protection mattered more than formal rights. In such contexts, illicit practices could be absorbed into governance without fundamentally undermining political order.

Following independence in the 1960s, many African states experienced elite consolidation rather than broad-based institutional development. Ruling coalitions often relied on control over state resources to secure loyalty and manage political competition. Bayart (1993) notion of the "politics of the belly" captures this dynamic, describing how public office became a primary route to accumulation and network-building. Over time, this logic blurred the distinction between public authority and private gain. Bayart, Ellis, and Hibou later argue that criminalization should be understood not simply as corruption or institutional decay, but as a mode of governance in which illicit accumulation and political authority reinforce one another (Bayart et al., 1999). From this perspective, criminal political networks persist not because the state has collapsed, but because they are politically useful. They finance electoral competition, reward allies, and discipline opponents, often while maintaining the outward forms of legality.

Weak and uneven institutionalization has further enabled the penetration of criminal networks into political systems. While many African states possess formal democratic institutions, these institutions often lack autonomy, capacity, or territorial reach. Herbst (2000) work on state power in Africa highlights how authority has historically been concentrated in capitals and strategic economic zones, leaving peripheral areas governed through negotiation rather than bureaucratic control. This unevenness creates opportunities for criminal actors to negotiate protection and influence enforcement.

Courts, police services, customs agencies, and regulatory bodies become sites of selective application rather than neutral rule enforcement. In such settings, state capture is not limited to the manipulation of laws and policies. It also involves control over appointments, procurement, and enforcement discretion, aligning closely with Hellman, Jones, and Kaufmann's argument that capture targets the production of rules and institutional outcomes rather than isolated violations (Hellman et al., 2000).

The scale of informal economic activity further shapes these dynamics. Informality is not marginal in many African economies; it is central to livelihoods and political mobilization. The International Monetary Fund (IMF) estimates that informal employment accounts for roughly 60 percent of non-agricultural employment in sub-Saharan Africa, with even higher proportions in some countries (IMF, 2021). Informality weakens tax capacity and regulatory oversight, while increasing dependence on brokers who mediate access to markets, licenses, transport, and protection. These brokers often operate at the intersection of politics and illicit activity. They mobilize votes, manage street-level order, and control economic opportunities. In this context, patronage networks can easily merge with criminal economies, particularly when political actors rely on informal networks to deliver electoral support and social control.

The Sahel shows how conflict, criminal markets, and political authority reinforce one another. Drug trafficking through the region has expanded significantly over the past decade, with cocaine seizures rising sharply in several Sahelian states. UNODC reporting indicates that cocaine seizures across key transit countries reached over one metric ton in 2022, compared with negligible levels in earlier periods. While seizures reflect enforcement capacity as much as trafficking volume, the trend signals deeper integration into transnational criminal supply chains. These markets require protection, logistics, and financial laundering, all of which depend on political connections and institutional vulnerability.

Globalization has intensified these dynamics by linking local criminal political networks to transnational markets and financial systems. West Africa's role as a transit hub for cocaine bound for Europe through Latin American countries is a well-documented example. Large-scale seizures in countries such as Guinea-Bissau underscore how weak controls, political protection, and transnational logistics intersect. Illicit financial flows further amplify the problem. UNCTAD estimates that Africa loses approximately US$88.6 billion annually to illicit capital flight, equivalent to nearly four percent of the continent's GDP (UNCTAD, 2020). These outflows drain public resources, weaken development prospects, and allow political elites to externalize wealth, reducing exposure to domestic accountability.

Maritime insecurity in the Gulf of Guinea provides a clear illustration of how transnational criminal markets intersect with local governance structures. Reported incidents of piracy and armed robbery at sea peaked between 2018 and 2020, when the region accounted for over 90 percent of global maritime kidnappings, according to the International Maritime Bureau (IMB, 2021).

Following intensified naval patrols, regional cooperation initiatives, and the implementation of the Yaoundé Code of Conduct, reported incidents declined markedly. IMB data shows that the total of incidents in the Gulf of Guinea fell from 81 in 2020 to 34 in 2021, and further to 22 in 2022. However, this decline did not signal the dismantling of criminal networks. Instead, criminal groups adapted by diversifying into fuel theft, maritime trafficking, and port-based corruption, activities that are less visible but often more economically embedded.

Despite the reduction in piracy incidents, kidnapping and armed robbery at sea have not been eliminated. The IMB recorded continued cases of crew abductions and vessel boardings in Nigerian, Beninese, and Togolese waters between 2022 and 2024, indicating the persistence of coercive maritime crime even under enhanced security regimes (IMB, 2024). These activities rely on local protection networks involving corrupt port officials, security personnel, and political intermediaries who facilitate access to ports, falsify documentation, or shield perpetrators from prosecution. As a result, maritime crime in the Gulf of Guinea increasingly reflects institutional vulnerability rather than enforcement absence, reinforcing durable linkages between criminal actors, port authorities, and political elites.

These historical and structural factors explain why criminal political power in Africa is resilient and adaptive. It persists not simply because institutions fail, but because political survival, economic accumulation, and enforcement control become mutually reinforcing. This structural backdrop is essential for assessing whether African states move toward entrenched capture or retain the capacity for democratic resilience.

3. Mechanisms of State Capture in African Democracies

State capture in African democracies does not usually occur through abrupt institutional breakdown or overt authoritarian takeover. Instead, it unfolds through gradual and often legalistic mechanisms that allow criminal networks to influence, penetrate, and eventually shape political power from within democratic systems. These mechanisms operate across electoral processes, political parties, courts, security institutions, and strategic economic sectors. What makes them particularly resilient is that they frequently coexist with formal democratic procedures, allowing capture to advance while the appearance of constitutional order is maintained.

One of the most significant mechanisms of state capture is electoral financing. Competitive elections are expensive, and in many African democracies, campaign finance regulation is weak or poorly enforced. This creates opportunities for illicit actors to fund political campaigns in exchange for future protection or access to state resources. Hellman et al. (2000) already noted that capture thrives where political competition increases demand for financing without corresponding transparency. In Nigeria, for example, electoral campaigns at national and state levels routinely rely on opaque funding streams linked to oil rents, money laundering, and organized crime. The cost of gubernatorial elections has been estimated to run into tens of millions of dollars, far beyond what formal party financing mechanisms can provide.

Criminal networks involved in oil theft, estimated to cost Nigeria between US$ 3-5 billion annually, have been repeatedly linked to political sponsorship arrangements that guarantee regulatory leniency and security protection once candidates assume office. Similar patterns have been observed in Kenya, where illicit financing networks tied to land speculation, trafficking, and extortion have historically supported electoral mobilization, particularly in competitive urban constituencies.

Political parties themselves often become vehicles for capture rather than barriers against it. In contexts where parties are weakly institutionalized, highly personalized, and dependent on elite financiers, criminal actors can exert disproportionate influence over candidate selection, party leadership, and policy agendas. Bratton and van de Walle (1997) argue that many African parties function less as programmatic organizations and more as patronage machines designed to distribute access to state resources. This organizational weakness allows criminal financiers to act as gatekeepers, shaping who can contest elections and under what conditions.

In South Africa, the Zondo Commission revealed how business-linked criminal networks cultivated influence within the ruling party by financing factional battles and internal campaigns, thereby securing leverage over ministerial appointments and state-owned enterprises. While South Africa retains strong formal institutions, this internal party capture significantly weakened oversight and accountability during the period of peak state capture.

The corruption and politicization of judicial and security institutions represent another critical mechanism. Courts, police forces, and prosecutorial agencies are central to enforcing the rule of law, yet they are also highly vulnerable to capture because of their discretionary power. When criminal networks succeed in influencing judicial appointments, intimidating judges, or bribing prosecutors, they can effectively neutralize legal accountability. Bayart et al. (1999) describe this process as the criminalization of state authority itself, where law enforcement becomes selective and justice is negotiated through networks rather than applied impartially. In several West African states, including Guinea-Bissau, drug trafficking networks have operated with near-total impunity for years, protected by senior military and political figures.

Guinea-Bissau has repeatedly been described by UN agencies as a "narco-state," (UNODC, 2008; Shaw,M.2015) following high-profile cases in which alleged traffickers avoided prosecution despite large-scale cocaine seizures. These outcomes are less a result of absent laws than of compromised enforcement institutions.

Security institutions are particularly attractive targets for capture because they control coercion. In fragile or conflict-affected democracies, criminal networks often embed themselves within military and police structures, either through bribery or shared commercial interests. Reno's work on warlord politics shows how rulers and armed entrepreneurs use security institutions as revenue-generating assets rather than as providers of public order (Reno, 1998).

In parts of the Sahel, smuggling networks linked to arms, drugs, and fuel rely on protection from military officers and border officials, blurring the line between counterinsurgency operations and criminal enterprise. UNODC data indicate that cocaine seizures in Sahelian transit states exceeded one metric ton in 2022, a sharp increase from earlier years, suggesting deeper institutional penetration and protection rather than isolated criminal activity. Such arrangements weaken civilian oversight and entrench militarized forms of capture.

Beyond politics and security, state capture is often consolidated through criminal penetration of strategic economic sectors characterized by high rents and discretionary control. Extractive industries are particularly vulnerable. In the Democratic Republic of Congo, armed groups, political elites, and commercial intermediaries have competed for control over artisanal mining sites and export routes for gold, coltan, and cobalt, integrating violence and patronage into global supply chains. Global Witness estimates that between 2010 and 2012 the Congolese state mining company Gécamines lost approximately US$ 1.36 billion in revenues due to opaque asset sales and underpriced mining deals, an amount equivalent to nearly twice the country's combined health and education budgets at the time (Global Witness, 2014). Subsequent investigations indicate that billions of additional dollars have been lost through illicit exports, transfer mispricing, and corruption in cobalt and gold supply chains, particularly during the post-2015 commodity boom (Global Witness, 2017; United Nations Security Council, 2021).

Public procurement represents another major channel of capture. Procurement accounts for an estimated 15 to 30 percent of GDP in many African countries, making it a primary target for rent extraction. The manipulation of tenders, inflation of contracts, and creation of shell companies allow criminal networks to launder money through the state while rewarding political allies. In South Africa, state-owned enterprises such as Eskom and Transnet became central sites of capture, with procurement fraud contributing significantly to fiscal decline and infrastructure failure. Comparable patterns have been documented in Mozambique, where hidden debt scandals linked to maritime security contracts involved political elites, international banks, and opaque corporate entities, ultimately triggering a sovereign debt crisis.

Comparatively, these mechanisms display striking similarities across regions, even as they adapt to local conditions. In West Africa, trafficking and informal economies intersect strongly with electoral politics and military influence. In East Africa, land, infrastructure, and urban real estate play a larger role in financing political competition. In Southern Africa, procurement and state-owned enterprises have been particularly vulnerable. Across regions, however, the underlying logic remains consistent. Criminal networks supply money, coercion, and logistical capacity. Political actors supply access, protection, and legitimacy. Democratic institutions are not dismantled; they are repurposed.

4. Democratic Resilience and Countervailing Forces in Africa

Although criminal–political networks have penetrated many African democracies, capture has never been uncontested. Across the continent, democratic resilience has emerged through judicial intervention, civil society mobilization, investigative media, electoral reforms, and regional norms. These countervailing forces do not eliminate criminal influence, nor do they operate uniformly. Instead, they function episodically, constraining capture at critical moments and preventing its full consolidation. Democratic resilience is therefore best understood as a dynamic and contested process rather than a stable institutional end state.

Merkel conceptualizes resilience as the preservation of electoral competition, accountability, and civil liberties under crisis conditions (Merkel, 2025). Boese, Merkel, and Waldner (2021) further distinguish between performance under stress and the avoidance of regime breakdown (Boese et al., 2021). This framework is particularly relevant in African contexts, where democracies operate under sustained strain from illicit finance, patronage, and coercive actors, yet continue to function in altered but recognizable forms.

Judicial institutions have played a decisive role in constraining criminal political power. In South Africa, Constitutional Court rulings between 2016 and 2018 curtailed executive overreach and culminated in the establishment of the Zondo Commission in 2018, which exposed systematic collusion between political elites and private business interests, particularly within state-owned enterprises. While prosecutions have been slow, the commission disrupted the legitimacy of captured networks and preserved judicial authority at a moment of acute institutional vulnerability. Similar judicial resistance has occurred elsewhere.

In September 2017, Kenya's Supreme Court annulled the presidential election, marking the first such decision in Africa. In Malawi, the Constitutional Court annulled the 2019 election, leading to a peaceful transfer of power in 2020. These interventions did not dismantle patronage networks, but they disrupted elite strategies and reinforced legal accountability.

Civil society activism has also been central to democratic resilience. Across Africa, civic organizations, professional associations, religious bodies, and youth movements have challenged elite impunity and criminalized governance. Nigeria's End SARS protests in October 2020 demonstrate this dynamic. Initially mobilized against police brutality and extortion, the protests evolved into broader critiques of elite corruption and security sector abuse. Despite violent repression, including the Lekki Toll Gate shootings on 20 October 2020, the movement reshaped public discourse and intensified scrutiny of political accountability.

Independent media and investigative journalism further reinforce these countervailing forces. In South Africa, sustained investigative reporting between 2016 and 2019 exposed the extent of state capture involving the Gupta network, contributing to public scrutiny, institutional accountability, and subsequent judicial action. Comparable dynamics are evident in Ghana and Senegal, where relatively strong media environments have enhanced transparency and increased the political costs of corruption and collusion with criminal actors. Recent evidence suggests that media freedom plays a critical role in strengthening government transparency and accountability by facilitating public access to information and exposing abuses of power. Across African countries, higher levels of media freedom have been associated with improved transparency outcomes, underscoring the importance of independent journalism as a check on corruption and criminal influence within public institutions (Akinwale & Grobler, 2026).

Electoral reforms have also contributed to resilience, albeit unevenly. While elections can facilitate capture through illicit financing, reforms that enhance transparency and competitiveness can disrupt entrenched networks. Ghana illustrates this pattern. Since its first peaceful alternation of power in 2000, competitive elections in 2008, 2016, and 2020, alongside biometric voter registration introduced in 2012, have limited the long-term monopolization of state resources, despite persistent corruption challenges.

Regional and international norms further shape the environment for resilience. African Union frameworks on unconstitutional changes of government and ECOWAS interventions, notably in The Gambia in 2017, have raised the costs of overt authoritarian reversal. International anti–money laundering regimes and financial transparency initiatives have increased scrutiny of illicit financial flows, even as enforcement remains uneven. UNCTAD estimates that Africa loses approximately USD 88.6 billion annually to illicit financial flows, underscoring both the scale of the challenge and the growing external pressure for accountability (UNCTAD, 2020).

Democratic resilience in Africa is therefore best understood as an ongoing struggle rather than a settled achievement. Courts intervene but face pressure. Civil society mobilizes but encounters repression. Media exposes wrongdoing but risks intimidation. Elections open space for change while creating new incentives for illicit finance. The balance between capture and resistance shifts over time. Recognizing this dynamic allows for a more realistic understanding of African democracies as systems that continuously negotiate the boundaries between criminalized power and democratic accountability.

5. Impact of State Capture on Democratic Governance and Human Security in Africa

The interconnection between criminal networks and political power has profound consequences for democratic governance and human security in Africa. State capture undermines democratic accountability, fuels political violence, erodes public trust, and deepens socio-economic exclusion. These effects extend beyond institutional malfunction to shape how citizens experience authority, justice, and security in everyday life. Viewed through a human security lens, criminal political capture constitutes a multidimensional threat affecting political rights, livelihoods, access to justice, and social cohesion.

A central consequence of criminal political capture is democratic erosion. Where elections rely on illicit finance and coercive enforcement, democratic competition loses its capacity to translate citizen preferences into political outcomes. As Levitsky and Ziblatt (2018) argue, democracies often decay gradually through the erosion of norms and institutions rather than abrupt collapse. In African democracies, this process commonly manifests through vote-buying, intimidation, and criminal mobilization.

In Nigeria, for example, elections since the return to civilian rule in 1999, particularly in 2007, 2011, and 2019, have been marked by recurrent electoral violence and organized coercion, undermining electoral credibility while preserving formal democratic structures (Human Rights Watch, 2007; International Crisis Group, 2018).

Criminal political capture is closely linked to political violence. Criminal networks frequently provide the coercive capacity required to enforce elite bargains, intimidate opponents, or control territory during elections. Kalyvas (2006) demonstrates that violence becomes selective and strategic when embedded in political competition. Kenya's post-election violence in 2007-2008 illustrates this dynamic, resulting in over 1,100 deaths and more than 600,000 displaced persons following the mobilization of gangs aligned with political elites (Commission of Inquiry into Post-Election Violence, 2008). Although subsequent reforms reduced large-scale violence, targeted intimidation persisted in later elections, indicating the enduring effects of criminalized competition (Mueller, 2018).

State capture also erodes public trust. Selective law enforcement, elite impunity, and politicized justice weaken confidence in democratic institutions. Rothstein (2011) identifies institutional impartiality as central to political legitimacy, yet Afrobarometer surveys show that trust in political parties, police, and courts often falls below 40 percent across many African countries (Afrobarometer, 2022). In South Africa, trust in government declined sharply between 2014 and 2018 amid revelations of extensive corruption exposed by the Zondo Commission, with only limited recovery thereafter (Mattes, 2020).

Socio-economic exclusion represents a deeper structural consequence of criminal political capture. When public resources are diverted through illicit networks, investment in health, education, and infrastructure declines, reinforcing inequality and underdevelopment. Acemoglu and Robinson (2012) link extractive political institutions to extractive economic outcomes. In Africa, this dynamic is reinforced by illicit financial flows, estimated by UNCTAD at US$ 88.6 billion annually, equivalent to nearly four percent of the continent's GDP (UNCTAD, 2020).

From a human security perspective, the consequences are acute. In captured states, access to justice becomes negotiated rather than guaranteed, normalizing impunity and weakening the rule of law (Bayart et al., 1999).

Guinea-Bissau exemplifies this pattern, where repeated high-profile drug trafficking cases since the mid-2000s have failed to result in sustained prosecutions, reinforcing perceptions of systemic injustice (UNODC, 2019).

Livelihood insecurity further compounds these effects. In eastern Democratic Republic of Congo, prolonged competition over mineral resources has financed armed groups and political elites, contributing to mass displacement. By 2023, more than six million people were internally displaced, underscoring the human cost of criminalized political economies (UNHCR, 2023).

These burdens are unevenly distributed. Youth, women, and marginalized communities bear disproportionate costs. Youth unemployment combined with political exclusion increases vulnerability to recruitment into gangs and militias, while women face heightened insecurity as access to justice and protection weakens (UNODC, 2021). These outcomes demonstrate that criminal political capture is not merely a challenge of governing but a human security crisis. It reshapes political order, entrenches inequality, and undermines the legitimacy and sustainability of democratic rule across Africa.

Conclusion

Criminal political power in Africa functions as a structural feature of governance rather than a marginal or temporary distortion. State capture in African democracies advances through gradual and often legal mechanisms that repurpose democratic institutions instead of dismantling them. Elections, political parties, courts, and security agencies continue to operate, but illicit financing, patronage, and selective enforcement reshape their functions. These dynamics are rooted in long-standing political economies shaped by colonial legacies, post-independence elite consolidation, weak institutionalization, informal economies, conflict, and expanding transnational criminal markets.

Capture, however, is neither uniform nor uncontested. African democracies generate resistance through judicial intervention, civil society mobilization, investigative journalism, electoral reforms, and regional accountability norms. These forces disrupt elite bargains, expose criminal–political networks, and preserve institutional space for accountability. Democratic resilience does not imply institutional stability or perfection; it reflects the ongoing capacity of political systems and societies to absorb pressure, adapt to threat, and constrain the consolidation of illicit power.

The chapter demonstrates that criminal political capture undermines not only democratic governance but also human security. State capture restricts livelihoods, weakens access to justice, fragments social cohesion, and erodes public trust, with disproportionate effects on marginalized groups. The future of democratic governance in Africa will therefore depend less on the formal adoption of reforms than on the political and social conditions that sustain them. Anti-corruption frameworks, electoral rules, and judicial mandates remain fragile where inequality, exclusion, and patronage persist. Democratic resilience requires credible enforcement, economic inclusion, and social trust capable of sustaining accountability beyond moments of crisis. The tension between capture and resilience is thus not transitional but constitutive of contemporary African democracy, shaping governance outcomes, citizen–state relations, and human security across the continent.

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2 Criminal Governance, Illicit Markets and Democratic Fragility in the Amazonia

Dr. Marcos Alan Ferreira

This chapter examines how criminal governance associated with illicit markets undermines democratic institutions and state legitimacy in the Amazonian borderlands. Moving beyond perspectives that frame organized crime primarily as a security threat or a consequence of governance vacuums, the chapter argues that criminal actors increasingly perform regulatory, mediating, and coercive functions traditionally associated with the state. Drawing on qualitative evidence from Amazonian border regions in Brazil, Peru, and Colombia, the analysis shows how illicit economies – like drug trafficking and environmental crimes – contribute to the emergence of hybrid governance arrangements in which state and criminal authorities coexist and share *de facto* legitimacy. These arrangements weaken democratic accountability, normalize corruption, and reshape local political order, especially at the municipal level. The chapter contributes to debates on democracy and organized crime by highlighting how criminal governance erodes democratic practices from within, rather than through overt state collapse. It concludes by discussing the implications for public policy, emphasizing the limits of militarized responses and the need for territorial, institutional, and legitimacy-oriented strategies to strengthen democracy in frontier regions.

Keywords: Amazon; Democracy; Governance; Illicit Markets; Organized Crime

Introduction: Beyond the Myth of the Governance Vacuum

Amazonian border regions have long been portrayed as spaces of absence: absent states, weak institutions, and lawless borders where criminal actors flourish because governance is missing. This chapter challenges that narrative. Rather than constituting governance vacuums, Amazonian borderlands are characterized by the presence of multiple, overlapping, and often competing forms of authority. Organized crime does not simply exploit institutional weakness; it actively produces order, regulates social life, and mediates conflicts, thereby functioning as a form of governance (Diogo, 2022; GI-TOC, 2023; Ferreira, 2025a; Ferreira, 2025b; Funari, 2024).

This argument is particularly relevant for debates in peace and conflict studies and criminology, where organized crime is frequently seen either as a security threat external to political order or as a symptom of state failure. In contrast, this chapter approaches criminal organizations as actors embedded in local power relations. In Amazonian border regions, criminal groups associated with drug trafficking, illegal mining, and environmental crimes increasingly perform state-like functions, from enforcing rules and collecting taxes to arbitrating disputes. These practices generate forms of legitimacy that coexist with, and often undermine, democratic institutions (see Lessing, 2021; Couto, 2024).

The empirical focus is on Amazonian borderlands in the MAP region (Madre de Dios in Peru, Acre in Brazil, and Pando in Bolivia) and the Upper Solimões region along the Brazil–Peru–Colombia tri-border. These territories are marked by porous borders, transnational illicit markets, and fragmented state presence. They are also spaces where democratic institutions formally operate — elections are held, municipal governments function, and state agencies remain present — yet where democratic authority is progressively hollowed out.

The central question guiding this chapter is: how does criminal governance linked to illicit markets erode democracy and state legitimacy in Amazonian border regions? The chapter argues that democratic fragility in these contexts is not the result of institutional collapse but of hybrid governance arrangements in which state and criminal actors share *de facto* legitimacy (Ferreira, 2025b). By examining the territorial foundations of criminal power, the organization of illicit markets, and their effects on local political institutions, the chapter contributes to broader debates on democracy, peace, and governance in conflict-affected and frontier regions.

To develop this argument, the chapter draws on an interpretative analysis grounded in a qualitative approach supported by data triangulation. This includes specialized literature, think-tank reports, and press news. In the cases where I draw on personal experiences, these accounts were collected during two fieldwork periods: one conducted along the borders between Brazil, Peru, and Colombia in 2023, and another along the Brazil–Bolivia border in 2025. These perceptions are based on participant observation that included dozens of interviews and extended *in situ* engagement, respecting ethics standards for research in risky regions, as previously detailed in earlier publications (Ferreira 2025a; Ferreira 2025b). This methodology allows for a nuanced understanding of how criminal and state governances coexist, often in symbiotic or competitive ways, leading to increased violence and institutional erosion (Lessing, 2021; Pimenta et al., 2021).

The chapter unfolds in six parts. After this introduction, it begins by examining the territorial and logistical foundations of criminal governance, setting the stage for a broader discussion of how authority is constructed and sustained in borderland regions. It then moves to an analysis of illicit markets and the formation of hybrid political economies, highlighting the interplay between legal and illegal spheres. Building on this, the discussion turns to democratic fragility, with particular attention to processes of institutional capture and their implications for local political dynamics. The following section reflects on the broader consequences for democracy and the limits of public policy responses in such contexts. The chapter concludes by outlining key implications and possible pathways for strengthening democracy in Amazon borderlands.

1. Territory, Logistics and Criminal Governance

In the Amazonia region, the transnational dynamics of crime are evident in the drug trade cycle, starting from coca cultivation in Andean regions and extending to processing and distribution across borders (Ferreira, 2025a). The region serves as a logistical hub for organizations like the *Primeiro Comando da Capital* (PCC) and *Comando Vermelho* (CV), which compete for control over illicit markets, resulting in lethal violence (Funari, 2024; Couto, 2024; Ferreira, 2025b; Jacarandá, 2024; see also Feltran, 2018). This competition is not limited to urban areas but extends to rural and indigenous territories, where environmental crimes intersect with drug trafficking, creating what has been termed "narcogarimpo", i.e., the fusion of narcotics and illegal mining activities (Chagas, 2024; Figueiredo and Guimarães, 2024).

Territorial control is the foundation of criminal governance in the Amazon. In vast border regions where rivers function as primary transportation corridors, controlling territory means controlling mobility, trade, and access to resources. The major river systems of the western Amazon — the Solimões, Japurá, and Juruá — are not merely geographic features but political infrastructures (see Queiroz, 2023). Dominance over these waterways enables criminal actors to regulate flows of goods, people, and information, effectively exercising a form of *de facto* sovereignty (Ferreira, 2025a; Jacarandá, 2024; Dias, 2024).

Furthermore, land-based infrastructure plays a crucial role. Dry routes such as the Interoceanic Highway and the BR-317 connect remote Amazonian towns to national and international markets, facilitating the movement of drugs, gold, timber, and other illicit commodities. Thousands of clandestine airstrips scattered across remote forested areas further embed these territories within transnational criminal networks, enabling rapid circulation of goods, money, and personnel beyond the reach of state oversight. Taken together, rivers, roads, and airstrips constitute a dense logistical architecture that not only facilitates illicit flows but also underpins and stabilizes forms of criminal authority (Couto, 2024; FBSP, 2024).

Over the past two decades, Amazonian illicit markets have shifted from relatively fragmented and locally organized criminal operations to more centralized and coordinated networks. Brazilian criminal organizations such as CV and PCC have expanded their presence across border regions, establishing alliances with local actors and foreign suppliers. This process resembles a form of franchising, in which local groups retain operational autonomy while adhering to broader rules, norms, and revenue-sharing arrangements imposed by larger organizations (Raposo et al., 2024; Duarte, 2023).

In the Amazon, the CV, originally formed in Rio de Janeiro in the closing years of 1970s, has historically relied on flexible alliances with local groups, embedding itself in riverine and borderland corridors through negotiated partnerships. Its expansion has often been marked by the incorporation of regional actors that maintain day-to-day control while aligning with the organization's broader identity and codes. The PCC, which emerged in São Paulo's prison system in the 1990s (see Feltran, 2018), has pursued a more structured model of expansion, emphasizing standardized internal rules, financial coordination, and tighter control over trafficking routes. In several Amazonian border zones, competition and occasional confrontation between

CV and PCC have reshaped local power balances, while in other contexts their presence has stabilized previously fragmented criminal markets under clearer hierarchies of authority.

Criminal governance emerges from this territorial and logistical control in which strong criminal organizations compete (see Mantilla and Feldmann, 2021; Lessing, 2021; Ferreira et al., 2025). Through internal statutes, disciplinary mechanisms, and informal courts — often referred to as "tribunals of the crime" — criminal organizations like CV and PCC regulate behavior within their areas of influence. They mediate disputes between residents, punish theft and interpersonal violence, and enforce contracts within illicit markets. Extortion and protection rackets function as informal taxation systems, generating revenue while reinforcing authority.

These practices create predictable rules and expectations, producing a sense of order, often sustained by the corrupt presence or selective tolerance of state institutions and public officials (Lessing, 2021; Ferreira, 2025b). Consequently, this form of governance generates functional legitimacy. For many residents of border regions, criminal organizations are not perceived solely as sources of violence but also as providers of security and conflict resolution. This legitimacy does not replace the state entirely; rather, it coexists with formal institutions, creating hybrid governance arrangements that blur the boundary between legality and illegality (Pimenta et al., 2021). Civil society is often left with a stark choice: to acquiesce to the hybrid arrangements that shape everyday life, or to pursue peaceful forms of collective action and governance that can, even if only partially, curb the intertwined control exercised by criminal actors and state authorities (Ferreira et al., 2025).

In the Vale do Javari Indigenous Territory, in Brazil-Peru border, for instance, incursions by drug traffickers and illegal miners have generated rising levels of violence and insecurity among Indigenous communities. Residents describe the area as the "backyard of organized crime," where traffickers impose control through both physical and symbolic forms of violence (Furtado and Ferreira, 2025).

This dynamic drew international attention with the 2022 murders of Indigenous rights advocate Bruno Pereira and British journalist Dom Phillips, who were killed while documenting illegal activities in the region. The case exposed the risks faced by those who challenge criminal economies and underscored the extent to which criminal governance has penetrated Indigenous territories, taking advantage of limited state presence to consolidate influence and power.

In these territories, hybrid governance involves shared legitimacy between the state and criminal elements (Villa et al., 2021). Criminal organizations impose norms and restrictions on behavior, regulating social order and distributing goods like security and justice, often complementing or competing with the state (Mantilla and Feldmann, 2021). In rural areas like the Amazon, this governance is more violent and fluid compared to urban settings, where it may be more institutionalized (Ferreira, 2025a).

Across dozens of interviews conducted along Brazil's borders with Peru and Colombia, including conversations with police officers in 2023 and 2025, a recurring claim emerged that criminal governance depends on the acquiescence, and at times the complicity, of state agents. Interviewees described the routine payment of substantial sums to avoid enforcement in strategic criminal hubs, as well as instances of direct involvement by local politicians and public authorities. These accounts, voiced by both residents and state officials, point to a deep entanglement between criminal actors and segments of the state apparatus.

As side effect of this state negligence and involvement, the governance capacity of criminal actors allows them to accumulate local power, extending their influence to international security dynamics (Von Lampe, 2015). They establish local sovereignty by organizing practices within specific social spheres, without necessarily aiming to alter the state structure (Latham, 2000; Lessing, 2021; Ferreira, 2025a). At the end, the territorial control serves to its economic interests domestically and internationally.

Thus, the coexistence of criminal and state governance in the Brazilian Amazon underscores that hybrid governance — where state authorities and criminal organizations share, negotiate, or compete for legitimacy — is not an exception but an entrenched reality in these territories (Villa et al., 2021). Above all, these arrangements function to organize and sustain illicit economies that generate employment and income for segments of the local population, while simultaneously diffusing violence and producing direct and often severe environmental harm. As the following section demonstrates, the structuring of these illegal markets is central to understanding both the durability of hybrid governance and its broader social and ecological consequences.

2. Illicit Markets and Hybrid Political Economies

Illicit markets are central to the political power of criminal organizations in the Amazon. Drug trafficking remains a core activity, with cocaine produced in Peru and Bolivia transiting through Brazilian territory *en route* to domestic and international markets. However, criminal governance in the region cannot be understood through drugs alone. Environmental crimes (particularly illegal gold mining, logging, and land grabbing) have become integral components of hybrid political economies (FBSP, 2024; UNODC, 2023).

Illegal mining in regions such as Madre de Dios (Peru) illustrates how illicit economies generate autonomous bases of political power. Gold extraction creates entire local economies, attracting labor, capital, and infrastructure. Criminal actors regulate access to mining sites, provide security, and collect fees, effectively governing economic life. Profits from mining are often laundered through cattle ranching, land acquisition, and logging, linking environmental destruction to broader processes of territorial control and capital accumulation (Soares et al., 2021; Furtado and Ferreira, 2025).

On both the Brazilian and Peruvian sides, this pernicious relationship between environmental crimes and drug trafficking relies on the connivance of local political actors who not only profit from funds channeled through corruption, but also run for office and actively participate in local political processes. Operating with a clear resource advantage over other candidates, they are more likely to secure electoral victories and, in doing so, reproduce the troubling dynamics observed in the region.

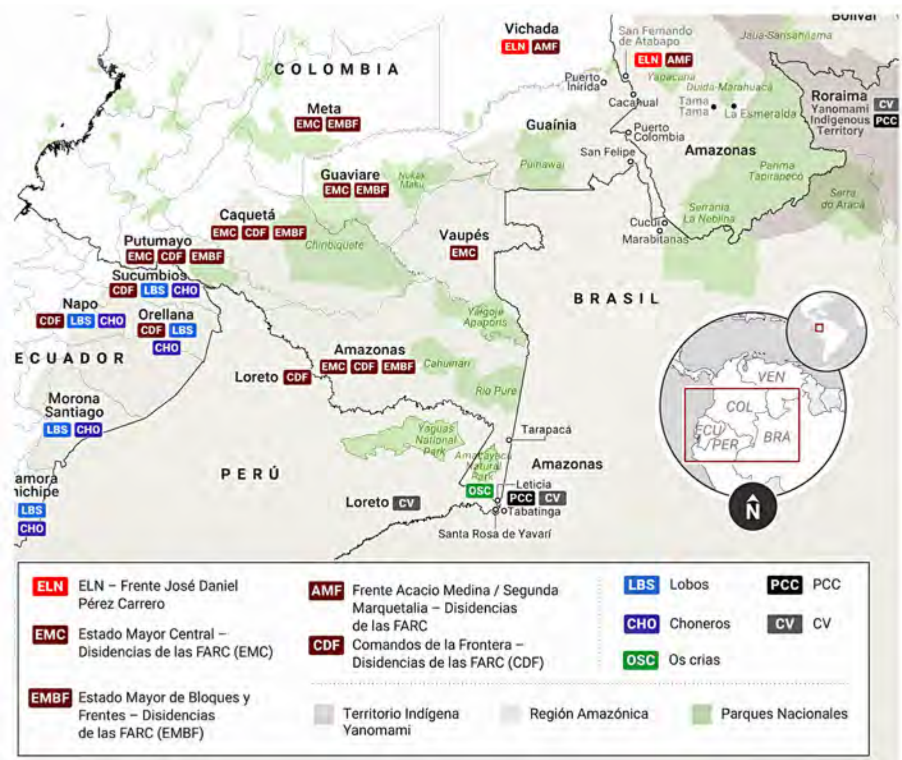
This dynamic reveals how illicit economies do not merely coexist with formal politics; they penetrate and reshape it. The financial power derived from environmental crimes and drug trafficking distorts electoral competition, entrenches unequal access to political influence, and perpetuates cycles of corruption and criminal governance at the local level (see Van Dun, 2023).

This convergence of illicit markets enhances the resilience of criminal governance. The same logistical routes used to transport drugs are employed to move timber and gold, reducing costs and increasing efficiency. Criminal organizations diversify their portfolios, making them less vulnerable to market fluctuations or law enforcement interventions targeting a single commodity (GI-TOC, 2023; Ferreira, 2025a).

In the Brazilian Amazonia, PCC and CV, often supported by smaller local groups, compete for control over illicit markets, generating recurrent episodes of lethal violence (Ferreira, 2025a). The breakdown of the truce in 2016 between PCC, CV and Família do Norte marked a sharp escalation in conflict, turning parts of the region into a battleground for territorial and market dominance (Stahlberg, 2022).

To this day, a relative balance of power persists. The CV has expanded its influence across significant portions of the Amazon, while its rival, the PCC, has consolidated and strengthened its presence along border corridors connecting the region to Brazil's center-south. Even so, as shown in Figure 1, many borderland areas are spaces of overlap, where both organizations maintain some degree of presence, influence, or operational capacity.

Figure 1 – Criminal Actors in Amazon borderlands



Source: Ramirez and Fernandez (2025).

These hybrids political economies lead by criminal organizations have significant implications for democratic governance. By embedding criminal authority in everyday economic activities, illicit markets normalize illegality and create dependencies that weaken the appeal and effectiveness of state institutions. Local populations often rely on criminally governed economies for employment and income, further entrenching hybrid governance arrangements (Ferreira and Richmond, 2021).

The concept of "narcogarimpo" (narcomining) captures this convergence, in which drug trafficking and illegal gold mining become operationally and financially intertwined, intensifying their impacts on Indigenous societies (Chagas, 2024). In the Vale do Javari, home to one of the highest concentrations of isolated Indigenous peoples in the world, these dynamics reflect the persistence of capitalist and colonial logics that structure power relations through dispossession and violence, revealing the advance of transnational organized crime even within formally protected territories (Furtado and Ferreira, 2025).

Not infrequently, some illegal miners maintain ties to, or operate in service of, local authorities. Such connections reinforce a pattern of interdependence between political actors and economic activities that move fluidly across the boundaries of legality and illegality, further entrenching hybrid forms of governance in the region.

3. Democratic Fragility and Institutional Capture at the Local Level

Democratic erosion in the Amazonian border regions does not occur through abrupt institutional breakdowns or authoritarian takeovers. Elections are still held, municipal councils continue to function, and state agencies maintain a visible presence. However, democratic practices are gradually reshaped in ways that weaken accountability, distort representation, and undermine the consistent application of the law (Van Dun, 2023).

Thus, rather than dismantling democratic institutions, criminal governance adapts to them (see Arias, 2006). It works through existing rules and procedures, influencing decisions, outcomes, and access to power from within. At the core of this process lies the informal capture of local institutions.

Municipal governments in borderland regions occupy a structurally vulnerable position: they manage significant discretionary resources while operating under weak oversight, limited fiscal autonomy, and chronic personnel shortages. Criminal actors exploit these conditions by embedding themselves within administrative routines, procurement processes, and law enforcement practices through corruption and economic influence. Rather than overtly replacing state institutions, criminal organizations rely on selective enforcement, negotiated inaction, and informal protection arrangements that allow illicit activities to proceed with minimal disruption (Villa et al., 2021; Pimenta et al., 2021).

Hybrid brokers (i.e. individuals who simultaneously occupy positions within state institutions and criminal networks) are central to sustaining these arrangements. Police officers, judicial officials, and municipal administrators may act as intermediaries who translate criminal interests into bureaucratic outcomes, while providing criminal actors with access to state authority and information. These brokers do not merely facilitate corruption; they institutionalize it, transforming illegality into a predictable and routinized component of governance. Through their actions, the boundary between legality and illegality becomes blurred, reinforcing shared legitimacy between state and criminal orders (Ferreira, 2025b; Koonings and Krujit, 2023).

In some municipalities along the Brazil-Colombia and Brazil-Bolivia border — whose names I withhold for security reasons — both residents and higher-level state authorities acknowledge in off-the-record interviews that local officials at times act in ways that benefit criminal groups. Mayors, council members, police officers, and even judicial authorities are reported to make decisions that protect or facilitate illicit activities. As one drug trafficker stated in an interview conducted along the Brazil–Bolivia border in 2025, "within the state, everyone has their price." This remark reflects a broader perception among interviewees that segments of the state apparatus are susceptible to corruption, reinforcing the view that criminal operations depend not only on coercion, but also on negotiated complicity.

It is important not to generalize these dynamics as the dominant practice across all municipalities. Even so, a significant segment of local actors appears to maintain links to criminal networks both directly or in corruption networks, particularly in nodal territories that are strategically important for drug trafficking and environmental crimes.

Such arrangements generate mutual benefits. Public officials may receive financial gains or political support, while criminal actors secure protection and operational stability. The resources derived from these relationships can be reinvested in electoral campaigns and patronage networks, reinforcing local control. In more extreme cases, the overlap becomes explicit, with a police officer formally representing the state while simultaneously leading a criminal gang in a strategically located community along a key cocaine trafficking corridor between Bolivia and Brazil.

Electoral processes provide a clear example of how democracy is reshaped rather than dismantled. Criminal organizations do not seek to suspend elections; instead, they seek to manage political competition. In municipalities that are strategically located along drug trafficking routes — often borderland areas — candidates may need to negotiate access to territories under criminal influence, accept informal limits on campaigning, or signal willingness to cooperate if elected.

Voters are rarely barred from casting ballots. Rather, their choices are influenced through intimidation, coercion, and the selective control of information. In this way, elections continue to take place and retain their formal structure, but their ability to ensure meaningful competition and political accountability is weakened (Magaloni et al., 2020; Ferreira and Gonçalves, 2023).

As these practices become normalized, democratic mediation is progressively displaced. Citizens seeking dispute resolution, protection, or access to public goods increasingly rely on criminal authorities rather than elected representatives or courts. Criminal leaders emerge as key referents in everyday governance, enforcing rules and arbitrating conflicts through coercive but effective mechanisms. Democracy, in this context, is not suspended; it is hollowed out, retaining institutional continuity while losing its substantive capacity to regulate power and represent collective interests.

From a broader perspective, the interplay between formal state governance and criminal governance has become a defining feature of certain regions in the Brazilian Amazon. In these contexts, authority and social order are not monopolized by the state but rather a complex coexistence of legal institutions and criminal networks. This shared arrangement allows both entities to exert influence over territories, populations, and resources, creating a fragmented landscape of power where compliance with state laws often intersects with adherence to criminal rules (Ferreira, 2025a).

4. Consequences for Democracy and the Limits of Policy Responses

The reconfiguration of democracy under conditions of criminal governance produces a set of politically consequential outcomes that stabilize hybrid orders over time. These outcomes should not be understood as secondary social effects, but as mechanisms through which criminal authority is reproduced and democratic fragility deepened (Mantilla and Feldman, 2021; Lessing, 2021; Ferreira et.al., 2025).

One such mechanism is the incorporation of young people into criminal governance structures. In Amazonian border towns characterized by limited employment opportunities and weak state provision, criminal organizations offer not only income but also status, protection, and a sense of belonging. Youth recruitment thus functions as a form of political socialization, embedding alternative norms of authority and loyalty that compete directly with democratic institutions. Over time, this process reduces the capacity of the state to reclaim legitimacy, as successive cohorts are integrated into criminally governed political economies (Couto, 2024; FBSP, 2024; UNODC, 2023).

Indigenous and traditional territories represent another key arena in which democratic erosion unfolds. Criminal actors enter these spaces by exploiting economic marginalization, weakening collective leadership structures, and imposing parallel systems of regulation and security (Chagas, 2024). Although the state may retain a nominal or symbolic presence, its failure to ensure protection or effectively enforce rights often compels communities to negotiate state authority with non-state actors. The consequences extend beyond immediate social harm, contributing to the erosion of democratic inclusion and the weakening of collective self-determination (Furtado and Ferreira, 2025; FBSP, 2024).

In some cases, the recruitment or involvement of Indigenous youth in criminal activities deepens these dynamics. Such participation can generate serious internal divisions, strain kinship and community ties, and undermine traditional forms of authority. Over time, these fractures erode the social fabric that sustains collective governance, making communities more vulnerable to external control.

Policy responses to these dynamics have been dominated by enforcement-heavy and militarized strategies. Such approaches are premised on the assumption that criminal governance can be dismantled through coercive force alone. In practice, militarization often disrupts specific illicit activities without addressing the underlying governance structures that sustain them. In some cases, it exacerbates violence, reinforces selective enforcement, and deepens distrust in state institutions, thereby strengthening the very hybrid orders it seeks to dismantle (Ferreira and Gonçalves, 2022).

Effective responses to democratic fragility in borderland regions therefore require a shift away from purely securitized approaches. Policies must engage directly with the political foundations of criminal governance by strengthening municipal institutions, restoring accountability mechanisms, and rebuilding everyday legitimacy. This includes prison reform, state strengthening in critical areas, and reconceptualizing the state's role to recover legitimacy and contest criminal authority. Without confronting the governance functions performed by criminal actors, enforcement-based strategies risk reproducing conditions in which democracy continues to erode from within.

Conclusion: Democracy Hollowed Out from Within

This chapter argues that criminal governance in the Amazon constitutes a structural challenge to democracy that operates through gradual, internal processes rather than overt institutional breakdown. By adapting to democratic institutions and embedding themselves within local governance arrangements, criminal actors generate hybrid orders in which legality and illegality coexist, and democratic authority is progressively emptied of substance.

Amazonian borderlands should not be treated as exceptional cases. Instead, they reveal dynamics that are increasingly relevant to peace and conflict research and criminology more broadly, particularly in contexts where illicit markets intersect with weak institutional capacity and contested sovereignty — as also seen in several urban areas of Latin America and Africa. These regions demonstrate how democracy can persist formally while being reshaped by alternative sources of authority embedded in criminal governance (Lessing, 2021; Willis, 2015; Ferreira and Richmond, 2021).

For scholars engaged in the field of peace and conflict, and criminology, the Amazonian case highlights the need to move beyond binary frameworks of state presence versus absence and instead examine contested legitimacy and hybrid governance. Strengthening democracy in borderland regions requires political strategies aimed at restoring institutional credibility, reinforcing accountability, and confronting the normalization of illegality within governance structures. Without such efforts, democratic erosion is likely to continue gradually, yet deeply, from within.

In this sense, reforms designed to strengthen accountability and combat local corruption are necessary but not sufficient. It is also important to implement policies that address the structural economic inequalities that enable organized crime to embed itself in the region. Moreover, confronting the normalization of illegal activities and their cultural appeal among segments of the youth are central to any effort to reverse current trends. Without tackling these social and economic foundations, institutional reforms alone will struggle to generate a meaningful strengthening of democracy in the face of the expanding influence of organized crime.

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3 The Balkans in Transition: Combating Corruption, Organized Crime and Enhancing Democracy

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Abstract

This study delves into the changing patterns of organized crime and corruption in the Balkans - a region whose political and social fabric has been shaped by the legacy of post-socialist transition, historical divisions, and continuing governance challenges. It considers how criminal networks take advantage of institutional vulnerabilities and how these dynamics intersect with initiatives aimed at reinforcing democratic principles and the rule of law. Adopting a comparative perspective, the paper assesses the influence of European Union membership and accession processes on anti-corruption policies and democratic stability within Balkan states. Drawing on data from Transparency International, the World Justice Project, and the Global Initiative Against Transnational Organized Crime, the paper offers an empirically grounded assessment of governance quality and criminal infiltration. The findings highlight key differences between EU member states, such as Croatia and Bulgaria, and non-members, including Serbia, Bosnia and Herzegovina, Albania, Montenegro, and North Macedonia. While EU conditionality can drive legal and institutional reforms, its impact is limited by domestic political resistance, entrenched patronage, and weak judicial independence. The study argues that long-term democratic transformation hinges not only on EU incentives but also on internal political will, civil society engagement, and sustained capacity-building. This research contributes to debates on democratization and the rule of law in the Balkans by identifying barriers to reform and potential pathways toward transparent, accountable governance.

Keywords: Balkans, Organized Crime, Corruption, Democratization, European Union Integration and Transition.

Introduction

After the fall of the Berlin Wall in 1989, it was widely assumed that the transition of Eastern and South-eastern European (EE&SEE) countries from communist systems with state-run economies towards liberal Westerns-style liberal democracies based on market-economies - albeit difficult and painful - would be achieved within a reasonable period of time. According to a widespread opinion, the transition would occur more or less automatically', since, as things had evolved, there was no serious alternative for the post-communist countries to liberal democracies based on the rule of law with far-reaching individual rights. However, things have turned out to be more difficult. Necessary reforms have been slow and there is still a certain lack of understanding of what a democratic society means and what it requires. Transitions have not always been a steady progress, instead serious setbacks have occurred here and there. In a number of EE&SEE countries, transitions have not always been a steady progress; instead, serious setbacks have occurred here and there. However, the fact that for the majority of countries successfully integrated into the European Union and today are members of the EU could be understood as examples of successfully ended transitions. On the contrary, in some countries, transitions have become a decades-long transformation with an uncertain outcome. Stagnation, even a setback, has been recorded. In these countries, characterized by instabilities and insecurities, autocratic governments find increasing support, and corruption and organized crime tend to flourish. These countries risk widely jeopardizing the endeavour of building democratic societies in the EE&SEE.The Balkans provide a vivid example of the enormous challenges that transition countries are facing. The following article highlights some of the difficulties in combating corruption and organized crime, as well as in enhancing democracy, which is aligned to the work conducted by the European Center for Peace and Development (ECPD) at the University for Peace, in the Balkans.

The ECPD's main tasks include research and postgraduate studies based on a synergetic and multidisciplinary approach oriented towards a timely and efficient solving of acute and chronic development problems, fostering better understanding and tolerance among states and peoples, as well as promoting peace, development and democracy in the region.

1. The Balkans Moving towards Democratic Societies and European Integration

The Balkans have long been associated with powerful metaphors, perhaps the most common being that the region ‚produces more history than it can digest' and that it is a ‚powder keg' prone to erupting into ethnic, national, or religious conflict at any moment. This turbulent historical legacy has contributed to the distinctly negative connotation associated with the term ‚balkanization'. For over a century, media, politicians, and scholars alike have employed this term to describe a particular socio-political phenomenon: the fragmentation of states due to political hostilities, the disintegration of unified entities into rival political elites, and enduring tensions in which neighbouring countries frequently find themselves in conflict (Herbert, 1904; Geshkof 1940; Pound, 1994; Todorova 1997).

This article does not aim to engage in the long-standing and often contentious debate over how to define "the Balkans" — a term that remains ambiguous in geographic, historical, and political terms. For this study, the term Balkans refers to the countries of Southeast Europe, including European Union (EU) Member States such as Bulgaria, Croatia, Greece[1], Hungary[2], Romania, and Slovenia, as well as the Western Balkan countries[3] — Albania, Bosnia and Herzegovina, Kosovo[4], Montenegro, North Macedonia, and Serbia — all of which aspire to EU membership. Except for Greece, all current states in the Balkans were communist-socialist, centrally planned, one-party societies until the fall of the Berlin Wall and the subsequent collapse of communist regimes across Central and Eastern Europe. Balkan societies faced a historically unique — and globally rare — challenge: navigating profound, wide-ranging, and intense structural transformations. These societies underwent a fundamental transition from authoritarian, centrally

1 Although geographically and historically part of the Balkans, Greece represents a special case due to its early accession to the European Economic Community (now the European Union) in 1981. Its longstanding integration into Western political and economic structures distinguishes it from other Balkan countries, particularly those that were under communist rule during the Cold War (Clogg, 2002).

2 Hungary occupies a unique geopolitical and cultural position at the intersection of Central and Southeast Europe. In some surveys and classifications, it is included in the Balkans (e.g., Kaplan, 1993; Todorova, 2009), while in others it is excluded. These varying classifications reflect differing criteria, such as historical affiliation, cultural ties, and political orientation—specific references are needed to substantiate these distinctions. Historically, Hungary shared political structures with several Balkan countries under empires, including the Habsburg Monarchy, the Austrian Empire, the Austro-Hungarian Monarchy, and the Ottoman Empire. Furthermore, Hungary's shared experience as a former socialist state reinforces its historical and political interconnectedness with the Balkans. For these reasons, it is pertinent to include Hungary in any comprehensive review of the region.

3 The term Western Balkans emerged in the post-conflict context of the former Yugoslavia during the late 1990s and early 2000s. The international community introduced it to refer to the non-EU countries of the former Yugoslavia (excluding Slovenia and sometimes Croatia).

4 Kosovo – in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

controlled regimes to liberal democratic governance, and from state-run economies to free-market systems modelled on Western institutions.

The dissolution of the federation and the emergence of multiple successor states unleashed a series of violent conflicts that profoundly disrupted the course of democratization and reform in the region. Within just a decade, the map of the Balkans was redrawn, introducing new international borders — some still disputed today — and giving rise to independent polities with revised internal structures often aligned with shifting ethnic and national identities. These political upheavals coincided with sweeping demographic and social transformations. Wars and instability triggered large-scale displacement, forced migrations, and significant alterations in the ethnic composition of populations both within and across borders. These dynamics left an enduring imprint on the political, economic, and social trajectories of post-conflict societies in the region.

Despite progress in some areas, most Balkan states continue to trail behind the rest of Europe economically, and some of the explanations for this state of affairs can be traced back to the deep-rooted institutional and cultural legacies of centralized, one-party rule under communism. This perspective could highlight and explain how authoritarian governance models and dense networks of social capital, cultivated over decades, resist rapid change and continue to shape reform outcomes. Simultaneously, these nations have navigated the difficult path of opening their economies to global markets while safeguarding their hard-won sovereignty. This transition has unfolded amid major global disruptions — from the financial crisis to the COVID-19 pandemic — underscoring the complex interplay between domestic transformation and external shocks.

Although countries in the region shared broadly similar political systems during the communist period, there were — and remain — significant political, economic, and cultural differences among them. These range from the extremely rigid, authoritarian regime in Albania, which remained industrially underdeveloped and nearly completely isolated from the international community, to Slovenia, the most economically advanced former republic of the Socialist Federal Republic of Yugoslavia. Slovenia stood out for its highly educated population and for achieving the highest standards of human rights and civil liberties protection among Balkan states. The prospect of Euro-Atlantic integration — specifically membership in the European Union (EU) and the North Atlantic Treaty Organization (NATO) — has served as a significant impetus for reform and progress across the Balkan region. EU and NATO accession have functioned as key external anchors, motivating states to undertake substantial political, economic, and institutional transformation.

When integration into the EU and NATO is used as an indicator of successful reform and democratisation, certain Balkan countries stand out. Slovenia, Croatia, Romania, Bulgaria, and Hungary have made notable strides in this regard. These countries have been full members of the EU for over a decade — Slovenia and Hungary since 2004, and Croatia since 2013 — signaling a relative success in their post-communist transitions and alignment with Euro-Atlantic norms and standards The remaining countries in the Western Balkans — Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia — have all applied for EU membership. For over two decades, the EU has affirmed their "European perspective" [5] (European Commission, 2024, New growth plan for the Western Balkans 2023, Communication on EU enlargement policy 2025). Although this does not constitute a formal guarantee of eventual membership, nor does it provide a definitive timeline, the EU remains committed to integrating the Western Balkans into the European project and continues to work closely with these countries to help them meet the accession criteria[6].

Over the past two decades, the Western Balkans has made significant progress toward European integration (Ibid). The region has stabilized mainly following the conflicts of the 1990s. Stabilization and Association Agreements (SAAs) are now in place with all six countries. However, EU accession is a complex and demanding process. Candidate countries must fulfil the conditions outlined in the Treaty on European Union (TEU), including meeting the political and economic criteria and demonstrating the institutional capacity to adopt and implement the EU acquis communautaire (often called the acquis) refers to the entire body of common rights and obligation that are binding on all EU member states which include, treaties, legislation, court ruling, international agreements, declaration and resolution and policies and practices.

Progress has varied across the region. According to the monitoring and the EU Commission reports on the progress of aspiring EU members from the Western Balkans, and reporting is a regular EU activity for years, the conclusion is that while some countries are advancing in the accession process, others still face significant challenges in aligning with EU standards. In many cases, reforms have

5 See the Declaration of the EU-Western Balkans Summit in Thessaloniki of 21.6.2003. The EU has since then regularly reaffirmed the Western Balkans' „European perspective"; see e.g. most recently the Communication of the European Commission on the Enlargement Policy of the EU of 4.11.2025 (COM) (2025) 690.

6 See, for example, the European Commission's Communication on EU enlargement policy (European Commission, 2024).

proceeded more slowly than expected[7], with occasional instances of democratic backsliding. Persistent structural and political obstacles — such as authoritarian tendencies, systemic corruption, weak civil society, centralized economic systems and monopolistic market practices — continue to hinder progress. Furthermore, many countries have failed to capitalize on the initial momentum of strong public support for EU accession and the favourable attitude of Western European societies toward enlargement[8].

Nonetheless, it is worth noting that two former Yugoslav republics — Slovenia and Croatia — have already successfully joined the European Union, in 2004 and 2013, respectively. Their accession demonstrates that, despite the considerable challenges, integration into Euro-Atlantic institutions remains an attainable goal for other countries in the region. Respect for the European Union's fundamental values and a demonstrated commitment to upholding them are prerequisites for any country seeking membership in the European Union, as outlined in Article 49 of the Treaty on European Union (TEU). According to Article 2 TEU, the Union is "founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities." (p. 17). These core values are deeply interrelated and mutually reinforcing. For example, democracy cannot function without adherence to the rule of law, and the rule of law cannot be upheld without full respect for human rights.

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7 The lack of progress of the Western Balkans on their path to Europe is neither the fault of the EU alone, nor is it the fault of the countries in the region alone (perhaps it would be best to reformulate this sentence). In the region, people are tempted to make the EU responsible for the lack of progress in getting the Western Balkans countries closer to membership: too slow, too technical, too bureaucratic, always coming with new objections and thus having lost credibility (this should probably be reformulated in order to be softer – in any case, we need references for this) that the EU means it serious with an (is serious concerning the) EU membership of the Western Balkans. In Brussels and the (other) EU capitals, people are (public is) tempted to blame the countries in the region: lagging with reforms, not being focused enough on aligning their systems with the "acquis Communautaire", at the end falling short of political determination to move forward in the accession process speedily.

8 The annual reports of the European Commission assess in detail the progress (or non-progress) each of the countries in the region has made during the reporting period. See most recently the Communication of the European Commission on the Enlargement Policy of the EU of 4.11.2025 (COM) (2025) 690.

Despite the considerable political and economic challenges that candidate countries must confront[9], as well as the complex structural reforms required, the early years of transition were characterized by intense determination and cautious optimism, both within political elites and across broader society. The prospect of EU membership acted as a powerful external motivator, accelerating reform agendas and fostering alignment with European standards. However, in recent years, the pace of reform has noticeably slowed. Internal barriers to implementing fundamental changes — such as entrenched political interests, institutional inertia, and limited administrative capacity — may have been underestimated. Furthermore, inconsistent messaging from political leaders has at times undermined public confidence in the direction and credibility of the reform process. External pressures have compounded these challenges. The global financial crisis, the COVID-19 pandemic, and recent geopolitical conflicts have diverted attention and resources away from domestic reforms, making the path toward EU accession increasingly complex and uncertain.

Across the Western Balkans, democratic institutions have faced mounting strain in recent years. The entrenchment of authoritarian practices, the persistence of systemic corruption, and the deep-rooted presence of organized criminal networks have collectively weakened governance frameworks, undermining both transparency and the rule of law. Efforts to counter corruption and criminality have not unfolded in isolation; instead, they have been heavily influenced by global political and economic currents that, when combined with internal dynamics, have produced a governance environment marked by enduring vulnerabilities. This reality has fueled a noticeable decline in public confidence toward state authorities and political leadership throughout the region[10].

Within this context, the functionality of democratic institutions and the credibility of legal enforcement mechanisms have emerged as central benchmarks in the European Union's enlargement agenda for the Western Balkans. Successive EU progress reports and policy evaluations have highlighted persistent deficiencies in these domains. A recurring theme in such assessments is the prevalence of state capture — a process by which entrenched elites manipulate constitutional and institutional frameworks to consolidate power and extract resources for private

9 Concrete examples underscore the complexity of the region's accession path: ongoing efforts in post-conflict reconciliation and war crimes accountability (Subotić, 2009); the peaceful independence of Montenegro in 2006 (Pavlović, 2008); the protracted resolution of the "name dispute" between Greece and North Macedonia (Vangeli, 2011); the enduring constitutional and political gridlock in Bosnia and Herzegovina (Bieber, 2015); and most notably, the unresolved final status of Kosovo (ICJ, 2010; Weller, 2009).

10 See more in: SecuriMeter 2025 survey conducted by the Regional Cooperation Council

gain[11].While acknowledging the diverse conditions across countries, the EU has consistently expressed concern over the lack of substantial progress in addressing rule of law deficiencies. In some instances, it has even observed signs of democratic backsliding. Consequently, strengthening the rule of law has become a strategic priority for the EU in its engagement with the Western Balkans.

Although the scale and nature of governance challenges vary across countries, the EU has repeatedly voiced alarm over the limited headway in implementing structural reforms and, in some cases, signs of democratic regression. Consequently, reinforcing the independence of judicial systems and safeguarding the rule oflaw remain critical priorities for the EU as it deepens its engagement with the region. A defining feature of the current socio-economic and political landscape among the Balkan states — many of which once shared a centralized, one-party communist legacy — is the increasing divergence between those that have joined the European Union (EU) and those that remain outside of it. This growing divide extends well beyond regional dynamics, carrying significant implications for broader European and even global political and security interests. It reflects contrasting levels of institutional development, democratic consolidation, economic stability, and alignment with Western political and economic standards.

One of the central analytical questions linking the issues of corruption, organized crime, democratization, and post-communist transformation in the Balkans, together with mentiond the issue of deep-rooted institutional and cultural legacies of centralized, one-party rule under communism, could be the research question on impact of economic and political reforms, actualy on impact of transitional strategy implemented in EE&SEE initiated under the Stabilization, Liberalization, and Privatization (SLP) model[12]. Specifically, it is essential to examine how the political, financial, and legal reforms pursued by EU-member Balkan states — during and after their processes of integration into the EU and NATO — have shaped the nature and dynamics of corruption and organized crime. These reforms, underpinned by institutional conditionality and rule-of-law benchmarks, arguably strengthened state capacity and fostered more resilient governance structures.

In contrast, non-EU Balkan countries continue to grapple with an extended and uncertain process of European integration. The EU Commission reports on the progress of aspiring EU members from the Western Balkans point out that their

11 For the concept of "state capture" see e.g. Reinhard Priebe, "State Capture – a useful concept for assessing the Western Balkans countries' progress towards European integration?", Liber Amicorum Vlado Kambovski, 2019, p. 115

12 See more: "Washington Consensus" or "Shock therapy" - neo-liberal economic strategy implemented as a transitional model in EE&CEE.

reform trajectories remain uneven and frequently hampered by persistent structural weaknesses, fragile institutions, and fluctuating political will. As a result, the prevalence and character of corruption and organized crime in these states have remained more entrenched and difficult to combat. For this reason, the current situation in non-EU states is often characterized not as a completed transition but as an ongoing transformation with no guaranteed outcome. The central issue, then, is whether two decades of EU-driven reforms have truly equipped Balkan member states with stronger mechanisms to curb corruption and organized crime — and how this compares to the slower progress of nations still distant from accession benchmarks. The discussion that follows explores the present landscape of corruption and criminal networks across the region and considers the main obstacles, as well as possible strategies, for reinforcing democratic governance and advancing the fight against illicit practices.

2. Corruption and Organized Crime in the Balkans – Current Landscape

Challenges related to corruption and organized crime continue to affect the Balkans deeply, posing significant obstacles to democratic governance, economic progress, and the enforcement of legal frameworks. Among many other reports and overviews, this problem is also highlighted in Transparency International's 2025 Corruption Perceptions Index (CPI). This section offers a comprehensive snapshot of the present conditions, emphasizing prevailing patterns, systemic vulnerabilities, and the enduring presence of illicit networks throughout the region, despite sustained reform initiatives and efforts to align with EU standards. The accompanying tables compile essential metrics on corruption and organized crime across both EU member and non-member states in the Balkans. These figures are drawn from a range of respected, internationally recognized institutions frequently referenced in scholarly and policy analyses. Key data sources include Transparency International's corruption perception indexes, the World Justice Project's assessments of the rule of law, comparative datasets from TheGlobalEconomy.com on governance and political rights, and insights from the Global Initiative Against Transnational Organized Crime on criminal activity.

A central measure utilized in this analysis is the Corruption Perceptions Index (CPI)[13], published annually by Transparency International. The CPI is one of the most widely referenced global metrics for assessing corruption in the public sector.

13 The Corruption Perceptions Index (CPI) measures the perceived levels of public sector corruption in countries and territories worldwide. The CPI reflects perceptions of corruption based on expert assessments and opinion surveys, drawing on data from a range of independent institutions. Scale: 0 to 100; 0 = highly corrupt; 100 = very clean.

It aggregates data from various expert and business surveys, capturing multiple dimensions of corruption — such as bribery, embezzlement of public funds, abuse of office for private gain, the extent and quality of anti-corruption efforts, nepotism in civil service appointments, legal protections for whistleblowers, state capture by vested interests, and public access to government information. These diverse indicators are synthesized into a single composite score14, offering a comprehensive overview of perceived public sector corruption in each country (Transparency International, 2024).

Table 1. Corruption Perceptions Index for Non-EU Balkan Countries

	2013	2014	2023	2024
Albania	31	33	37	42
Bosnia and Herzeg.	42	39	35	33
North Macedonia	44	45	42	40
Montenegro	44	42	46	46
Serbia	42	41	36	35

Source: Elaborated by the authors with data from Transparency International (2013, 2014, 2023, 2024).

Table 2. Corruption Perceptions Index for EU Balkan Countries

	2013	2014	2023	2024
Bulgaria	41	43	45	43
Croatia	48	48	50	47
Hungary	54	54	42	41
Romania	43	43	46	46
Slovenia	57	58	56	60

Source: Elaborated by the authors with data from Transparency International (2013, 2014, 2023, 2024).

Examining the data from the two tables uncovers an intriguing pattern: Albania — a non-EU nation that has undergone a broad reform process following a period marked by significant social, economic, and political upheaval, and which had long remained relatively isolated from broader European developments — has managed to surpass Hungary, an EU and NATO member and the first Balkan country to join both alliances, in perceived public sector integrity. The 2023

14 Denmark is the best-ranked country with an overall score of 90, and South Sudan is the worst-ranked with a score of 8.

Corruption Perceptions Index (CPI) assigns Albania a score of 42, slightly ahead of Hungary's 41, highlighting a gradual worsening of corruption perceptions in Hungary in recent years (Transparency International, 2024). Montenegro, another non-EU nation, has surprisingly outpaced both Hungary and Bulgaria in perceived corruption levels, matching Romania — an EU and NATO member — in this regard. These results challenge the assumption that joining the EU automatically translates into better governance and stronger anti-corruption efforts. Instead, the pace of reforms and the determination of national leadership appear to be decisive factors.

Turning to the rule of law, the World Justice Project describes it as a resilient framework built on four foundational pillars: legal accountability, fairness and clarity of laws, transparent government operations, and justice systems that are accessible and impartial. This principle is widely recognized as essential for long-term development, democratic integrity, and the safeguarding of fundamental rights (World Justice Project, 2023). Analysis of the Rule of Law Index[15], based on comprehensive global data from the World Justice Project (2023) and shown in Tables 3 and 4, reveals a troubling pattern: many Balkan states that are members of the EU and NATO have faced stagnation or even setbacks in rule of law quality over recent years. Slovenia stands out as a notable exception, maintaining a relatively strong performance. Particularly noteworthy is that Montenegro, North Macedonia, and Bosnia and Herzegovina — all outside the EU — score higher on rule of law metrics than Hungary, an established member of both the EU and NATO. This observation suggests that membership in Euro-Atlantic institutions alone does not guarantee governance improvements or stronger adherence to the rule of law.

15 The Rule of Law Index measures how the rule of law is experienced and perceived by the public in practical, everyday situations. The rule of law refers to a principle of governance in which all individuals, institutions, and entities—public and private, including the state—are accountable to laws that are: (1) publicly promulgated, (2) equally enforced, (3) independently adjudicated, and (4) consistent with international human rights norms. Denmark is the best-ranked country with an overall score of 0,90, and Venezuela is the worst-ranked with a score of 0,26.

Table 3. Rule of Law Index (WJP) for Non-EU Balkan countries

	2015	2016	2023	2024
Albania	0.52	0.51	0.48	0.48
Bosnia and Herzeg.	0.56	0.56	0.51	0.52
North Macedonia	0.55	0.55	0.53	0.53
Montenegro	N/A	N/A	0.56	0.57
Serbia	0.51	0.50	0.48	0.47

Source: Elaborated by the authors with data from World Justice Project (2015, 2016, 2023, 2024).

Table 4. Rule of Law Index (WJP) for EU Balkan countries

	2015	2016	2023	2024
Bulgaria	0.56	0.55	0.56	0.56
Croatia	0.61	0.61	0.61	0.61
Hungary	0.58	0.57	0.51	0.51
Romania	0.64	0.66	0.63	0.62
Slovenia	0.67	0.68	0.69	0.69

Source: Elaborated by the authors with data from World Justice Project (2015, 2016, 2023, 2024)

The following six tables present a comparative overview of selected socio-economic governance indicators — namely, rule of law[16], control of corruption[17], and political rights[18] — for both EU and non-EU Balkan countries considering four years: 2016, 2017, 2023, and 2024. These years were selected based on the following criteria: (a) data representing the certain year should be available for all countries, to make a comparison possible, (b) data should cover a period of at least 5 years, to make possible overview of the trend in an extended period, and (c) data showing the initial and final state should be presented with two consecutive years for a reason of relevance.

16 On global scale: -2.5 weak; 2.5 strong.
17 On global scale: -2.5 weak; 2.5 strong.
18 On global scale: 7 weak; 1 strong.

Table 5. Rule of Law Index (GE) for Non-EU Balkan Countries

	2016	2017	2022	2023
Albania	-0.32	-0.41	-0.17	-0.16
Bosnia and Herzeg.	-0.19	-0.20	-0.31	-0.35
North Macedonia	-0.34	-0.31	-0.10	-0.17
Montenegro	-0.14	-0.11	-0.13	-0.04
Serbia	-0.13	-0.18	-0.11	-0.07

Source: Elaborated by the authors with data from Global Economy (2016, 2017, 2022, 2023).

Table 6. Rule of Law Index (GE) for EU Balkan Countries

	2016	2017	2022	2023
Bulgaria	-0.14	-0.12	-0.11	-0.01
Croatia	0.34	0.31	0.37	0.36
Hungary	0.41	0.54	0.42	0.43
Romania	0.45	0.44	0.40	0.44
Slovenia	1.05	0.99	0.97	1.04

Source: Elaborated by the authors with data from Global Economy (2016, 2017, 2022, 2023).

According to the data (Table 5 and 6), none of the non-EU Balkan countries currently surpass EU member states in absolute terms regarding the rule of law indicator. However, longitudinal data suggest that several non-EU countries — Montenegro, Albania, and North Macedonia — have demonstrated more consistent and measurable improvements in rule of law standards in recent years than certain EU member states, including Croatia, Hungary, and Romania. This indicates a positive reform trajectory among some non-EU Balkan states, even as certain EU members exhibit stagnation or decline. Moreover, as shown in Tables 7 and 8, in the domain of control of corruption[19], Montenegro outperforms Bulgaria, an EU and NATO member, suggesting that EU membership alone does not necessarily guarantee stronger governance or lower levels of corruption (TheGlobalEconomy.com, n.d.).

19 Control of Corruption indicator measures the extent to which public power is exercised for private gain, including: (1) Petty and grand forms of corruption, such as bribery and embezzlement, (2) State capture by elites and private interests, and (3) Use of public office for personal enrichment. Scale: From -2.5 (weak control) to +2.5 (strong control)

Table 7. Control of corruption in Non-EU Balkan Countries

	2016	2017	2022	2023
Albania	-0.47	-0.48	-0.41	-0.33
Bosnia and Herzeg.	-0.49	-0.55	-0.68	-0.58
North Macedonia	-0.30	-0.33	-0.32	-0.35
Montenegro	-0.08	-0.08	-0.12	-0.08
Serbia	-0.38	-0.44	-0.46	-0.45

Source: Elaborated by the authors with data from Global Economy (2016, 2017, 2022, 2023).

Table 8 . Control of Corruption in EU Balkan Countries

	2016	2017	2022	2023
Bulgaria	-0.26	-0.20	-0.16	-0.14
Croatia	0.16	0.06	0.15	0.18
Hungary	0.07	0.09	-0.10	0.00
Romania	-0.18	-0.14	0.02	0.04
Slovenia	0.78	0.78	0.77	0.78

Source: Elaborated by the authors with data from Global Economy (2016, 2017, 2022, 2023).

As shown in Tables 9 and 10, citizens living in Balkan countries that are not EU members do not have political rights (mostly it presents the extent to which people in each country can participate freely in the political process) of a higher standard than those of EU Balkan countries. However, the level of political rights[20] in Montenegro, North Macedonia, and Albania is currently assessed to be comparable to that of Hungary, an EU and NATO member state. Notably, North Macedonia has demonstrated recent progress in strengthening political rights, whereas Croatia, despite its EU membership, has experienced a decline in this area (The Global Economy, n.d.).

20 The Political Rights Indicator is a widely used measure developed by Freedom House to assess the extent to which people in each country can participate freely in the political process. Scale: Rated on a scale from 1 (most free) to 7 (least free)

Table 9. Political Rights in Non-EU Balkan Countries

	2017	2018	2023	2024
Albania	3.00	3.00	3.00	3.00
Bosnia and Herzeg.	4.00	4.00	4.00	5.00
North Macedonia	4.00	4.00	3.00	3.00
Montenegro	3.00	3.00	3.00	3.00
Serbia	3.00	3.00	4.00	4.00

Source: Elaborated by the authors with data from Global Economy (2017, 2018, 2023, 2024).

Table 10. Political Rights in EU Balkan Countries

	2017	2018	2023	2024
Bulgaria	2.00	2.00	2.00	2.00
Croatia	1.00	1.00	2.00	2.00
Hungary	3.00	3.00	3.00	3.00
Romania	2.00	2.00	2.00	2.00
Slovenia	1.00	1.00	1.00	1.00

Source: Elaborated by the authors with data from Global Economy (2017, 2018, 2023, 2024).

The Global Initiative Against Transnational Organized Crime publishes the Global Organized Crime Index[21], a comprehensive analytical tool that assesses the state of organized crime across countries and regions. The most recent edition evaluates 15 components — covering both criminal markets and criminal actors — to provide a multidimensional understanding of the structure, influence, and impact of organized crime globally (Global Initiative Against Transnational Organized Crime, 2021, 2023, 2025).

21 The Organized Crime Index measures the levels of criminality and resilience to organized crime in 193 United Nations member states. Each country is scored from 1 to 10.

Table 11. Organized Crime Index (Criminality score) in Non-EU Balkan Countries

	2021	2023	2025
Albania	5.63	5.17	5.20
Bosnia and Herzeg.	5.89	5.85	5.92
North Macedonia	5.31	5.03	5.00
Montenegro	6.00	5.90	5.82
Serbia	6.21	6.22	6.18

Source: Elaborated by the authors with data from Global Initiative against Transnational Organized Crime (2021, 2023, 2025).

Table 12. Organized Crime Index (Criminality score) in EU Balkan Countries

	2021	2023	2025
Bulgaria	5.43	5.65	5.58
Hungary	4.50	4.62	4.62
Croatia	5.06	5.15	5.02
Romania	4.59	4.58	4.83
Slovenia	4.29	4.37	4.28

Source: Elaborated by the authors with data from Global Initiative against Transnational Organized Crime (2021, 2023).

As illustrated in Tables 11 and 12, the data from the Global Organized Crime Index once again reveal that certain non-EU Balkan countries outperform some EU member states in the region. Specifically, North Macedonia demonstrates more favorable results in combating organized crime when compared to Bulgaria and Croatia. Furthermore, while trends indicate a rise in organized criminal activity across all Balkan EU countries, notable progress is observed in Albania, North Macedonia, and Montenegro, where levels of organized crime have been declining in recent years (Global Initiative Against Transnational Organized Crime, 2021, 2023, 2025). In general, while 4 (out of 5) non-EU Balkan countries recorded a decrease in the Criminality score, 3 (out of 5) EU Balkan countries recorded an increase in the Criminality score.

Conclusion

An examination of the comparative data presented in the preceding tables reveals a noteworthy and somewhat counterintuitive trend: in several key governance areas — including efforts to combat corruption and organized crime — certain non-EU Balkan countries demonstrate higher performance standards than some Balkan states that have been EU and NATO members for over two decades. Notably, countries such as Montenegro and Albania have made measurable improvements in the efficiency of public administration, the quality of public services, and the protection of human rights and fundamental freedoms (Transparency International, 2024; Global Initiative Against Transnational Organized Crime, 2023). Conversely, some EU member states in the region, including Bulgaria, Hungary, and Croatia, exhibit worrying trends of declining performance across several governance indicators. These include increased levels of corruption and organized crime, deterioration in the rule of law, and stagnation or regression in the delivery of public goods, despite having adopted and implemented EU institutional frameworks, legal instruments, and regulatory mechanisms for more than a decade (TheGlobalEconomy.com, n.d.; World Justice Project, 2023).

These findings challenge the conventional assumption that EU membership inherently guarantees better democratic governance and institutional quality. The data suggest that formal accession to the EU does not automatically translate into improved performance in combating corruption or strengthening the rule of law. In fact, non-member countries, motivated by the prospect of accession and under continuous external scrutiny, may demonstrate greater reform momentum than member states, which may experience post-accession complacency (Richter & Wunsch, 2020). The implications of this analysis are twofold: first, the data provides a valuable empirical basis for reassessing the dynamics of democratic consolidation, institutional development, and governance in the Balkans; second, it also highlights the need for the European Union to recalibrate its approach to both existing members and aspirant countries by shifting focus from formal compliance to substantive performance in democratic governance. Moreover, this evidence can serve as a meaningful foundation for informing future EU integration policies, as well as the development of more nuanced, country-specific strategies to combat organized crime and corruption across the region.

A significant avenue for further analysis lies in examining the varying degrees of societal enthusiasm for EU integration across individual non-EU Balkan countries. It may be hypothesized that lower public support for EU accession correlates with higher levels of corruption and organized crime, as well as reduced governmental commitment to democratic values and the rule of law. Conversely, societies exhibiting greater enthusiasm for EU membership may be more inclined to elect governments that are committed to establishing transparent governance structures, implementing anti-corruption measures, and reinforcing legal standards. In this context, despite certain counterexamples among EU member states in the Balkans, the data suggest that the EU integration process, along with EU conditionality mechanisms, has had a generally positive influence on improving governance, reducing corruption, and addressing organized crime in non-EU Balkan countries (Richter & Wunsch, 2020; Priebe, 2019).

Moreover, these trends must be situated within a broader geopolitical and global framework, rather than being assessed solely through a European lens. Several external factors — including China's Belt and Road Initiative (BRI), the Russian Federation's strategic repositioning in the region, shifts in EU foreign and neighborhood policy, and the role of social capital — collectively shape the political and institutional dynamics of the Western Balkans. For instance, the economic scale of Chinese investments under the BRI, often exceeding the capacity of national budgets in Balkan countries, raises questions about their impact on transparency and corruption. Future research should explore whether patterns of corruption differ systematically between countries actively engaged in the BRI and those less involved — regardless of EU membership status. Such analysis could help uncover potential structural vulnerabilities to corruption and organized crime linked to large-scale foreign investments and global economic realignment (Zeng, 2021; Hooijmaaijers & Keukeleire, 2020).

From both a theoretical and practical standpoint, it is crucial to explore how the Balkans' ongoing challenges with corruption, organized crime, and rule of law development are shaped by the lingering cultural and institutional shadows of the communist period, contrasted with the economic and governance systems established during the post-communist transition. In particular, there is a need to unpack the effects of neoliberal reforms — marked by market opening, privatization, and deregulation — on the region's institutional effectiveness and capacity to govern. The coexistence of entrenched centralized bureaucracies inherited from the past and externally driven liberal democratic reforms may have resulted in hybrid governance arrangements, where official alignment with EU norms occurs alongside persistent informal networks of corruption and patronage (Grzymala-Busse, 2007; Krastev, 2007).

The Balkans thus serve as a revealing case study for understanding the intricate relationship between regional integration efforts, governance challenges, and geopolitical dynamics. This context offers important lessons about the wider global experiences of countries navigating post-authoritarian transitions, building state capacity, and striving for democratic consolidation. The region's evolving political and institutional realities highlight the importance of looking beyond formal institutions to grasp how historical legacies, external influences, and local actors together shape democratic quality, rule of law enforcement, and the durability of state structures.

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Part 2

Illicit Economies and Criminal Markets

4 Dissecting a Counterfeit Network and Analyzing its Evolution over Time: Counterfeit PPE (Medical Masks) During the COVID-19 Pandemic[1]

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Dr. Louise Shelley

Abstract

This paper provides the first case study of how to dissect and analyze prolific counterfeit global networks that flourished during the COVID-19 pandemic. The COVID-19 pandemic created unprecedented demand for personal protective equipment (PPE) products, exposing vulnerabilities in global supply chains and generating opportunities for counterfeit production and distribution. It examines the evolution in counterfeit PPE over time from the start to the official end of the pandemic. Using diverse information sources such as business license records from company profiles, customs seizure data, and cases reported to 3M (the major legitimate producer of medical masks), it identifies key actors in the production, distribution and logistics phases of the business. Analysis of the registration data of 102 companies associated with counterfeiting of medical masks reveals that most counterfeiters entered the N95 respirator sector rapidly during the early stages of the pandemic, often by leveraging pre-existing licenses for electronics, e-commerce, or trade. As demand declined following the introduction of vaccines, many producers and marketers shifted back to their original product — electronics and machine parts — sectors in high global demand, underscoring the adaptability of the counterfeiters' operations. The findings demonstrate how counterfeiters exploit legitimate licensing systems and existing industrial infrastructure to infiltrate global supply chains. By analyzing the activities of the medical PPE counterfeiters during the pandemic, this study provides new insights into the illicit operations and the life cycle of counterfeit product manufacturers.

Keywords: Counterfeit Product Life Cycle, Temporal Analysis, Counterfeit Business Operation, Counterfeit Supply Chain, illicit trade, counterfeit N95 respirator.

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Introduction

Product counterfeiting is a fast-growing criminal enterprise globally (Bharadwaj et al., 2020; Partyka et al., 2024). The Organization for Economic Co-operation and Development (OECD) (has reported that global trade in counterfeit and pirated goods - excluding in-country activities, internet-based infringements, and indirect economic impacts has soared from $250 billion between 2000 to 2007 to $509 billion by 2016 (OECD, 2021: 9). By 2019, the volume of international trade in counterfeit and pirated goods was estimated at USD $464 billion (OECD, 2021:11), and it rose again to an estimated USD $467 billion in 2021 (OECD, 2025: 8). Partyka et al. (2024) conducted a comprehensive review of literature on counterfeiting from 1995 to 2024, stating that counterfeiting continues to grow as a significant problem. Counterfeit goods infiltrate key sectors such as production of machine parts, auto components, toys, pharmaceuticals, clothing and shoes and personal protective equipment (PPE), where substandard products can endanger lives (OECD, 2021: 9, 34).−Therefore, product counterfeiting operates globally across many industrial sectors and is growing, resulting in significant economic impacts and often undermines health and safety as in the case of counterfeit PPE.

Designed to filter airborne particles, including viruses, medical grade PPE played a vital role in safeguarding frontline medical and emergency workers. But poorly manufactured PPE, including N95 respirators intended for medical personnel and emergency providers, significantly increased the risk of airborne transmission to frontline healthcare workers, leaving them more vulnerable to infection, illness, and even mortality (David, 2020). The World Health Organization (WHO) reported that approximately 115,500 healthcare workers lost their lives to COVID-19 in just a year and a half (World Health Organization, 2021:1).

On March 11, 2020, the WHO director declared the onset of the pandemic and recommended that symptomatic travelers wear masks during international travel (WHO, 2020a; WHO, 2020b). Just three weeks later, on April 3, 2020, the U.S. Center for Disease Control and Prevention (CDC) introduced a nationwide mask mandate in the United States, urging all individuals in public spaces to wear masks to curb the spread of COVID-19. Many countries soon followed suit (Dwyer & Aubrey, 2020). During this period, the demand for N95 respirators across U.S. hospitals and emergency medical providers skyrocketed, with estimates ranging from 17.4 million to

312.3 million pieces nationwide (Wedlock et al., 2021:1324). This demand created an unprecedented strain on hospitals and emergency providers as they faced a severe shortage of N95 respirators, primarily due to supply chain disruptions and a scarcity of critical filter materials. As hospitals depleted their existing stocks, the shortage further exacerbated the challenges of controlling the pandemic (Goodnough, 2020; Glatter, 2020) and protecting medical workers.

The soaring demand and shortage of N95 respirators during the pandemic opened the door for counterfeiters to exploit vulnerabilities in supply chains. Before the pandemic, hospitals relied on authorized distributors within established networks for procuring authentic N95 respirators. These distributors maintained dependable supply chains, ensuring the authenticity of their products. However, as the shortage worsened, hospitals scrambled to find alternative sources under intense time pressure, creating a window of opportunity for counterfeiters to infiltrate these supply chains. Consequently, a significant influx of counterfeit N95 respirators was discovered in hospitals during the latter half of 2020 and into 2021 (Jacobs, 2021).

Counterfeiters can quickly adapt and enter emerging markets. U.S. Customs and Border Protection data from 2021 revealed that counterfeit N95 respirator production seized surged from 1,300 units in 2019 to 12 million units in 2020 (Customs and Border Protection, 2021). In the first quarter of 2021 alone, at least 18 million counterfeit N95 respirators shipped to the U.S. were seized at the Houston Seaport. These statistics raise key research questions: Who were the manufacturers of these counterfeits, and what temporal business models did the counterfeiters follow when entering and exiting this new market? What was the life cycle of counterfeiters' operations?

This study aims to investigate how counterfeiters' business models evolved from entry to exit from a new market and how the counterfeiters financed their rapid entry into a new product line such as counterfeit PPE. The study focuses on the life cycle of the counterfeiters, understanding the sectors where they operated before and to which ones they entered after the COVID-19 Pandemic came under control. This study also focuses on the operation of their supply chains, with an emphasis on the physical flow of goods and the temporal patterns that shape these flows. Counterfeiters often conceal their identities and the actual names of their companies to evade law enforcement detection, complicating efforts to uncover their illicit supply chains. In this study, we use multiple data sources to "connect the dots" and analyze the patterns of these illicit networks, recognizing that each data source reveals only a fragment of the overall illicit network.

1. Methodology: Data Sources for Identifying Counterfeiters of N95 Respirators

To systematically construct these supply chains, we classified the networks into two types: those that deliver to other businesses or directly to consumers. They are classified: Business-to-Business (B2B) and Business-to-Consumer (B2C). Each data source that has been collected is linked to its corresponding point – or points – within both B2B and B2C networks. When multiple data sources corroborate the same node or connection in the supply chain, all of them are employed for model verification.

Analyzing the temporal patterns within the counterfeit N95 supply chain requires identifying the perpetrators behind counterfeit N95 respirators. This identification process involved a comprehensive examination of companies engaging in fraud, meticulously tracing available information on their sources of operational funds, and integrating multiple data sources related to the counterfeit supply chains. The task proved challenging due to the covert tactics employed by these illicit operators. Our collaborative effort with 3M, a major multi-national company that is the key producer of N95 respirators, helped us address this problem. Through a unique data sharing agreement, they shared data with our research team, and our research team provided weekly insights from our data analytics on the actors involved in counterfeiting their products. This academic-private partnership was instrumental in identifying counterfeit actors within the market. Most companies could be found through their company profiles as most producers were registered companies in China. Furthermore, we were able to uncover diverse counterfeit supply chains, contributing to the seizure of over 60 million masks globally and the takedown of over 25,000 web posting and 25,000 social media posts[2].

The products analyzed conformed to the World Trade Organization (World Trade Organization, 1995) definition that "any solicitation and distribution

2 Little, Trevor (2021) Collaboration and consumer safety: insights from 3M, WTR's 2021 North America Team of the Year. World Trademark Review (WTR). URL: http://www.worldtrademarkreview.com/article/collaboration-and-consumer-safety-insights-3m-wtrs-2021-north-america-team-of-the-year

product using the trademark without authorization from brand owners are counterfeit products." 3M identified counterfeit respirators through diverse methods, although the most frequent were complaints from purchasers to the company hotline and web-based reporting.

This study is based on collected cases of counterfeit N95 activities between March 2021 and October 2022, a period that marked the peak of N95 respirator counterfeiting during the pandemic. Our analysis focused specifically on 3M medical-grade masks (1860, 1870, 9205, and 9502), which were the most commonly counterfeited models during the COVID-19 pandemic. We concentrated exclusively on registered companies involved in counterfeiting, as the company profiling data is publicly available, providing reliable and verifiable information. These registered companies represented a significant share of the activity in the counterfeit PPE market. Approximately 88.5% (100 out of 113) of all verified counterfeit distributors and producers were registered companies; the remainder were individual distributors whose company affiliations could not be identified. Ninety-one percent (91 out of 100) of these registered companies were verified as involved in counterfeiting activities, representing the core actors driving counterfeit operations. This study presents the data sources used to identify counterfeit companies and construct their supply chains. It then details the temporal analysis of counterfeit N95 respirator operations and outlines the procedures used to make this determination.

Table 1 presents the data sources used to trace counterfeit N95 respirator supply chains. We accessed hotline reports, customs seizure records, and company investigation reports provided by 3M. We supplemented these sources with open-source data to trace the company profiles, shipping data, and related web posts. In the company profiles, the business scope documented on each company's registration license lists their government-authorized business licenses and permits, enabling us to determine permissions for production and distribution or specific products or to provide specific services.

Table 1: Data Sources Overview

Data Source	Definition
1.Hotline Reports	Reports from buyers regarding suspicious counterfeit products often after online purchase, submitted to brand owners with the goods that provided evidence of copyright infringement
2.Customs Seizures	Counterfeit goods were discovered by customs officers or other law enforcement during inspection at points of entry or transit
3.Web Posts	Diverse web posts on commercial platforms were scrutinized for indications of potential counterfeit sale, distribution, and production
4.Company Investigation Reports	3M had numerous investigative reports conducted after consumer complaints concerning the purchase of counterfeits
5.Shipping Data	Information was obtained from completed purchases regarding the shipping routes and quantities shipped
6.Company Profiles	Information about a company's registration, business scope, and historical operations records in local government systems in the area of production facilities
7. Company Civil Cases	Analysis of cases initiated by 3M against large scale counterfeiters of N95 products

This required Chinese-language knowledge as the business registries are recorded in Simplified Chinese character. The data sources that provided insight the B2B and B2C supply chains are summarized in Figure 1.

Figure 1. B2B vs. B2C Counterfeit Supply Chain with Corresponding Data Sources

B2C Supply Chain

Source: Elaborated by the authors.

We gathered information on counterfeit activities in both online markets and traditional distribution networks to (1) identify counterfeiters and (2) build profiles of counterfeit companies, including details about shipping and affiliate organizations as well as registration information on different types of business licenses — those for production, distribution, or other services offered such as logistics, warehousing, or property/equipment leasing. Traditional distribution networks refer to physical, offline channels used to move products from manufacturers or suppliers to end users, such as wholesale markets, retail stores, logistics hubs, and trade intermediaries (Aldin & Stahre, 2003). We used the following data sources:

- **Hotline Reports.** 3M had a Hotline to which purchasers reported suspicious counterfeit purchases of N95 respirator. The hotline data used photographs or screenshots of the received products, relevant documents, licenses, conversations with counterfeiters, seller names, shipping labels and contact information (see Appendix 1).

- **Customs Seizure Records.** These records identify counterfeit goods confiscated by customs officers internationally and law enforcement during inspections at points of entry including ports, airports and even free-trade zones. They included information about the names of companies involved, descriptions of seized products, quantities, shipping manifests that identified the shipment's origins, and destinations. The customs seizure records provided by 3M listed export companies involved in the shipment of counterfeits to the U.S.

- **Web Posts.** We examined web post listings associated with identified sellers of counterfeits appearing on platforms such as Facebook Marke-tplace, LinkedIn, Amazon, Alibaba, online forums, and private-owned websites (see Appendix 1). Using Domain Tools (http://www.domaintools.com/), we traced and identified registered company names linked to these websites. Listings were further examined using keywords (e.g., 3M 1860) to pinpoint counterfeiters.

- **Company Investigation Reports.** Investigation reports commissioned by 3M identified counterfeit wholesalers, manufacturers, and their associates. These reports included names of companies engaged in the production and sale of counterfeits, affiliated entities, detailed profiles of all identified companies, and evidence substantiating counterfeiting activities. After identification, we examined details such as entity names linked to the companies. We also used identical contact information to trace other counterfeit entities within their associated operational networks by matching contact details (e.g., emails, addresses, phone numbers, and social media accounts).
- **Shipping Data.** Shipping records indicated routes, shipment quantities. The shipment records include product names, shipper names, consignee names, transportation methods, and description of goods, Harmonized System (HS) code (International Trade Administration, 2022), port names of lading or unlading, volume, weights, and value per shipment. We filtered the database using advanced data analytics using combinations of identified company names, brand names, product names, and product model numbers (e.g., "3M", "mask," and "company name"). The Panjiva database of trade transactions (http://panjiva.com/) to which we subscribed also allowed us to analyze the recipients of counterfeit products. This approach allowed us to retrieve all relevant goods shipped in global trade records spanning over five years, from April 2017 to October 2022. This timeframe included shipment records of the identified companies operating before, during, and after the COVID-19 pandemic, helping us understand the life cycle of the counterfeit N95 respirator operations.
- **Company Profiles.** were constructed through 3M investigation reports, cross-referenced with online searches through publicly available databases and official company websites. Company profiles consist of registration information within local government systems of the producer country allowing us to understand the activities of the business and the history of its operations. To construct profiles of Chinese-based companies, we used the company profile database (Aichicha http://aiqicha.baidu.com/),

and for companies in non-Chinese countries, we used the company profile database Sayari (http://sayari.com/). In cases involving companies found in investigation reports, 3M collaborated with independent investigators of counterfeiting to conduct in-depth investigations into the profiles of identified counterfeiters. If the investigation report did not provide relevant information, we conducted further searches for missing details (see Appendix 1) using a cross-referencing approach with registered addresses and contact information. Specifically, we searched for affiliated names and contact details of these companies on various search engines and databases, supplemented by targeted website searches (e.g., Google; see Appendix 1). The verification process was complicated due to translation issues and limited comprehensive information about the companies' activities. To confirm the uniqueness of company names, we conducted online searches using entity names and contact information (e.g., emails, physical addresses). Companies with non-unique names were excluded from our study because their true identities could not be reliably verified due to English translations (i.e., When a Chinese name is translated into English, the same English name corresponds to more than one possible Chinese character), increasing the risk of inaccurate profiling.

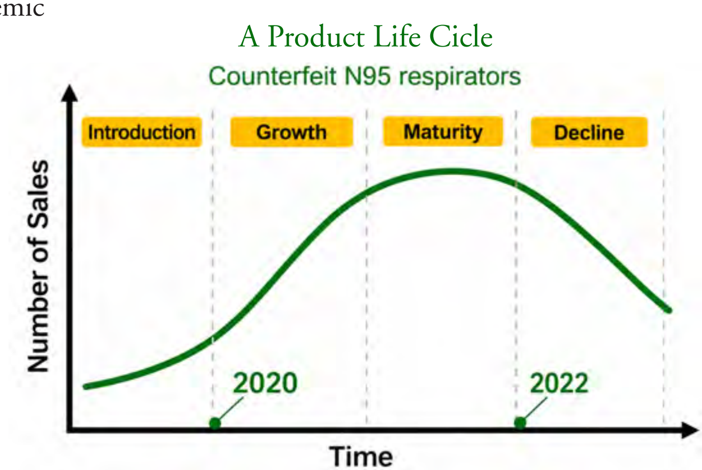
- **Company civil case.** We searched companies involved in counterfeit sales identified by 3M and searched where there were court cases in China identified with these companies. We used the court case numbers to access public trial recordings from http://tingshen.court.gov.cn/ in China. These cases were available online if both the plaintiff and defendant agreed to have them released. During these trials where previous allegations of counterfeiting were heard, representatives from both sides presented evidence (e.g., numbers of counterfeit products, communication records, price per unit sold, who is the representative responsible for the trading contract, etc.), allowing us to understand past business transactions and relationships among companies who had been involved in the sale of counterfeit goods. This helped us understand the ecosystem of counterfeits and the roles they played within counterfeit supply chains.

After gathering all relevant data records of the identified companies engaged in counterfeit production and sale, we were able to construct supply chains for counterfeit goods by mapping their market connections, affiliations, and global transportation networks. We interlinked the identified companies to piece together partial information about these counterfeiters' operations, allowing reconstruction of the complete supply chains for each identified company using data from hotline reports, customs seizures, web scraping, and investigation reports.

2. Analysis of Temporal Patterns

This study examines the life cycle of the identified companies engaged in the counterfeit N95 respirator trade and considers the potential sources of capital supporting their subsequent ventures into new markets. The life cycle of the businesses is illustrated in Figure 2.

Figure 2. Product Life Cycle of Counterfeit N95 respirator during COVID Pandemic



Source: Elaborated by the authors.

Figure 2 shows that counterfeit N95 sales began in 2020 with the onset of the COVID-19 pandemic, expanded rapidly during 2021, and declined after 2022 as vaccination campaigns reduced demand. This pattern suggests that 2020 marked the growth stage of counterfeit N95s activity, 2021 represented its peak, and 2022 started its decline. Compared to other counterfeit products such as handbags, pharmaceuticals, electronics parts or mechanical products, counterfeit N95 respirators had much shorter product lifecycle during the pandemic. This shorter cycle provides a unique opportunity to study how counterfeiters adapted and evolved their operations under rapidly changing market conditions.

Our research revealed that counterfeiters exploited loopholes in regulatory policies to obtain specialized business licenses, allowing these counterfeiters to legally scale their operations globally. Counterfeiters of N95 respirators often operated through affiliated companies holding facemask-related business licenses issued by their local governments to facilitate operations. Business licenses, as documented in company profiles, show the scope of the licensed business and the issuance date of licenses, marking when a company formally sought authorization to operate in a specific sector.

Business licenses themselves do not disclose the exact origin of funds or the amount of capital invested in specific sectors. Company profiles only record the registered capital of a company. The figure of registered capital provides an indication of the company's resources overall but does not reveal how much was allocated to any particular sector. The capital records cannot determine whether the funds invested in counterfeit operations originated from the profits of legitimate businesses, other unrelated business activities, or external sources such as loans or investors. Furthermore, a company holding the required licenses may have been exploited by third-party counterfeit distributors who engaged in selling counterfeits internationally.

An example of this is a well-documented large-scale smuggling case involving the sale and distribution of diverse commodities from December 1995 to May 1999. The court trial concluded only in 2012 in Xiamen, Fujian Province, China as the defendant was a fugitive for many years[3]. The smugglers used the legitimate business licenses of state-owned enterprises or other firms to bypass import/export customs clearance and inspections to illegally trade vegetable oil, refined oil, cigarettes, automobiles, communication equipment, and raw materials for the chemical and textile production sector. This case is illustrative of the complexity and methods we see in present PPE smuggling operations.

In the prosecuted case in China, two companies owned by the smuggler lacked proper import-export licenses. By bribing officials and leveraging key personnel — such as top-level managers or company leaders — from other

3 Huang, Dongyang & Haitao An (2018) 廈門遠華特大走私案. 福建法院網. (Xiamen Yuanhua Major Smuggling Case extracted from Fujian Court Network) URL: http://baike.baidu.com/reference/308826/533aYdO6cr3_z3kATPCIzvX1NCfCZdylu7XS-WrtzzqIPmGapB4jvXJF85t088eJ1AEXMv44sY9hal_q-UxgZu-hEJKlkG-k9n3b-Wyz-DyKG_q8Yyn9lHpYtERu5Pw6yt ; related source mentioned from NBC News (2011) $10 billion smuggling ring: Former fugitive Lai Changxing confesses, Chinese officials say. NBC. URL: http://www.nbcnews.com/id/wbna45825335

licensed firms, the owner was able to carry out large-scale smuggling activities. A payment of RMB 1,000,000 (approximately USD $140,559) was made to rent warehouses in free trade zones and oil depots to facilitate the illegal operations. In addition to direct smuggling, the perpetrator used various methods to evade customs, including falsified re-export documents, fake product names or quantities, and in some cases, complete failure to declare shipments. The prosecuted smuggler also acted as a middleman, recruiting other smugglers and earning commission fees for helping them pass customs inspections under false pretenses. Official legal documents confirm that 64 government officials who accepted bribes — amounting to RMB 39 million (around US$ 5 million) — were convicted and expelled from the Communist Party of China. These records include a list of the convicted individuals along with the specific charges and reasons for their sentencing. This case provides a precedent for the illegal operations that we see with the counterfeit PPE operators as similar methods were used to export counterfeits.

Analysis of license records offers insights into the prior sectors of production and trade of the PPE counterfeiters. License records for companies established before the pandemic list prior business operations, such as electronics, logistics, or trade, enabling us to identify sectors in which these companies operated before entering the N95 respirator market and to infer whether their entry into PPE leveraged pre-existing capabilities, networks, or resources. Even when registered capital amounts are available, unfortunately they provide no clarity as to whether financing came from internal reserves, loans, investors, or local business networks.

These records also cannot confirm whether companies reused existing facilities — such as electronics factories but they had to use some kind of existing facility considering the speed with which they established PPE production after the start of the COVID-19 pandemics. We also cannot determine whether they met basic standards of hygiene in their production facilities.

To establish these temporal patterns, the scope of prior business operations was cross-referenced with the timing of the issuance of new facemask-related license registrations. Drawing on the dates that companies were established and the dates of business license registrations recorded in company profiles, we were able to undertake the needed analytics. The issuance dates were organized into a time-series format, segmented according to the course of the COVID-19 pandemic that shaped demand for N95 respirators. These pandemic phases — pre-pandemic, pandemic, and post-pandemic — capture the fluctuations in market demand (for time frames, see Appendix 2b). We aligned these timestamps with milestones of the COVID-19 pandemic based on WHO announcements (World Health Organization, 2020). This analysis provides insights into how counterfeit PPE supply chain operations adapted over time in response to government policies and global market conditions.

3. Analyzing broader counterfeit networks

While counterfeiters concealed their identities during production and distribution to avoid shutdowns by the authorities, there were limits on concealment. Distributors of counterfeits or distributors who are unknowingly distributing counterfeits must operate publicly to reach buyers, often via web platforms and social media postings. Identifying these distributors through online advertisements and activities provided entry points into analyzing broader counterfeit networks, enabling deeper investigations and exposure of entire supply chains. Our methodology followed the following steps:

Step 1: Identify Distributors – We identified distributors operating within both the B2B or B2C supply chains dealing in counterfeit N95 respirators. These hotline reports to 3M often included supporting evidence (e.g., product photos, website screenshots, invoices for transaction) that helped verify the distributors' involvement in counterfeit activities. Distributors in both types of networks directly contacted buyers, making them key targets for investigations. For the B2B networks, distributors were identified primarily from hotline reports and customs seizures records. 3M's professional staff reviewed these cases. For the B2C network, victimized consumers reported suspicious counterfeit N95 transactions to 3M, providing evidence to support the tracing of the distributors involved. 3M also conducted test purchases of products bearing 3M logos that were thought to be counterfeited to confirm falsification. Using these diverse data sources, we identified distributors by examining company and contact details, including sales names, email addresses, phone numbers, social media accounts, or registered company addresses. Over 60 investigations conducted by 3M were supported by our research and subsequently presented to the IPR[4] (Intellectual Property Center) of the Department of Homeland Security for further investigation and possible prosecution. Several of the cases led to mass confiscations of masks.

4 Editorial in OPI (2024) 3M tackling fake face masks – 3M has launched an app to help users identify genuine disposable face masks. URL: http://www.opi.net/news/region/001-north-america/3m-tackling-fake-face-masks/

Also, cases were prosecuted by the US Department of Justice. For example, in *United States v. Nathan Brown*, the CEO of Old World Timber company was sentenced to ten months in prison for importing over 100,000 counterfeit 3M N95 respirators from China and reselling them in the United States despite repeated warnings from 3M that the respirators were counterfeit. He was ordered to pay $129,353 in restitution[5]. This case demonstrates how collaboration among 3M, DHS, and DOJ resulted in enforcement actions being taken against distributors who ignored brand-owner warnings.

Step 2: Verify Counterfeiters – Not all identified distributors were intentionally involved in distributing counterfeits. To verify their activities, we evaluated whether their operations met the criteria of the Trade Related Aspects of Intellectual Property Rights (TRIPS). We compiled and analyzed all available evidence, such as product samples, packages, solicitation documents, authorization records, and test purchase reports, while examining each company's supply chain and business licenses overseas when possible.

Step 3: Map Networks of Verified Counterfeiters – After verifying the counterfeit distributors, we mapped their networks to trace the producers of counterfeit N95 respirators. We used company investigation reports, web posts, company profiles, and shipping data to identify their global affiliations and transportation networks. Each supply chain network was constructed by linking companies using matching identifiers, including company names, key members' names, email addresses, phone numbers, and registered business addresses. We cross-referenced these identifiers across databases to confirm connections. For example, matching a registered address in a company profile database with shipping data from customs allowed us to validate the company's role within the counterfeit supply chain. Only those companies verified through TRIPS (Trade-Related Aspects of Intellectual Property Rights)[6] compliance checks were included in the final network analysis.

Step 4: Define Roles Using Business Licenses – To uncover the roles counterfeiters play within the supply chain, we examined their Chinese business licenses, which detail the products or services they are authorized to produce or distribute. The majority of identified company profiles in this

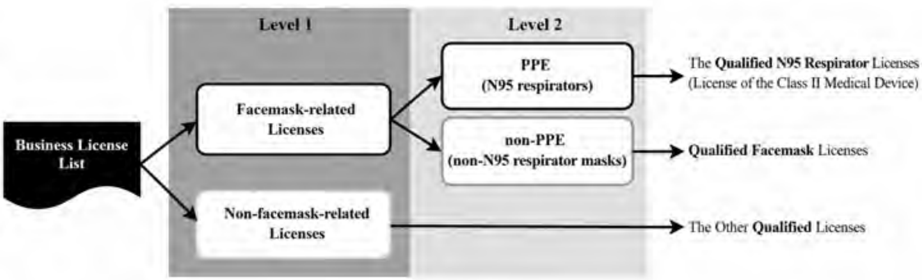
5 Department of Justice (April 2021) Lexington CEO Sentenced to 10 Months for Distributing Misbranded 3M N95 masks. URL: http://www.justice.gov/usao-edky/pr/lexington-ceo-sentenced-10-months-distributing-misbranded-3m-n95-masks

6 TRIPS is an international agreement, stands for "Any solicitation and distribution product using the trademark without authorization from brand owners are counterfeit products." administered by WTO.

study came from open-source data in China. All facemask-related products, including N95 respirators, require specific business licenses for production and distribution. Additionally, N95 respirators used in medical contexts require special certifications, making business licenses critical for identifying counterfeiters' roles.

The business licenses are classified into two levels in Figure 3: (1) Facemask-related vs. Non-facemask-related licenses, and (2) PPE (N95 respirators) vs non-PPE (non-N95 respirator masks). Although counterfeit masks may not meet N95 standards, they can be confused with disposable masks based on filtration levels. The U.S. Food and Drug Administration (2020) requires specialized licenses to pass customs inspections, which counterfeiters by adding infringing logos and deceptive packaging allowed many packages to pass through customs clearance without detection.

Figure 3: The Categories of a Company's Business License List



Source: Elaborated by the authors.

Therefore, our analysis considered whether counterfeiters used generic masks without logos to evade third party inspections or customs detection. A company may legally distribute such generic masks under a non-PPE license. However, counterfeiters may engage in trademark infringement by applying counterfeit logos (e.g., printing logos on masks and re-packaging them) after passing inspections or customs checks. These final steps may be completed in unregulated spaces such as warehouses or informal processing locations.

Although it is possible that inspectors in the intermediate shipping point may not verify the filtration standards of physical products to provide evidence of counterfeiting, customs and hospitals required respirators from vendors with licenses to trade PPE. Therefore, we verified whether each identified company was authorized to have a specialized PPE license. This was done through public profiles to determine whether the companies were authorized to operate in the PPE industry, if not, this was clear evidence of counterfeiting.

Table 2 presents the different facemask-related licenses, categorized according to the mask filtration classification defined by the American Food and Drug Administration (FDA). These licenses are issued to companies after regulatory agencies verify their compliance with applicable laws and standards. For this study, we classify licenses for non-Class II Medical Devices (Non-PPE) under the broader category of "facemask-related licenses".

Table 2: The Terms of the Facemask Related Licenses

Category	FDA Face Mask Term	FDA Standard Code	Business Licenses or Certificates for N95 Respirators
PPE	Surgical Masks	Class II Medical Device under 21 CFR 878.4040	• License: production/sale of class II medical device
	N95 Respirators		• Certificates: FDA, NIOSH (National Institute for Occupational Safety and Health), CE marking (conformity with European standards), or other applicable local health and safety certifications.
Non-PPE	Barrier Face Coverings	ASTM F3502-21: Meet particulate filtration efficiency and airflow resistance standards	• License: Production/sale of labor protection for face covering
	(General) Facemasks	--	• Licenses: productions/sales of daily goods, plastic fiber, or non-woven; services of import and export, e-commerce, warehouse, freight forwarding

Source: Elaborated by the authors.

To determine the role of counterfeiters in the N95 mask supply chain, we analyzed both business licenses and marketing evidence to classify actors as producers, distributors, logistics providers, or equipment suppliers. Since holding a license related to facemask sales, such as wholesale, retail, or online distribution, does not confirm whether a company is engaged in manufacturing, we relied on multiple forms of evidence. Specifically, we used business scope information to identify actors with licenses for production or processing of facemasks. In contrast, actors without such licenses were classified as distributors.

When marketing evidence (e.g., screenshots, product images, or promotional content; see Appendix 1, Table 1.8) was available, it revealed whether an actor marketed counterfeit N95 respirators, mask-production machinery, or both. The pricing, sales behavior, and platforms used provided further clues about whether an actor was a producer, distributor, or both. Online marketers, whose individual role is to sell products, were grouped under distributors, including both retail and wholesale levels. However, because purchase orders and price details are often unavailable or unreliable, especially given shifting market conditions during the pandemic (Marzolf et al., 2023), we relied more on online marketing content that reflects the counterfeiters' target buyers.

In cases where such marketing evidence was unavailable, we categorized or verified roles based on the company's registered business scope. Firms involved in logistics, warehouse operations, or export services were categorized as logistics providers. Those producing or selling general-purpose or medical-grade equipment were identified as equipment suppliers of counterfeit N95 respirator.

Table 3: The Roles in Counterfeit Supply Chains

Roles	Business Operations under Facemask-Related Licenses
Distributor	• Provide import/export services of mask-related products, either online or in-person • Offer direct sales to the businesses or end customers (e.g., retailers, wholesalers, or online sales for daily consumer goods, such as clothes, stationery, hygiene products, daily necessities, etc.)
Producer	• Manufacture mask-related products or their components/materials
Logistics Provider	• Provide services of warehouse and/or freight agents
Equipment Supplier	• Production or provision of mask machines

Source: Elaborated by the authors.

Step 5: Analyzing Temporal Patterns – To assess how quickly counterfeiters entered new markets, we analyzed temporal patterns in their business operations before during and after the pandemic focusing on how they transitioned among industries. Then, we analyzed categorized license issuance dates to track the entry of businesses into the face mask sector.-Also, we incorporated timestamps related to counterfeit companies' operations. The set of timestamps covers key operational events, such as the dates of company formation, dissolution, and entry or exit from the counterfeit N95 respirator business (see Appendix 2a).

Analyzing temporal patterns can reveal how swiftly counterfeiters can enter new markets. Then, we used NAICS codes to track license issuance dates and identify industry shifts based on supply chain roles, revealing how companies transitioned across sectors over time. To understand the industry sectors in which the identified companies operate, we used the 2022 version of the North American Industry Classification System (NAICS) codes (http://www.census.gov/naics/) to categorize licenses into broader sectors, aligning with global industry classification standards.

Also, we analyzed facemask-related license dates to understand how counterfeiters adjusted their business models for medical-grade PPE and to identify when they entered or exited the market. Government authorities in China issue mask licenses to maintain market order, but the level of government responsible for issuing the license can vary. Business licensing is often managed at a regional, state, or municipal level rather than centrally, meaning that local market conditions and regulations shape the licensing environment. The particular local and regional administration potentially affects both the speed and manner of license issuance. The gaps between issuance at different stages of the pandemic and expiration dates reveal the speed of the approval process, which can indicate a facilitating culture for counterfeit production, such as exists in several countries identified by the OECD (OECD, 2025: 15). It may also indicate possible corruption or existing networks that facilitate rapid company registrations, or the interests of the local community in cashing in on a product for which there is significant demand and will employ significant numbers of workers and bring capital back to the community.

4. Revealing Identified Counterfeiters

The number of counterfeiters identified through steps 1 to 4 is summarized in Table 4. Initially, we identified 113 distributors, including individuals, shops, and companies, through our collaboration with 3M. After further analysis, 91 were confirmed as counterfeit distributors. For those, we expanded their supply chain networks and identified a total of 102 companies engaged in counterfeiting either by engaging in 3M trademark infringement in online solicitations, customs seizure records, and historical company profiles documenting lawsuits or regulatory penalties for previous involvement in counterfeiting. Then, from the 91 distributors, we expanded to 102 companies by tracing affiliated entities through our available contact details (see *Data Sources of Identifying Counterfeiters of N95 Respirators* and *Step 3 - Map Networks of Verified Counterfeiters*), linked company profiles, customs records, and private investigations that tied distributors to additional firms. These expansions of the network revealed producers, logistics providers, and equipment suppliers associated with the initial distributors identified in step 1. All 102 companies' activities as part of the counterfeit network were substantiated through evidence of trademark infringement, customs seizure records, or historical company profiles documenting prior counterfeit involvement. Not every counterfeit company had detailed available public records. For our in-depth analysis, we focused on 66 companies with clear dates of registering business licenses in order to do a temporal analysis.

Table 4: Summary of the Identified Counterfeiters of each Step

Steps	Supply Chian Roles				Total Numbers
	Distributor	Logistics Provider	Producer	Equipment Supplier	
1. Identify Distributors	113	--	--	--	113
2. Verified Counterfeiters	91	--	--	--	91
3. Mapped Networks	91 + 4	7	11	10	102
4. Reveal companies with temporal patterns	62	5	12	10	66

Source: Elaborated by the authors.

Specific roles of counterfeiters in step 3 are summarized in table 5. Since companies may hold multiple counterfeit roles, each is counted independently. The highlighted 14 companies in Table 5 combine 5% who are equipment suppliers, and 4% who are counterfeit producers. In contrast, Table 6 presents a role-based breakdown rather than that addressing individual companies.

Table 5: Summary of the Identified Counterfeiters' Roles Played in N95 Respirator Counterfeiter Respirator Supply Chains

Roles		Numbers	Percentage
Distributor	Distributor Only	79	77%
	Producer and Equipment Supplier	5	**5%**
	Equipment Supplier	5	**5%**
	Producer	4	**4%**
	Logistics Provider	2	2%
Logistics	Logistics Only	5	5%
Producer	Producer Only	2	2%
Total		102	100%

Source: Elaborated by the authors.

Table 6: Total Numbers and Percentages of Each Counterfeit Supply Chain Role

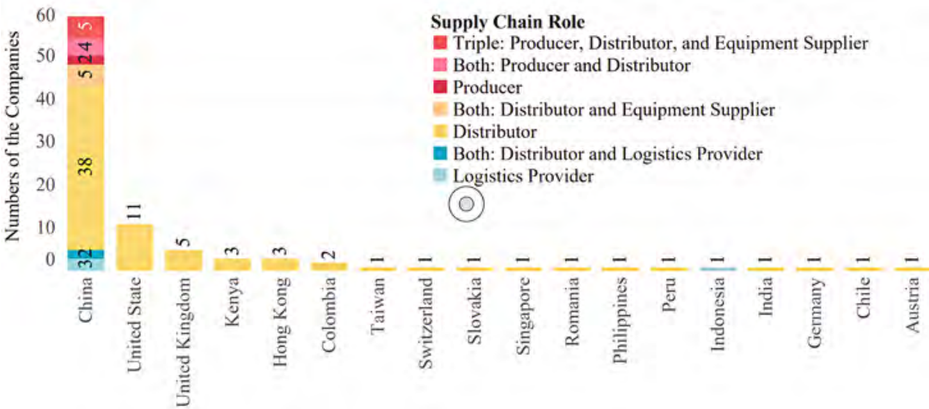
Role	Total Numbers	Total Numbers/ Total Roles Identified (N = 102)
Distributor	95	98.1%
Producer	11	10.7%
Equipment Supplier	10	9.8%
Logistics Provider	7	6.8%

Source: Elaborated by the authors.

5. Global Analysis of Supply Chains and Revealing Counterfeiters' Business Operations

To examine global role distribution, we mapped company addresses and color-coded their supply chain roles in Figure 4. Most producers were based in Asia, while distributors were spread across the Americas, Europe, and Africa. China accounted for 62% (59 of 95) of all roles, with the rest spread across 16 countries and one logistics firm in Indonesia. All equipment suppliers and producers were located in China, which also hosted 52% (38 of 73) of distributors underscoring its central role as the primary producer and source of counterfeit N95 respirator shipments.

Figure 4: Country of Company Registration of the Counterfeiters (N = 95)
Source: Elaborated by the authors.



All counterfeiters identified from our investigations operated through registered companies, using their company name as a front for counterfeit activities. We analyzed the company names of identified counterfeit distributors and producers (Figure 5). These names typically include a city name, the company name, the primary business activity, and the type of company entity (e.g., Co., Ltd.). These companies aim to appear as legitimate suppliers and evade law enforcement.

Figure 5 shows that most identified counterfeiters of N95 respirators, often using names that emphasize e-commerce. Among 66 companies, 24% (16 of 66) included e-commerce terms, 6% (4 of 66) referenced "Personal Protective Products", and 11% (7 of 66) used "equipment" in their names.

The remaining 41% reflected their main products or services, indicating counterfeiters strategically adopted names that attracted buyers or suppliers while masking illicit activity. The analysis was possible because counterfeiters generally adopted company names that reflect general business operations.

Figure 5: Words Cloud of the Identified Company's Business Title (Sample = 66)

Source: Elaborated by the authors.

Although these e-commerce companies lacked licenses to sell N95 respirators, they held legitimate registrations for other sectors such as logistics and trade licenses for the sale of electronic products, auto parts, household goods, daily necessities, watches, clothing, and bags, revealing the industry sectors they occupied before the onset of the pandemic. These companies sold through general merchants, rather than relying on specific medical supply chains for N95 respirators that are typically sold to hospitals and emergency responders.

The 66 companies producing counterfeits that were subject of in-depth analysis were classified by their business license issuance dates into NAICS categories for the pre-and late-pandemic periods (see Appendix 2b and Appendix 3), aligning with key shifts in N95 respirator demand before and after the pandemic. Most counterfeit PPE producers operated legitimate businesses in the wholesale electronics sector before the pandemic, shown in Figure 6. Logistics companies involved in counterfeit N95 distribution remain within the logistics industry both before and after the pandemic, showing no evidence of sectoral change.

Figure 6: Industries of Counterfeiters' Companies Before and After the Pandemic.

Note: Other industries including food processing, plastic products, fire-fighting equipment, cultural supplies, exhibition and display planning service, agricultural products, building equipment and products, leasing services, financial services, and more. (Sample = 66)

Source: Elaborated by the authors.

Figure 6 presents the leading industry sectors and their percentages, showing which sectors the counterfeiters operated in before the pandemic and the sectors in which they registered licenses after the pandemic began. According to this figure, 52% of the companies were involved in distributing electronics parts or products as brokers or agents ("Wholesale Electronic Markets (Agent/Brokers),") before the pandemic. The other top industrial participants included those from "Electronics & Appliance", "General Merchandise", "Merchant Wholesalers (Durable Goods)", "Machinery, Equipment Merchant Wholesalers", "Motor Vehicle & Parts Dealers", "Clothing/ Clothing Accessories", "E-Commerce Service", "Health & Personal Care", and "Medical Equipment and Wholesaler'.

Many known electronics and automobile manufacturers in China (i.e., Foxconn Technology Group and BYD Company Limited) adapted their production lines to meet the urgent global demand for N95 respirators during the pandemic [7]. Foxconn and BYD are best known for producing highly sought electronic products such as batteries, mobile phones, auto parts, molds, and other industrial equipment. During the pandemic, both companies demonstrated their ability to rapidly shift large-scale industrial production toward personal protective equipment manufacturing. We do not include manufacturers such as these in our counterfeit analysis.

An interview conducted in November 2024, with a retired department head of a large Chinese automotive manufacturer reveals how counterfeiters can infiltrate legitimate industrial procurement channels. The interviewee worked through the early stages of the pandemic and reported that she was approached by individuals claiming to be authorized B2B vendors of 3M. They presented her with official-looking documentation and claimed they were certified to sell 3M labor protection products, including N95 respirators. As her role involved overseeing the procurement of industrial safety equipment and reporting to local regulatory authorities, she was well-versed in evaluating vendor credibility. This encounter highlights how counterfeiters can fool many that they are legitimate suppliers, even within regulated sectors such

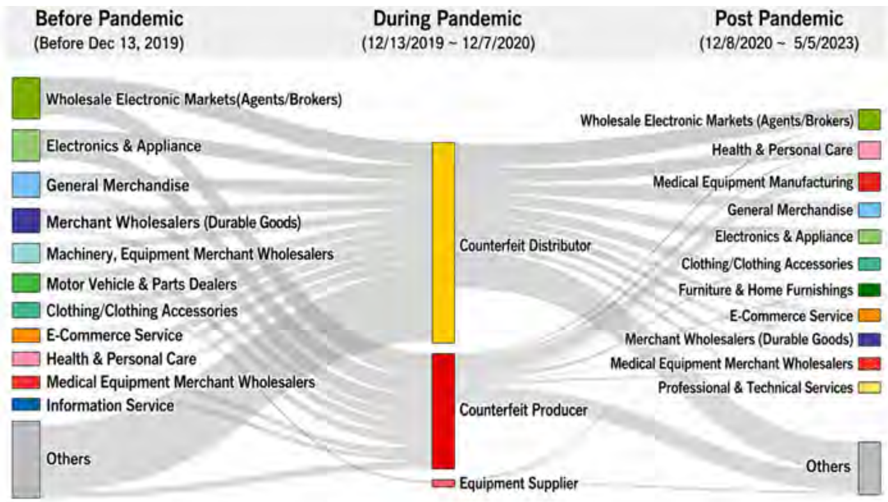
7 Langchao workshop (2020) What's the magic behind the car factory making masks? (汽车厂造口罩是什么神操作.) 浪潮工作室 (Langchao workshop). 視风闻 (guancha) URL: https://user.guancha.cn/main/content?id=243857&page=0 ; Shanglinyuang ("上林院") (2020) Mask shortage! Foxconn and BYD have both started producing masks. When will the masks be able to meet demand? (口罩短缺！富士康、比亚迪都开始生产口罩，口罩何时能满足需求？:" Baidu. URL: https://baijiahao.baidu.com/s?id=1658061593025842339&wfr=spider&for=pc

as automotive manufacturing. Even early in the pandemic, N95 respirators were already a critical item in automotive operations due to strict safety requirements for employees. This suggests that even large manufacturers face challenges with the integrity of their supply chains and must be constantly vigilant to ensure that they are not purchasing counterfeits.

Counterfeiters expanded their licensing registration either immediately or shortly after entering the counterfeit N95 respirator market. For example, we found that two of the trading companies identified as distributing counterfeit N95 respirators applied for online sale permits after the pandemic began. Seventeen companies applied for related business licenses for the production or distribution of non-medical masks, labor protection products, hygiene products, disposable medical products, and medical PPE products.

The counterfeiters who came from the wholesale electronics sectors were flexible and quickly adapted to the new PPE market due to experience in industrial-scale mass production and distribution. Figure 7 illustrates the pre-pandemic and post-pandemic business operation of those engaged in counterfeit PPE production and distribution during the pandemic. It identifies the roles of counterfeiters as distributors, producers, or equipment suppliers and how capital flowed through their different operations.

Figure 7: Sankey Diagram of Counterfeits' Capital Transitions (Sample = 66)



Source: Elaborated by lead author.

Business licenses issued before the pandemic cannot confirm whether counterfeiters repurposed their existing facilities for N95 respirator production. Yet analysis of the conditions needed to initiate large scale PPE production suggests that there would be advantages in rapidly scaling operations if counterfeiters could exploit the facilities of existing electronics factories and convert them to counterfeit production. There is evidence that producers often had experience in manufacturing across various fields, including non-woven materials, plastics, metals, automation equipment, and electronics, as well as expertise in sourcing or designing the machinery needed for high-volume production. A total of 82% of companies (9 out of 11) had been established before the pandemic although they did not have licenses to produce PPE. The equipment suppliers were primarily registered as "Machinery, Equipment Merchant Wholesalers" prior to the pandemic Although they lacked direct experience in N95 respirator manufacturing, their skills in designing and producing mass-production equipment in other industries would have enabled them to scale up quickly.

These equipment suppliers for mask machinery were only licensed for general equipment rather than specialized mask machinery. However, with the increased demand for N95 respirators, they obtained specialized licenses for mask machinery used in medical respirator production, allowing them to sell mass-production machinery to other counterfeit N95 respirator producers or even to sell counterfeit N95 respirators manufacturing themselves to distributors during the pandemic. Therefore, these companies likely leveraged their prior experience, whether from licit business operations or illicit counterfeit distribution in the wholesale electronics sector, to establish new production or distribution channels for counterfeit N95 respirators rapidly during the pandemic. Three identified distributors of counterfeit N95 masks were caught by customs in China (source from "Lawsuits and penalties" of company profiles) during the pandemic for distributing other counterfeit products including perfumes, hats, watches, and bags but were not identified as selling counterfeit electronics.

As the pandemic came to an end and the demand decreased for PPE products, these counterfeiters left PPE businesses because their profit margins were reduced. Therefore, some manufacturers of counterfeit products entered new emerging markets and leveraged established distribution channels to produce and distribute other counterfeit products. For example, some PPE counterfeiters transitioned to industries with greater consumer demand, such as wholesale electronics or health and personal care. As shown on the right-hand side of Figure 6, about 23% of the companies identified applied for new licenses to distribute electronic parts or products as brokers or agents, while another 23% moved into the health and personal care sector. A smaller share shifted to the medical equipment manufacturing sector, reflecting business opportunities that emerged during the pandemic. Others, particularly those already licensed in wholesale electronics before the pandemic, did not seek new license registrations, suggesting they continued to pursue profits in their original sector.

Some PPE counterfeiters who were not in the PPE industry previously used their illicit profits and experience to become legitimate vendors in the PPE industry or other related industries. For example, some counterfeit N95 respirator machinery providers transitioned from machinery wholesalers to suppliers in the medical equipment industry, indicating they entered the legitimate medical equipment sector. As a result, by obtaining a legitimate medical production equipment license, these companies were able to infiltrate established distribution channels — as existing middleman or vendors supplying hospitals or enterprises. These actors also provided medical machinery to competitors of brand owners such as 3M, thereby supporting the emergence of new PPE brands.

6. Temporal Patterns of Counterfeiters Entering and Leaving the Counterfeit N95 Mask Supply Chain

The shifts in demand for PPE reflect public health guidance and policy announcements as well as the WHO organization declaration of the onset of the pandemic on March 11, 2020. As the pandemic evolved, announcements such as mask mandates, the introduction of vaccines, and the easing of emergency conditions reshaped demand (Our World in Data, 2024; WHO, 2025). These transitions appear to have influenced the timing of counterfeiters' entry into and exit from this sector.

Table 7 summarizes the number of companies identified by their establishment dates, license issuances, and disclosures from historical records. Out of the 66 counterfeiters identified, 62 had records of establishment, entry, and departure dates in the medical mask sector, resulting in a final sample size of 62 counterfeiters for this section.

Table 7: Temporal Data Summary for Analyzing Factors and Trends of Counterfeiters' Business Operations

Teams of Time Periods	Numbers of Identified Dates from the Counterfeit Companies		
	Establishment	Entry to Medical Facemask Business	Exit from Medical Facemask Business
Before-pandemic (Before 12/12/2019)	37	5	0
During-pandemic (12/13/2019 -12/7/2020)	25	42	17
Late pandemic (12/8/2020-5/5/2023)	0	1	3
Total	62	48	20

Source: Elaborated by the authors.

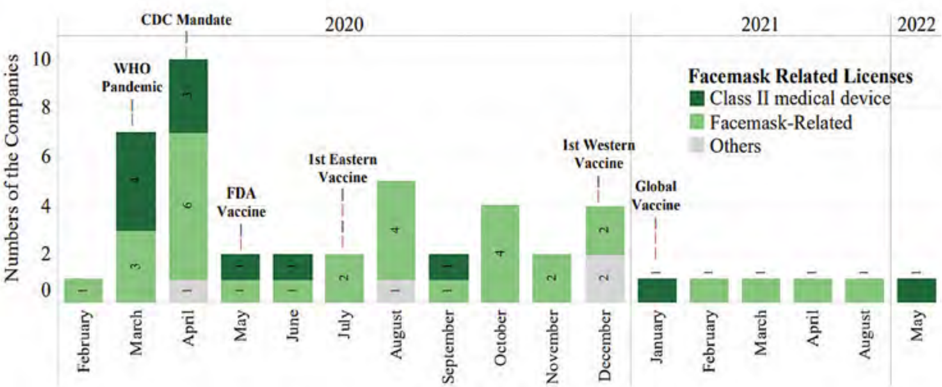
Notably, more than half of the N95 respirator counterfeiters were not involved in the PPE sector before 2020. We present the number of identified companies engaged in counterfeit production and distribution categorized by key dates corresponding to different stages of the COVID-19 pandemic (See Appendix 2(b)). Each date category independently counts the number of identified companies.

7. Factors Influencing Entry and Exit from N95 Respirator Life Cycle

Figure 8 illustrates the emergence of new counterfeit N95 respirators within three months of the pandemic, with notable spikes in the market following the WHO's announcement and the FDA's mask mandate. Beginning in February 2020, counterfeiters quickly obtained specialized licenses from their local or regional governments, particularly in March and April of 2020. However, the number of companies entering into this sector slowed significantly as the global vaccination rate increased. Of the companies involved in counterfeit N95 respirators, 91% (43 out of 47) possessed all necessary facemask-related licenses, but only 28% (12 out of 43) had licenses that met N95 respirator requirements. Notably, 83% of those with specialized N95 respirator licenses had applied before 2021.

Evidence from 3M infringement reports, customs seizures, and online solicitations confirms that many of these companies misused trademarks or produced substandard masks while presenting them as N95 medical quality, underscoring their focus on the mass production and distribution of counterfeit N95 respirators during that time. For two years following May 2020, 81% of counterfeiters entered the market by registering for facemask-related licenses rather than specialized N95 respirator licenses. This timing reflects the sustained global spread of COVID-19 and the resulting demand for high quality masks. As hospitals increasingly required specialized licenses for procurement[8] counterfeiters shifted toward targeting general consumer markets or producing N95 respirators without authorization. This shift suggests that, as specialized N95 licenses are required for hospital distribution, counterfeiters transitioned from targeting hospitals to wholesaling their inventory to the general consumer market. Counterfeiters producing N95 respirators without authorization produced hundreds of millions of these masks. This research project contributed to the seizure of over 60 million masks worldwide[9], a significant number but only a small percentage of overall counterfeit production.

Figure 8: Numbers of Counterfeit Companies During the Pandemics Colored by Facemask Related Licenses



Source: Elaborated by the lead author.

8 YouGou (2020) What qualifications are needed to export masks to the United States? URL: https://www.cifnews.com/article/63339; FDA (2025) Device Registration and Listing. URL: https://www.fda.gov/medical-devices/how-study-and-market-your-device/device-registration-and-listing

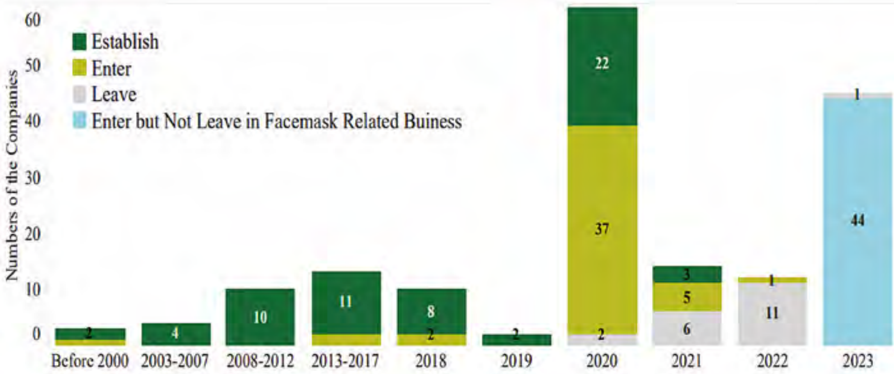
9 Editorial of OPI (2024) 3M tackling fake facemasks – 3M has launched an app to help users identify genuine disposable face masks. URL: http://www.opi.net/news/region/001-north-america/3m-tackling-fake-face-masks/

The N95 respirator shortage prompted Chinese officials to relax regulations, creating opportunities for unscrupulous manufacturers to qualify as legitimate suppliers. In response to the N95 respirator shortage, one of the government agencies in China prioritized new PPE license applicants and fast-tracked renewals under an urgent inspection policy (Tianjin Market and Quality Supervision Administration Committee, 2020). Counterfeiters capitalized on the demand for N95 respirators by obtaining Class II medical device licenses through expedited approval processes. This expedited approval process established shorter verification timelines for government staff during the COVID-19 crisis compared to normal periods. Additionally, companies that had previously received specialized PPE licenses could bypass on-site inspections if they met certain criteria, allowing counterfeiters to distribute products globally in less than four months (5 to 125 working days) during the early stages of the pandemic (Tianjin Market and Quality Supervision Administration Committee, 2020). The peak period for issuing specialized licenses to companies that engaged in counterfeiters coincides with the onset of the pandemic. By obtaining N95 mask licenses, counterfeit manufacturers were able to present the required documentation to export customs or to suppliers serving hospitals. U.S. hospitals and customs agencies and law enforcement agencies intercepted millions of counterfeit N95 masks early in the pandemic shipped by Chinese distributors (Levenson & Kanno-Youngs, 2021). This analysis reveals how swiftly counterfeiters responded to the rising demand for N95 respirators as the pandemic unfolded.

8. Counterfeiters Leaving the N95 Respirator Supply Chain

By 2023, as the pandemic began to recede after vaccines were rolled out, no new companies entered the N95 respirator business. Based on company profile records, 32.2% (20 out of 62) of identified counterfeiters exited the market, as shown in Figure 9. Among the identified companies, Figure 9 also presents the numbers and timing of their departures by year. In this study, a company was considered to have “left” the counterfeit market if, by 2023, its official registration records indicated either dissolution or the issuance of new business licenses outside the PPE sector.

Figure 9: The trend of counterfeiters Entering and Leaving the Counterfeit N95 Respirator Supply Chain



Source: Elaborated by the lead author.

According to these records, two companies left in 2020, six left in 2021, eleven in 2022, and one in 2023, totaling 20 companies (see the grey bars in Figure 9). Of the identified counterfeiters, 95% (19 out of 20) of them left the N95 respirator business before the end of 2022. The average duration of time that the counterfeiters participated in the counterfeit mask market was approximately 1.2 years, indicating a rapid contraction of the N95 respirator market as the disease was increasingly controlled.

Conclusion

This study shows how diverse data, including that from a western corporation is key in understanding counterfeit supply chains. This study provides an important example of counterfeit products rapidly enteringthe global supply chain in massive quantities during the earliest stages of the pandemic. The analysis highlighted several roles within counterfeit supply chains — producers, distributors, logistics providers, and equipment suppliers. Distributors dominated the networks, accounting for the largest share of those identified in the counterfeit PPE sector, while producers and equipment suppliers leveraged prior expertise in electronics, machinery, plastics, and automation to enter the counterfeit N95 market rapidly. Although business licenses gave counterfeiters the appearance of legitimacy, many lacked the specialized qualifications required to produce N95 respirators that complied with regulatory standards. Instead, they exploited loopholes and the absence of oversight to survive in the market. Equipment suppliers played dual roles by selling mask-production machinery to counterfeiters and, in some cases, using the same machinery to manufacture counterfeit respirators themselves.

A key hypothesis in the early phases of our research was that the counterfeit mask producers had previously operated in the counterfeit textile sector, since many PPE counterfeits originated in regions known for textile production, such as Quanzhou in Southern China. However, the licensing data revealed a different pattern: only 15% of identified counterfeit distributors had prior registrations in the textile sector, and no counterfeit producers were directly involved in that sector during the pandemic. Instead, most counterfeiters entered PPE from other industries, such as electronics and machinery as documented.

Geographically, counterfeit PPE producers were predominantly clustered in China's southern coastal regions — areas long associated with counterfeiting. These regions provided direct logistical channels not only to East and Southeast Asia but also to Europe, North and South America and the Middle East enabling the rapid transfer of counterfeit products abroad. After the pandemic, many returned to electronics and related sectors, consistent with OECD findings that counterfeiters concentrate in high-demand markets such as electronics (OECD, 2025).

The findings also demonstrate that counterfeiters' entry into the N95 respirator business was closely tied to fluctuations in demand during the pandemic. Many obtained specialized or near-equivalent licenses — for masks that did not meet N95 standards — to gain buyer trust and secure sales. By leveraging legitimate licenses, repurposed infrastructure, and gaps in enforcement, counterfeiters positioned themselves as credible suppliers, facilitating counterfeit production and distribution at a global scale. Some counterfeiters reinvested illicit profits and experience to transition into legitimate industries after the pandemic, including medical equipment manufacturing, thereby further blurring the line between licit and illicit markets.

More broadly, counterfeiters exploited the global complexity of supply chains in electronics and automation to expand rapidly during the pandemic. These networks are highly adaptable, shifting quickly to new opportunities such as counterfeit PPE, and their access to extensive global distribution channels allowed counterfeit goods to bypass inspections with relative ease. During times of shortage, legitimate suppliers sometimes relied on new manufacturers to meet urgent demand, creating opportunities for counterfeiters to infiltrate the supply chain when oversight was weak. As counterfeit production hubs remain concentrated in China, they also extend into other regions where new industries and supply chains are emerging, raising the risk of counterfeit markets forming alongside legitimate ones.

Understanding these evolving dynamics is essential. Counterfeiters leverage legitimate covers, exploit regulatory gaps, and adapt their operations to market shifts, making them difficult to detect and disrupt. As global supply channels continue to expand, the challenge of combating counterfeit production will intensify, requiring stronger monitoring, enforcement, and collaboration among brand owners, regulators, and researchers. It will also require the analysis of data and a greater understanding of illicit supply chains to combat the pervasive problem of substandard counterfeits that pose significant challenges to health and safety.

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Appendices

Appendix 1. Details of the Data Source Collections

Hotline Data

The hotline data, provided by 3M, was derived from customer inquiries from many different countries. These data were originally submitted by individual consumers and business-to-business buyers who harbored concerns about the authenticity of the N95 respirators they had acquired or encountered. The consumers and buyers diligently documented pieces of evidence pointing to counterfeiting, including photographs or screenshots of the products they received, relevant documents, licenses, dialogs involving the counterfeiters, seller names, and contact information. 3M integrated this hotline data into a structured report format. Subsequently, these reports were meticulously reviewed by 3M's team of counterfeit experts to determine the presence of counterfeit activities. Table 1.8 provides illustrative examples of the evidence collected during this process.

Table 1.8: Examples of Evidence Collected from Hotline Data

Evidence Types	Examples of Evidence
Image, Photograph or Screenshot	Market solicitations using the 3M logo, counterfeit products, shipping marks, and shipping cartons
Document	Purchase orders, invoices, packing lists, production inspections, and respirator certificates (i.e., FDA or CE)
License	Company business licenses and occupational business licenses
Seller name	Names of shipper, consignee, seller, shop, or individual
Dialog	Email, text or social media messages, or hotline and client reports
Contact information	Addresses, email addresses, phone numbers, social media accounts, and official websites

Customs Seizures

Other data from 3M included customs seizure data, the records of shipments that had been intercepted and confiscated by customs authorities at international borders. These records provided information about these intercepted shipments, including the names of the companies involved, details about the products seized, the quantities, shipping origins, and destinations. These records are typically maintained and overseen by customs authorities, who are responsible for seizing suspected counterfeit goods and working in collaboration with brand owners or rights holders to identify and address counterfeit activities. In our case, the source of customs seizure data provided by 3M contained information about a list of counterfeit export companies involved in shipments to the United States.

Web Posts

Another data source was collected via web-scraping provided by 3M, which involved both automated and manual collection of N95 respirator product listings from web pages linked to identified counterfeit companies. This web-scraping data included all 3M respirator products appearing across a wide array of platforms, including but not limited to Facebook Marketplace, LinkedIn, Amazon, Alibaba, online forums, and product listings on private-owned websites. These listings were scrutinized for potential counterfeit activity. Furthermore, to gain insight into the entities operating these private-owned websites, Domain Tools (http://www.domaintools.com/) was used to trace and identify the registered company names associated with these websites.

Company Investigation Reports

The counterfeiters' investigation reports furnished by 3M played another role in uncovering entities within the supply chain networks of counterfeit firms, with a particular focus on identifying counterfeit wholesalers and manufacturers. To carry out this task, 3M enlisted the services of an investigative organization to ascertain the identities of the companies associated with counterfeit sellers and to identify other counterfeit companies intertwined in their supply chain networks. The resulting investigation reports contained comprehensive information, including the names of the counterfeit companies, their affiliated entities, detailed profiles of all the identified companies, and a compilation of the evidence that substantiated the presence of counterfeiting activities.

For our second objective, subsequent to the identification of counterfeit companies, we examined the details of these companies. We employed their names, entity names linked to the company, and identical contact information to trace other counterfeit entities within their associated operational networks in various marketplaces. This involved cross validating an identified company name and its associated entity names (e.g., shop names, names of sales) along with matching contact details, such as email addresses, company addresses, phone numbers, and social media accounts.

Shipping Data

In addition to identifying associated and affiliated operational networks through searches of shared contact information and company profiles, we used global trade shipment records collected at borders worldwide to trace additional counterfeit companies within each supply chain shipment network. The Panjiva database (http://panjiva.com/) served as a pivotal tool, offering international shipment records and information regarding the origins and destinations of trading companies. The provided records include product names, shipper names, ultimate shipper names, consignee names, transportation methods, goods description, Harmonized System (HS) code (International Trade Administration, 2022), port names of landing or unloading, volume, weights, and value per shipment. We filtered the database using combinations of the identified company names, brand names, product names, and product model numbers, such as"3M, mask, 1860," or a "company name." This enabled us to retrieve all relevant goods shipped in global border records spanning approximately 5 years, from April 2017 to October 2022. This timeframe covered shipment records of the identified companies operating before, during, and post COVID-19 pandemic, indicating a time cycle of the counterfeit N95 respirator operations.

Company Profiles

While reviewing the investigation reports provided by 3M and cross-referencing the information with online searches, we analyzed the profiles of these companies. These profiles, highlighting the affiliation relationships of the identified companies, were located through searches in available public databases, examinations of official company websites, and references to investigation reports prepared by detectives. Specifically, for companies based in China, we leveraged Aichicha (https://aiqicha.baidu.com/) which is a company profile database in China. For the other companies in non-

Chinese countries, Sayari (https://sayari.com/) was used to gather company profiles. In cases involving companies featured in the investigation reports, a collaboration between a private detective and 3M was established to conduct in-depth investigations into the identified counterfeit company profiles. These collaborative investigative efforts yielded background information about these companies. However, if the investigation report did not mention any relevant information (as displayed in Table 1.8), we conducted further searches for the missing information to complete our data collection. Table 1.9 outlines the primary categories, and the corresponding characteristics collected as part of the company profiling process.

Table 1.9: Primary Categories and Characteristics of Company Profiles

Main Categories	Characteristics of Each Category
Registered information	Registration date Historical names Historical addresses Historical key members' names History of business and business scope (issued business licenses) Historical contact numbers and emails Historical market cap Historical dates and events (if any, updating the record above) Number of (insured) employees Company status: active or closed (reason for closure and date)
Company network	Other companies connected to the key members of the company Other companies connected to the branch companies
Lawsuits and penalties	Historical records of lawsuits or penalties from governments
Patents and brands	Historical records of issued patents or branding

To verify the identified counterfeit companies and their company profile, we employed a cross-referencing approach using registered addresses and contact information. This method involved cross-referencing company names and profiles associated with the same counterfeit N95 respirator operations. We conducted searches using affiliated names and contact details of these companies on various search engines and databases, supplemented by targeted website searches through multiple search websites, such as Google, Baidu, etc. This approach was used to uncover further counterfeit activities and discern relationships with other companies, particularly in online solicitations and advertisements related to N95 respirators. Further, the verification process encountered complications due to translation issues and limited comprehensive information about the companies' activities. To gather information on company names, online searches were conducted using specific terms such as entity names, email addresses, contact information, and physical addresses. Company names and other available information were examined to confirm that the identified companies were indeed unique entities. Companies with non-unique names were excluded from our study to ensure the accuracy in our research. Also, we examined optical character recognition (OCR) to process images, for entity name, telephone numbers, and email addresses during our investigations, manually cross-referencing them across sources to identify connections between counterfeit operations. Analyzing shared contacts and OCR images optimized uncover links between entities, such as distributors and producers, providing insights into network operations and revealing hidden patterns.

Company civil case

Civil Chinese court cases were extracted from online recordings of trials that are publicly available when both the plaintiff and defendant consent to publication. During these trials, representatives from both sides present documented evidence (e.g., numbers of counterfeit products, communication records, sold unit prices, identities of individuals involved in the counterfeiting trade, etc.), allowing us to understand past business transactions involving counterfeit products and counterfeiters and identify the roles they played within counterfeit supply chains. If identified companies have court case records in their profiles, we use the court case numbers to access public trial recordings from http://tingshen.court.gov.cn/ in China or obtain the court case documents provided by 3M. These civil cases typically begin when intermediary businesses that believed they were selling authentic 3M N95 respirators discover that the products are counterfeit and file a lawsuit. The intermediary company then sues the manufacturer for misrepresenting the authenticity of the products.

However, in trials between intermediary companies and manufacturers, judges primarily focused on whether the trade violated the terms of the purchase order rather than assessing whether the products were counterfeit. The court did not examine or accept the products as counterfeit because the intermediary company only provided email evidence from their buyers. The enterprise that was victimized did not provide sufficient evidence since the complaint was not notarized by the Chinese Embassy. The court further ruled that, to prove the recipient who received counterfeit goods — the intermediary company should have notified the Chinese Embassy (in Austria) — and provided a third-party Quality Control report and other supporting evidence. Additionally, the intermediary company faced significant challenges, as victims had already shipped some products to other locations, such as Dubai. The contract required the intermediary company to conduct Quality Control and inspection within 10 days at the designated warehouse in Austria and to notify the counterfeit manufacturer within that timeframe. Under these legal technicalities, the counterfeit producers were effectively shielded from liability through procedural and evidentiary requirements imposed by the Chinese courts.

Appendix 2. Collected Temporal Data Used for the Analyses

(a). The Definitions of Temporal Data Using in this Study

Data Category	Descriptions
Time Stamps of Counterfeit Companies' Operations	Time stamps are displayed as 'Month/Date/Year' for the issuance dates related to the company's establishment, dissolution, and entry and exit from counterfeit N95 respirator operation. • The entry date refers to the issuance date of a facemask-related license issued by local government or the establishment of new PPE companies after the pandemic began. • The exit date indicates the issuance of non-facemask-related licenses or the dissolution of the company after the success of COVID-19 vaccination efforts in preventing the virus's spread among humans.
Business Licenses of a company	A list of business license titles for each identified counterfeit company.
Time Stamps for the Demand of N95 Respirators	Time periods represent the pre-pandemic phase, the peak period during the COVID-19 pandemic, and the later stages of the pandemic.

(b). The Definitions of Time Periods over the COVID-19 Pandemic

Terms of time periods	Periods (M/D/Y)	Definitions
Before Pandemic	Before but not including 12/12/2019	Initial COVID-19 cases identified in China in December 12, 2019, at which point the demand for N95 respirators began to surge (BBC News, 2020; WHO, 2020a; Page et. al., 2021).
During Pandemic	12/13/2019 ~ 12/7/2020	Spread of the coronavirus and related strains in the absence of vaccination (CBS News, 2022), during which N95 respirators were in high demand.
Late Pandemic	12/8/2020 ~ 5/5/2023	WHO announced the availability of vaccines, leading to a decreased demand for N95 respirators and signaling an end to the COVID-19 pandemic (WHO, 2020b; WHO, 2023).

Appendix 3. The Definitions of the Corresponding NAICS Code Name for the Industries Categories

NAICS Code and Name	Definitions	Source Link
33911 Medical Equipment and Supplies Manufacturing	This industry consists of establishments primarily focused on manufacturing medical equipment and supplies. Examples include surgical and medical instruments, surgical appliances, dental equipment, orthodontic goods, ophthalmic products, dentures, and orthodontic appliances.	https://naicslist.com/naics/33911#:~:text=The%20NAICS%20code%2033911%20describes%20the%20medical%20equipment%20and%20supplies
423000 Merchant Wholesalers (Durable Goods)	Industries in the Merchant Wholesalers, Durable Goods subsector sell capital or durable goods to other businesses. These wholesalers typically take ownership of the goods they sell, meaning they buy and resell products on their own account. Durable goods are items, new or used, with a life expectancy of three years or more. Examples include motor vehicles, furniture, and other long-lasting products.	https://www.census.gov/naics/?input=42&chart=2022&details=423
423800 Machinery, Equipment, and Supplies Merchant Wholesalers	This industry group consists of establishments primarily engaged in the merchant wholesale distribution of machinery, equipment, and supplies for construction, mining, farming, gardening, industrial, service establishments, and transportation.	https://www.census.gov/naics/?input=42&chart=2022&details=4238

425100 Wholesale Electronic Markets (Agents/Brokers)	Industries in the Wholesale Electronic Markets and Agents and Brokers subsector arrange the sale of goods owned by others, typically on a fee or commission basis. They act on behalf of buyers and sellers. This sub-sector includes agents, brokers, and business-to-business electronic markets that facilitate wholesale trade.	https://www.naicscodelookup.org/l/993/4251-wholesale-electronic-markets-and-agents-and-brokers-in-united-states
449210 - Electronics and Appliance Retailers	This industry consists of establishments primarily engaged in: (1) retailing a variety of new household appliances and consumer electronics, such as televisions, computers, tablets, and cameras; (2) specializing in retailing a single line of consumer electronics; (3) combining retail with repair and support services; (4) retailing new prepackaged or downloadable computer software (without publishing); and/or (5) retailing prerecorded audio and video media, such as downloadable digital music and video files, CDs, and DVDs (without production or publishing).	https://www.naics.com/naics-code-description/?code=449210&v=2022#:~:text=This%20industry%20comprises%20establishments%20primarily%20engaged%20in%20one%20of%20the
446000 Health & Personal Care Stores	This U.S. industry consists of establishments primarily engaged in retailing specialized health and personal care merchandise. This includes industries such as pharmacies and drug stores, cosmetics, beauty supplies, and perfume stores, optical goods stores, food (health) supplement stores, and other health and personal care stores.	https://www.naics.top/codes/446

448150 Clothing/ Clothing Accessories Stores	This industry consists of establishments primarily engaged in retailing new clothing accessories, either as single or combination lines. Products include hats, caps, costume jewelry, gloves, handbags, ties, wigs, toupees, and belts.	https://www.naics.com/naics-code-description/?code=448150
455000 General Merchandise Retailers	This sector includes retail stores that sell new general merchandise, such as department stores, warehouse clubs, superstores, and supercenters. It may also include auction retailers selling new and used general merchandise.	https://www.bls.gov/oes/current/naics4_455000.htm
454110 E-commerce Service	This industry consists of establishments primarily engaged in retailing all types of merchandise through non-store methods, such as catalogs, toll-free numbers, or electronic media like interactive TV or the Internet. It also includes establishments retailing from catalog showrooms of mail-order houses.	https://www.naics.com/naics-code-description/?code=454110#:~:text=454110%20-%20Electronic%20Shopping%20and%20Mail-Order%20Houses.%20No%20Companies%20Listed
541990 Professional and Technical Services	This industry consists of establishments primarily engaged in providing professional, scientific, or technical services, excluding legal, accounting, architectural, engineering, design, computer systems, consulting, research and development, advertising, market research, photographic, translation, and veterinary services.	https://www.naics.com/naics-code-description/?code=541990#:~:text=This%20industry%20comprises%20establishments%20primarily%20engaged%20in%20the%20provision%20of

423120 Motor Vehicle & Parts Dealers	This industry consists of establishments primarily engaged in the merchant wholesale distribution of motor vehicle supplies, accessories, tools, equipment, and new motor vehicle parts (excluding new tires and tubes).	https://www.naics.com/naics-code-description/?code=423120#:~:text=This%20industry%20comprises%20establishments%20primarily%20engaged%20in%20the%20merchant%20wholesale
449100 Furniture & Home Furnishings	This industry group consists of establishments primarily engaged in retailing new furniture and home furnishings. Those with fixed point-of-sale locations may operate from showrooms with substantial space for product displays. These establishments may also offer incidental services such as interior decorating, product assembly, installation, or repair.	https://naicslist.com/naics/4491

5 Leveraging Foreign Terrorist Organization (FTO) Designations to Disrupt Criminal Convergence and Gold-based Money Laundering in Colombia

Zacarias Saderup

Abstract:

This chapter concludes that Foreign Terrorist Organization (FTO) designations can help disrupt criminal financing tied to Colombia's illegal gold trade by increasing the legal, financial, and compliance risks faced by companies, banks, traders, refiners, and transportation providers. The argument rests on three findings. First, FTO designations and related sanctions authorities expose entities that knowingly provide money, services, transportation, or other forms of support to designated groups to criminal, civil, and financial consequences. Second, Colombia's cocaine and illegal-gold economies overlap in territory, transportation routes, armed control, labor systems, and laundering methods. Gold functions both as a source of criminal revenue and as a means of storing, moving, and disguising the proceeds of other illicit activity. Third, the Sinaloa Cartel and the Cártel de Jalisco Nueva Generación (CJNG) are already involved in Colombia's cocaine economy through relationships with domestic armed groups, while CJNG has also been linked to illicit gold activity elsewhere in Latin America. Direct evidence that either Mexican cartel controls or directly participates in Colombia's gold sector remains limited. The chapter therefore presents deeper involvement as a risk arising from criminal convergence rather than as an established fact. This risk is significant because Mexican cartels are connected to Colombian groups already involved in both cocaine trafficking and illegal gold extraction, creating the potential for shared logistical and financial infrastructure. In response, the chapter recommends tracing beneficial ownership, examining trade and payment anomalies, and following gold from extraction through refinement and export. These measures can help identify where designated organizations or their partners may benefit from formal commercial channels and where public- and private-sector intervention may be most effective.

Keywords: Foreign Terrorist Organizations; criminal convergence; gold-based money laundering; illegal gold mining; Colombia.

Introduction

In January 2025, the United States established a process for designating certain cartels as Foreign Terrorist Organizations (FTOs) and Specially Designated Global Terrorists (SDGTs); in February 2025, the State Department formally designated the Sinaloa Cartel and the Cartel de Jalisco Nueva Generación (CJNG), among other organizations. These developments signal an intentional shift in the U.S. efforts against organized crime, with implications for the intersection of criminal economies. More recently, this approach has expanded beyond Mexico with the designation of Colombia's Clan del Golfo in December 2025 and Brazil's Primeiro Comando da Capital (PCC) and Comando Vermelho in June 2026.1 By law, FTO designations provide access to enhanced intelligence and enforcement tools, including the disruption of money laundering pipelines. Furthermore, they apply a counterterrorism framework to challenge the cartels mentioned above, which have been conventionally addressed as organized crime organizations or drug trafficking groups. Their effectiveness will depend on how they are applied across jurisdictions in Latin America, where convergence between criminal groups and illicit markets such as gold mining and drug trafficking is already evident.

The U.S. designation of the Mexican cartels examined in this chapter creates new avenues to target the financing of cartel-linked networks in Colombia. The designated cartels do not operate in isolation from domestic organized crime organizations and armed groups. Instead, they converge by controlling multiple vertical stages of supply chains and expanding horizontally across criminal markets such as gold laundering and narcotics trafficking. This convergence produces two consequences:

i. cartel penetration, as financially powerful Mexican groups embed deeper into Colombian criminal economies, and

ii. corporate entanglement, as U.S. and Colombian firms risk becoming implicated in illicit supply chains.

In the short run, FTO designations cannot directly disrupt convergence; however, they reshape corporate consequences by reclassifying supply chain risk within the scope of terrorist financing exposure. This forces the US-

1 Clan del Golfo/AGC was designated after this chapter's original submission; although referenced where relevant, it falls outside the chapter's original analytical focus on Mexican FTOs.

linked firm to internalize national security liability and tighten its due diligence, which in turn spreads upstream into Colombia.

While commentary has focused on the political or military implications of these designations, their broader potential lies in what they unlock across intelligence, enforcement, and financial oversight frameworks. FTO designations should be understood as strategic legal instruments that enable the United States and its partners to burst the bubble, a concept in the anti-money laundering (AML) and counter-crime community that calls for targeting the whole architecture of criminal operations, isolating their financial lifelines and corporate facilitators. This chapter focuses on gold-based money laundering (GBML) networks that may benefit designated Mexican FTOs indirectly through their partnerships with armed groups and organized criminal groups in Colombia. Leveraging these designations strategically can disrupt the financial infrastructure of hybrid criminal-terrorist entities.

1. Legal Tools & Definitions

When properly applied, FTO designations serve as active instruments for dismantling the financial architecture of criminal organizations. This section outlines the legal instruments unlocked by FTO designation, with a particular focus on their extraterritorial application, civil liability implications, and relevance for private sector compliance. Understanding this foundation and the relevant definitions is essential for evaluating how FTO designations can be operationalized to disrupt criminal convergence in overlapping sectors such as illicit gold mining, trade-based money laundering, and drug trafficking.

FTO designation is one of the most consequential instruments in the U.S. counterterrorism arsenal. Codified under Section 219 of the Immigration and Nationality Act (8 U.S.C. § 1189), it empowers the Secretary of State to designate foreign organizations that engage in terrorism and pose a threat to U.S. national security, foreign relations, or economic interests (Phillips, 2019). Once designated, these entities become subject to a suite of legal and financial restrictions with global reach. The cornerstone of this legal framework is the 18 U.S. Code § 2339B, which criminalizes the provision of "material support or resources" to designated FTOs (18 U.S.C. § 2339B). Material support is broadly defined to encompass financial resources, training, expert advice, personnel, and logistical services (Skadden, 2025). Critically, the statute applies extraterritorially: Section 2339B has express extraterritorial reach where specified U.S. jurisdictional links exist, including ties to U.S. persons, U.S. territory, or interstate or foreign commerce. Penalties are severe — up to 20 years per violation, or life imprisonment if death results. Corporations may face fines of US$500,000 or, under the alternative-fine provision, up to twice the gross gain derived from the offense or twice the gross loss caused by it (18 U.S.C. § 3571). These penalties have been enforced in high-profile corporate prosecutions, establishing relevant enforcement precedent.

In 2022, French cement company Lafarge and its Syrian subsidiary pleaded guilty to conspiring to provide material support to the Islamic State and al-Nusra Front by making payments that allowed the company to continue operating its cement plant in Syria. The case was the Justice Department's first corporate material-support prosecution and resulted in approximately US$778 million in fines and forfeiture. It demonstrated that U.S. material-support laws can reach overseas corporate conduct involving designated organizations (U.S. Department of Justice, 2022).

Another landmark case emerged from Latin America. In 2007, Chiquita Brands International pleaded guilty to engaging in transactions with the Autodefensas Unidas de Colombia (AUC), which was designated as both an FTO and an SDGT. The company admitted making more than US$1.7 million in payments and agreed to a US$25 million fine. Although Chiquita maintained that the payments were made under threat, invoking coercion did not shield the company from prosecution and penalty after it continued the payments despite legal warnings (U.S. Department of Justice, 2007).

To this point, the designation of cartels as terrorist organizations is not without controversy. Scholars criticize the "crime–terror nexus" for obscuring distinctions between organized crime and terrorism, warning that it masks variation among violent non-state actors (Omelicheva & Markowitz, 2021). Critics argue that applying the terrorism label stretches its definition, which has traditionally been tied to ideological or political violence, whereas cartels are primarily motivated by profit (Cengiz, 2025; Englund, 2020). The distinction grows murkier when profit-driven groups exert political influence, use strategic violence, or engage in state capture.

Beyond criminal penalties, FTO designation also opens the door to civil litigation under the Anti-Terrorism Act (ATA), allowing U.S. nationals injured by acts of international terrorism to pursue civil claims, including aiding-and-abetting claims against entities that knowingly provide substantial assistance. In commercial operations, this expands risk exposure: financial or logistical relationships involving a designated group can become the basis for high-stakes litigation or enforcement action. FTO designation and related counterterrorism sanctions can also restrict transactions and funds, while foreign banks and contractors serving designated entities may risk losing access to U.S. financial markets (18 U.S.C. §§ 2333, 2339B; OFAC, 2025). These risks increasingly materialize in supply chains where designated Mexican cartels overlap with Colombia's criminal economies and illicit gold trade.

For companies operating in Colombia, the compliance landscape has undergone a shift. Corporate exposure does not depend on sharing a designated group's objectives, and the Chiquita case demonstrates that invoking coercion did not prevent prosecution where payments continued after legal warnings (18 U.S.C. § 2339B; U.S. Department of Justice, 2007). These developments raise the need for transparency, due diligence, and supply-chain risk modeling. Exposure is not only legal but also reputational, financial, and operational (Skadden, 2025). FTO designation functions on two levels: as a legal trigger and a strategic disruptor. It compels compliance action while supporting enforcement scrutiny of the financial and logistical ecosystems that sustain organized violence, including corporate supply chains and intermediaries that facilitate laundering operations. Tackling convergence is not only a compliance challenge but a national security imperative. The following section moves beyond a straightforward analysis of FTO designations to explore convergence within criminal economies, particularly those involving cocaine and gold.

2. Convergence: Cocaine Production, Illegal Gold Mining, and Gold-based Money Laundering

Having outlined the legal instruments that shape designation enforcement, this section maps the territorial, logistical, and financial overlap between cocaine production and illicit gold flows in Colombia. It examines how shared supply chains, transportation routes, and laundering mechanisms enable criminal groups to diversify risk and reinforce control over strategic areas. By analyzing these points of convergence, including trade-based money laundering schemes and co-located extractive economies, one can observe the conditions that make Colombian territory increasingly susceptible to intervention by Mexican FTO-designated cartels. Grasping these networks is crucial for evaluating how convergence establishes operational entry points for transnational criminal actors. When convergence and intrusion by criminal groups into formal economies are evident as independent yet linked problems, businesses are at risk of unknowingly participating in illicit financing. Considering the FTO designation, what was previously regarded as illicit financing could now be prosecuted as terrorist financing, raising further concerns.

Territorial and Logistical Overlap

Colombian armed groups such as the ELN and FARC dissident factions — including Segunda Marquetalia and FARC-EP — are already designated as FTOs by the U.S. government, providing a legal precedent for action. These groups, in addition to the Gaitanistas or Clan del Golfo (AGC) operate in regions where gold mining and coca cultivation coexist, creating structural convergence between illicit resource extraction and drug trafficking (InSight Crime, 2024a, 2024b, 2025a).[2] The cartels' partnerships with Colombian armed actors involved in convergence and criminal economies expose shared logistical and laundering pipelines. Criminal convergence in Colombia is most evident in regions characterized by weak state presence, high natural resource value, and entrenched control by armed groups. Armed groups increasingly function as ideologically driven criminal actors, investing in whichever illicit sector offers the most profit with the least risk. This paper argues that the result is the emergence of territorial enclaves where drug and gold economies are co-located, co-managed, and co-laundered, creating deeply embedded criminal ecosystems that resist disruption.

Defining the Criminal Economies: Gold and Coca

To understand this convergence, it is essential to define the criminal economies in focus. Illegal gold mining refers to the extraction of gold outside of legal frameworks, often in protected areas. According to the Organization of American States' January 2022 report (OAS, 2022a), the gold trade operates through a dual-layered laundering system. Criminal organizations oversee systems to legitimize the origin of the gold and the profits from its sale. In the first system, cash transactions flow directly into mining zones to finance

2 Clan del Golfo/AGC was designated as both an FTO and an SDGT after this chapter was completed; the designation reinforces the convergence analysis by creating a potential direct material-support and sanctions nexus to a Colombian group already active in overlapping coca and gold economies.

extraction, covering supplies, labor, and equipment (OAS, 2022a). In the second, the illegally sourced gold is consolidated and reintegrated into formal supply chains, disguising both the product and its proceeds under the guise of legality. These systems are conducted under the strict control and supervision of criminal organizations, revealing that gold's profitability lies not only in its extraction but in its capacity to circulate as a self-laundering commodity. This risk calculus explains why gold has increasingly replaced cocaine as a primary source of revenue in several regions. Coca cultivation, meanwhile, involves the planting and harvesting of the coca bush, the raw material for cocaine. While long associated with FARC-affiliated areas, coca is now grown in many of the same municipalities that host illegal mining (InSight Crime, 2023).

Evidence of Territorial Co-Location

The co-location of overlapping cocaine and gold extraction/production centers is not accidental; it is foundational to the economic and logistical strategies of armed groups. Shared territories enable the exploitation of overlapping infrastructure — such as rivers, roads, and clandestine airstrips — as well as labor pools. Both economies are extractive and labor-intensive, which allows for coercive recruitment practices, child labor, and informal employment systems under armed supervision (OAS, 2022). In Bajo Cauca alone, over 8,000 hectares of coca cultivation and 11.64 metric tons of gold production have been recorded, making it a hotspot for groups like the AGC, ELN, and ex-FARC dissidents, who each extract value from the land while fighting for control of its profits (InSight Crime, 2025b). As one separate OAS analysis notes, "eight of the ten Colombian municipalities with the highest levels of alluvial mining activity also illicitly grow coca" (OAS, 2022b). This territorial overlap not only simplifies logistics but also reduces risk by allowing criminal actors to diversify their income across multiple locations, thereby insulating them from sector-specific law enforcement.

Financial Convergence and Laundering Mechanisms

Gold plays a dual role: it is both an illicitly extracted commodity and a vehicle for laundering the proceeds of criminal activity. Colombia's illegal gold mining landscape is increasingly shaped by the strategic exploitation of this dynamic, particularly through trade-based money laundering (TBML). When gold becomes an ideal value-driven commodity, it sets up a three-stage process for money laundering: extraction, refinement, and transportation.

The gold-based money laundering aspect can exist in the latter, especially when it becomes a central element of a country's economy, both domestically and in external exports. According to a 2022 OECD report, Colombia ranked as South America's third-largest gold producer, reaching a record output of 61 tons in 2021. Alarmingly, estimates suggest that up to 69% of this alluvial gold production originates from illegal mining operations, underscoring the extent to which illicit gold is integrated into the national economy (OECD, 2022). In 2023, the FACT Coalition reported that gold had become the most profitable commodity for Colombian criminal organizations, surpassing even cocaine. This shift is primarily attributed to gold's portability, liquidity, and legal ambiguity, which make it an ideal medium for cross-border laundering operations (Gonzales, 2023).

At the extraction stage, armed actors such as the AGC, ELN, and FARC dissidents directly control or extract rents from gold mining operations, particularly in rural zones with limited state oversight and high mineral yields (InSight Crime, 2024a, 2024b, 2025a). These groups are associated with criminal practices that exploit the artisanal and small-scale mining (ASM) sector by infiltrating informal economies and coercing local communities. Evidence shows that small and mid-scale mining operations frequently underreport output to meet extortion demands or to covertly funnel gold into black market trade (OECD, 2022). In urban gold hubs across the country, this illicit gold is aggregated and mixed with legally sourced material, creating supply chains where legal and illegal transactions are indistinguishable, highlighting the illicit nature of this criminal economy. Falsified mining titles, fraudulent origin certificates, and strategic pricing manipulation further enable the reentry of black-market gold into formal commerce (OECD, 2022). These practices reveal how natural resource corruption and TBML reinforce unlawful resource extraction, facilitating the laundering of drug profits while deepening criminal control over Colombia's resource-rich frontiers.

Organizational Adaptation and Decentralization

What strengthens this convergence further is the decentralization of armed group structures. While the ELN, AGC, and ex-FARC dissidents may differ in origin and ideology, they can operate as federated or franchised networks in which cells exercise considerable autonomy. This flexibility enables sub-units to pursue the most profitable illicit activities within their specific territories. As the OAS notes, "criminal organizations may identify, secure, and staff illegal mining sites… this method may require managing miners, maintaining an armed presence, and incurring laundering costs" (OAS, 2022b). Some factions may specialize in gold laundering, others in coca base conversion, or micro-trafficking (selling to other local groups). What unites them is the branding of the larger armed group, which provides legitimacy, protection, and access to transnational criminal economies. The result is a criminal economy that is both localized and horizontally integrated. Each group functions as a distributed network of illicit entrepreneurs linked by command structures but driven by local opportunity.

From a financial perspective, this convergence is further institutionalized through a combination of GBML with TBML. Criminal groups exploit the gold sector's opacity, particularly using falsified export documents and shell companies, to convert revenues linked to illicit activity into ostensibly legal mineral exports. As the OAS details, Colombian criminal organizations have been known to engage in practices that involve laundering drug money using illegal gold (2022b). Weaver et al. (2021) discuss the U.S. case of the "three amigos"[3] linked to NTR Metals, which further exposed how millions of dollars in laundered gold, originally mined in the Amazon, were sold to U.S. refineries under the guise of legitimate transactions. In this system, gold is both a commodity and a vehicle for financial obfuscation. Its high value, physical portability, and legal ambiguity make it a preferred method for laundering drug profits, particularly among decentralized groups with limited financial infrastructure.

In sum, convergence in Colombia is not just the co-existence of two criminal markets; it is their fusion. Shared geography, logistics, decentralized governance, and financial laundering strategies drive this fusion. All three of the country's prominent armed actors now engage in both the coca and gold economies, often within the same district and through franchise-like operations. This indicates that criminal convergence is not simply a trend but a strategic realignment of control, extraction, and finance.

3 The "three amigos"—Samer Barrage, Renato Rodriguez, and Juan Granda—were NTR Metals employees who pleaded guilty to laundering money through purchases of illicitly sourced Latin American gold. NTR Metals' parent company, Elemetal, later pleaded guilty to failing to maintain an adequate anti-money-laundering program and forfeited $15 million (U.S. Department of Justice, 2018; Weaver et al., 2021).

3. Evidence of Financial and Operational Overlap with Sinaloa and CNGJ

In assessing the evolving threat landscape posed by Foreign Terrorist Organizations and their convergence with local armed groups in Colombia, this section narrows its analytical focus to Mexico's two most globally expansive and operationally aggressive cartels: the Sinaloa Cartel and the Cártel de Jalisco Nueva Generación (CJNG). These organizations have drawn attention from U.S. policymakers and intelligence agencies, particularly through the announcement and decision regarding their designation.

As documented in a 2024 IISS report (IISS, 2024), both CJNG and Sinaloa have established a sustained presence in Colombia through cocaine production, trafficking logistics, and alliances with domestic armed groups. While this source confirms their primary role in the cocaine trade, it also identifies a key point of divergence between the two cartels: only CJNG is explicitly documented as participating in gold-related criminal activities. The report states that, "The CJNG's current documented activities comprise, among other things… controlling illicit gold-mining operations in Ecuador and Venezuela in alliance with Colombian and Venezuelan criminal groups." This reference to CJNG's role in regional gold laundering operations signals a broader strategic pattern; cartels embed themselves in multiple illicit markets through alliances, territorial presence, and shared infrastructure.

This section unfolds in two parts. The first analyzes how both cartels — Sinaloa and CJNG — have formed trafficking partnerships with Colombian armed groups, establishing themselves not merely as external buyers but as embedded actors in the cocaine economy. The second then explores the financial logic of laundering convergence, asking whether, given CJNG's role in gold mining in Ecuador and Venezuela and the known laundering utility of Colombian gold, these cartels are poised to deepen their exposure to Colombia's gold economy as well. Together, these sections trace the trajectory from cocaine to gold and from partnership to convergence.

The presence of Mexican cartels in Colombia is no longer peripheral. Between 2018 and 2022, "Colombia's Ombudsman Office emitted more than 20 alerts that affiliates of Mexico's largest and most powerful cartels were active on Colombian soil. Some 40 Mexican nationals… were behind bars for drug trafficking charges in Colombia as of early 2023" (Diálogo Américas, 2023). These affiliates have established direct partnerships with Colombian armed groups such as the ELN, Clan del Golfo, and FARC dissidents (Diálogo

Américas, 2023). Felbab-Brown discusses that since around 2010, Mexican cartels have infiltrated Colombia, establishing a permanent presence through their representatives to oversee not just the transportation of drugs from Colombia's borders, but also the production, processing, trafficking, and local distribution networks (2022). This move signifies a significant shift in power dynamics. Today, these Mexican cartels now influence multiple stages of the cocaine supply chain, from production and processing in Colombia to distribution in U.S. markets. Analysts have observed that these Mexican organizations have effectively taken command over their Colombian counterparts (Diálogo Américas, 2023).

Arrests documented in 2022 validate the operational integration of cartel emissaries into Colombia's trafficking economy. "Following the arrest of Brian Donaciano Olguín Verdugo, alias 'Pitt,' Colombia's top police officer alleged that Olguín was the 'most important link' between the Sinaloa Cartel and dissident fronts of the now-demobilized Revolutionary Armed Forces of Colombia (FARC)" (InSight Crime, 2022). According to the same article, a 2021 intelligence report indicates that Mexican brokers are active in 11 out of Colombia's 32 departments, particularly in strategic corridors near Venezuela. Additionally, urban centers, such as Cali or Medellín, act as key coordination points considering Colombia's rural landscape, which further isolates law enforcement or policy responses.

Beyond supply chain logistics, Mexican cartels actively influence inter-group relationships and regional security arrangements. According to Felbab-Brown (2022), the CJNG aimed to persuade both small and large Colombian crime groups, such as the Urabeños, to cease selling to the Sinaloa Cartel. Meanwhile, the Sinaloa Cartel increased the deployment of its top emissaries in the region. These actions led to heightened violence among Colombian allies and proxies of the two cartels, contributing to what has been described as an international bipolar war that now influences local conflicts within Colombia (Felbab-Brown, 2022). These cartels also provide weapons and agricultural inputs to local suppliers, "promoting the cultivation of high-yield coca" (Diálogo Américas, 2023). Their deep embedding in coca production systems — including processing oversight, price controls, and conflict arbitration — raises an important consideration for the following section: if Mexican cartels are strategically and financially embedded in Colombia's drug trade, they are likely to pursue access to other profitable criminal sectors such as illegal gold.

Although direct evidence of Sinaloa or CJNG involvement in Colombia's gold sector remains limited, the financial and logistical integration of both cartels into the Colombian cocaine economy strongly suggests a trajectory toward broader convergence, particularly in the laundering domain. As Felbab-Brown (2022) highlights, both Mexican cartels are now more involved than ever in not only trafficking drugs but also producing them in Colombia. This includes encouraging the growth of high-yield coca varieties that generate more profit in smaller areas and managing the development of processing laboratories and storage facilities, as well as conducting purity assessments of cocaine. These activities demonstrate significant operational control and imply a strategic approach: the cartels are deeply integrated into the production infrastructure. This context suggests that they are likely to pursue similar financial mechanisms in Colombia, and gold offers a way to exploit such mechanisms.

To this point, there is evidence that cartels operating in Colombia are shifting toward non-cash laundering practices. Luis Jaime Acosta notes that "paying cocaine suppliers with weapons has helped Mexican cartels launder profits and avoid moving large quantities of cash across borders" (Acosta, 2022). This barter-based laundering logic — low risk and high utility — is strikingly similar to the use of illicit gold in trade-based money laundering schemes. Public warnings from Cali officials reinforce the case for future convergence. As reported, "Cali councilman Roberto Rodríguez… called for a crackdown on money laundering and a review of purchases of large estates and luxury cars," citing signs of Mexican economic penetration (InSight Crime, 2022). These developments are consistent with a broader strategic posture. As Felbab-Brown argues, "the Mexican cartels' activities abroad are purposeful and thought-through… their strategic choices and activities abroad amount to de facto 'foreign policies'." If CJNG is already documented as laundering funds through gold in Venezuela and Ecuador (IISS, 2024), and if cartel emissaries are operating in coca and gold-rich regions of Colombia, then it is both analytically plausible and strategically coherent to anticipate an expansion into Colombia's illicit gold economy, especially via alliance structures already in place.

Conclusion: Convergence Enabling Material Support as Terrorist Financing

The focused implication of the FTO designations is in the private sector, where gold-based money laundering exposes companies to liability. Limited documented evidence exists of Mexican cartel control over Colombia's gold sector. Still, the connection between illegal gold and cocaine economies, along with their overlap in production and trafficking, makes cartel involvement plausible if not inevitable. Groups such as the Sinaloa Cartel and CJNG already have strong ties with Colombian armed groups, and these partnerships increase the chance that money from drugs is being mixed with money from illegal gold. For U.S. companies interested in Colombia's gold sector, this creates serious risks. Even when conducting business through legal channels, there is growing evidence that illicit gold is being incorporated into the formal supply chain. To this end, companies could unintentionally become part of a network connected to alleged terrorist financing.

Providing support to a Foreign Terrorist Organization doesn't require direct contact or intent. If a company works with a supplier that turns out to be a front for a group like CJNG or Sinaloa, that may be enough to trigger legal consequences. This was the case with Chiquita Brands, which made payments to a terrorist-designated group and was still held liable, even though it claimed the payments were made under pressure. The court made it clear that even payments made under duress can be considered "material support" (U.S. Department of Justice, 2007). This legal standard requires companies to exercise caution when conducting business in sectors where money laundering is prevalent, such as the gold industry.

When Mexican cartels collaborate with Colombian domestic armed groups and organized crime organizations to traffic drugs, the same infrastructure may also be used to move and clean gold. For U.S. buyers, logistics companies, and even insurers, this creates a central blind spot. The company with which they collaborate may appear legitimate, but the gold they are buying could have originated from a network allegedly associated with an FTO-designated cartel. To this degree, as argued in the legal tools and definition section, this could be considered material support.

This chapter does not argue that Mexican FTO-designated cartels currently control or directly participate in Colombia's illegal gold economy. Instead, it advances a convergence-based risk framework built on five interrelated observations:

i. Mexican cartels are deeply embedded in Colombia's cocaine production and trafficking economy;

ii. Colombian partners of Mexican cartels, specifically the AGC — which is now itself designated as an FTO —, ELN, and FARC dissidents, are documented participants in illegal gold production and GBML;

iii. GBML is already being used by criminal networks connected to Mexican cartels in other parts of Latin America;

iv. GBML in Colombia routinely exploits formal legal structures, allowing illicit product to enter legitimate supply chains; and

v. the decentralized structure of these armed and criminal groups enables adaptive, profit-driven convergence that exploits this form of illicit trade.

This convergence model does not imply direct ownership or territorial control, but it highlights the plausibility of financial overlaps, particularly with laundering infrastructure that supports both coca trafficking and GBML. It is intended as an early-warning lens for both public and private sector stakeholders to reassess exposure to gold-related financial flows in Colombia under the evolving context of FTO designation. Detecting convergence requires investment by both private and public stakeholders, especially into research that bridges human intelligence, trade data and mapping, and commodity financial analysis. To this end, this chapter emphasizes the following three recommendations:

i. Identify who ultimately profits from gold exports and intermediary trading firms. Mapping these structures can reveal hidden intersections between legitimate export networks and entities tied to FTO-designated groups. Such visibility helps regulators and compliance officers target corporate layers that obscure accountability.

ii. Track the financial and logistical transactions that move illicit gold into formal markets. Trade-based money-laundering patterns — price mis invoicing, shipment anomalies, or recurrent counterparties — can illuminate where convergence occurs and where enforcement can meaningfully intervene.

iii. Follow the commodity itself through the extraction, refinement, and export chain. Integrating customs records, refiner audits, and satellite data can expose chokepoints where criminal and commercial activities intersect, allowing policy actors to strengthen due diligence mechanisms and export verification.

Together, these approaches move the study of criminal convergence from conceptual to actionable. They also point toward broader strategic risk: that criminal actors are shifting from seeking monetary value to securing tangible value, specifically in commodities and goods that retain worth even amid financial disruption or anti-money laundering operations. As organized criminal groups learn to innovate their practices of capturing and moving physical assets across markets, their influence extends beyond a single economy. Addressing this evolution will require policy to focus less on the flow of money alone, and more of the mobility of value itself.

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Part 3

Corruption, Justice, and Human Rights

6 Organized crime, corruption and human rights: rethinking responses beyond securitization

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Abstract

Organized crime and corruption pose interlinked challenges to democratic governance, undermining public institutions, eroding public trust, and enabling widespread human rights harms. In many contexts, state responses to organized crime have prioritized enforcement and punitive measures, while failing to address the corrupt practices and institutional weaknesses that allow criminal networks to thrive. This chapter examines how human rights approaches can be more effectively integrated into crime prevention, drawing lessons from developments in anti-corruption frameworks to strengthen democratic governance. The chapter first argues that organized crime should be understood not only as a security threat but as a systemic human rights issue, highlighting its impacts across civil, political, economic, social, and cultural rights. It then explores corruption as a key structural enabler of organized crime, analysing how institutional capture, impunity, and selective enforcement contribute to democratic erosion. Finally, the chapter examines emerging international practices that integrate human rights into anti-corruption strategies and outlines policy pathways for more coherent, rights-centred responses to organized crime – responses that reinforce accountability and democratic institutions rather than undermine them.

Keywords: organized crime; corruption; human rights; democracy; governance.

Introduction

Organized crime has emerged as one of the most significant challenges to state governance in contemporary societies. Far from being confined to illicit markets or episodic violence, organized crime increasingly shapes political institutions, economic systems, and social relations. In many contexts, criminal groups exert territorial control, infiltrate public institutions, and influence political decision-making, while generating pervasive insecurity and social harm. These dynamics have profound implications for democratic governance, eroding public trust, weakening accountability, and undermining the state's capacity to govern in the public interest (Cockayne, 2016; van Dijk, 2008). The expansion of organized crime has coincided with growing forms of state fragility. Institutional weakness, unequal access to public services, and the diversion of public resources create conditions in which criminal governance and exceptional state responses can take hold. These dynamics are exacerbated by pervasive corruption, which acts as a lubricant for organized criminal enterprises by lowering enforcement risks, distorting institutional incentives, and undermining the rule of law (Buscaglia, E., & van Dijk, J., 2008; Hellman et al., 2000). The capture of state institutions by powerful actors, including organized criminal networks, further compromises accountability and perpetuates human rights violations, often disproportionately affecting marginalized and socially excluded populations (Peters, 2015; Reyes, 2019).

Governments confronted with escalating insecurity have frequently resorted to punitive and militarized strategies, including mass incarceration, emergency regimes, and the expansion of executive powers. While such measures are often justified as necessary to restore order, a substantial body of academic and institutional research demonstrates that enforcement-heavy responses frequently exacerbate violence, entrench criminal governance, and undermine democratic accountability. Studies show that punitive crackdowns can strengthen criminal organizations by increasing the value of illicit markets, incentivizing violence, and eroding public trust in state institutions (Lessing, 2017; Arias & Barnes, 2017; Shaw et al., 2016). From a human rights perspective, these approaches have generated widespread concerns, including arbitrary detention, excessive use of force, and the disproportionate targeting of marginalized communities. United Nations bodies have repeatedly warned that militarized and punitive crime control strategies are incompatible with international human rights obligations and risk weakening the rule of law rather than reinforcing it (UNWGAD, 2021; OHCHR, 2023). Far from restoring democratic order, such responses may actively undermine the very institutions and rights they purport to protect (Obokata, 2006; Obokata, 2019).

Despite the centrality of organized crime to contemporary governance challenges, international and domestic responses have struggled to articulate coherent strategies that integrate crime prevention and human rights considerations (Andreas & Nadelmann, 2006; van Dijk, 2008; Boister, 2002). While these agendas increasingly acknowledge overlapping concerns – such as institutional integrity, accountability, and social inclusion – they often operate in parallel rather than in a mutually reinforcing manner. This fragmentation limits the capacity of states and international actors to respond effectively to the complex governance environments shaped by organized crime. In particular, the potential of human rights approaches to inform prevention, accountability, and institutional reform remains underexplored within broader crime prevention frameworks.

This chapter examines how human rights approaches can be better leveraged within crime prevention, drawing lessons from anti-corruption responses to strengthen democratic governance. It first outlines the human rights dimensions of organized crime, focusing on the types of harms it generates and the institutional responses it provokes. It then explores the role of corruption in enabling criminal governance and undermining democratic institutions. Finally, it examines emerging practices that integrate human rights considerations into anti-corruption strategies and outlines policy pathways for more coherent, rights-centred responses to organized crime. By explicitly integrating human rights standards and victim-centred approaches into anti-corruption and anti-organized crime initiatives (Peters, 2015), democratic states can move towards more legitimate, effective, and rights-respecting solutions – ensuring that responses not only suppress crime, but also reinforce accountability and nurture the foundations of a just and equitable society.

1. Organized crime as a systemic human rights challenge

Building on the above and emerging scholarship that conceptualizes organized crime as a human rights challenge rather than solely a law-enforcement problem (Oliveira, 2025), this section examines how organized crime produces a spectrum of human rights harms and how existing legal and policy frameworks – at both national and international levels – have struggled to address these impacts in a coherent manner. By situating organized crime within broader debates on state protection, enforcement practices, and international responses, the section provides the analytical foundation for assessing the limits of prevailing approaches and the need for more integrated, rights-centered responses into anti-crime frameworks.

Spectrum of human rights harms

Early international approaches to organized crime were dominated by a law enforcement and cooperation paradigm, reflected most clearly in the United Nations Convention against Transnational Organized Crime (UNTOC) and other crime suppression international agreements. As scholars such as Boister (2002) and Currie (2021) have argued, this framework prioritizes state cooperation, prosecution, and mutual legal assistance, while largely sidestepping the human rights consequences of organized crime and of state responses to it. Within this paradigm, harm is primarily conceptualized in terms of threats to state security and market integrity, rather than to individuals and communities. However, empirical research and policy analysis increasingly demonstrate that organized crime cannot be adequately understood through a security lens alone (Cockayne, 2016; Lessing, 2017). Criminal groups exercise coercive power over individuals and communities, shaping access to resources, regulating behaviour, and constraining social and political participation. Organized crime generates patterns of harm that are cumulative, structural, and deeply embedded in everyday life. A human rights perspective is therefore essential to capture the full scope of these impacts.

Organized crime affects a wide spectrum of human rights, encompassing civil, political, economic, social, and cultural rights. The most visible violations relate to the right to life and personal security, particularly in contexts of high homicide rates, enforced disappearances, and indiscriminate violence (UNODC, 2019). Yet these harms rarely occur in isolation. They are accompanied by restrictions on freedom of movement, expression, and association, as individuals and communities adapt their behaviour to survive in environments shaped by criminal power. Beyond direct violence, organized crime systematically undermines economic, social, and cultural rights. Extortion, illicit control of labour markets, and the disruption of public services affect access to education, health care, housing, and livelihoods. Human rights bodies and UN agencies have increasingly documented how insecurity linked to organized crime impairs service delivery and deepens inequality, particularly in marginalized urban and rural areas (OHCHR, 2019; UNDP, 2025; OHCHR, 2023).

Children and adolescents are disproportionately affected by these dynamics. As documented in both academic literature and policy research, exposure to violence, school closures, and limited economic opportunities increase vulnerability to recruitment and exploitation (Calderoni, 2022; UNICEF, 2024). Gendered harms are also pronounced, with women and girls facing heightened risks of sexual violence, coercion, and economic dependency in criminalized environments (Hume, 2008). These patterns illustrate how organized crime produces intergenerational and gendered rights harms that extend far beyond individual criminal acts. A less visible but equally consequential impact of organized crime is the erosion of civic space. Journalists, human rights defenders, community leaders, and local officials who expose criminal activity or advocate for accountability are frequently targeted through threats, harassment, or violence. Regional human rights mechanisms, particularly within the Inter-American system, have long recognized the links between organized crime, attacks against journalists, and the erosion of civic space (IACHR, 2013). The contraction of civic space has direct implications for democratic participation. Where fear and intimidation shape public life, individuals are less able to organize, speak freely, or engage meaningfully with political institutions. As a result, democratic processes may persist formally while losing their substantive character. Human rights harms associated with organized crime therefore translate into broader democratic deficits, reinforcing cycles of exclusion and distrust.

State obligations and structural failure

From a human rights perspective, the harms associated with organized crime are closely connected to failures of state protection, particularly in contexts where violence by non-state actors is widespread and persistent. International human rights law establishes that states have positive obligations to take reasonable measures to prevent foreseeable harm, protect individuals from third-party violence, and ensure access to effective remedies. This principle has been articulated most clearly in the jurisprudence of the Inter-American Court of Human Rights, notably in Velásquez Rodríguez v. Honduras, which affirmed that state responsibility may arise where authorities fail to act with due diligence to prevent, investigate, or punish acts committed by private actors (Inter-American Court of Human Rights [IACtHR], 1988).

In contexts affected by organized crime, however, states often struggle to meet these obligations due to a combination of limited institutional capacity, fragmented governance structures, and political constraints. These challenges are not unique to organized crime settings, but they are often intensified where criminal violence intersects with corruption and weak rule of law. Importantly, such failures frequently occur despite the existence of formal legal frameworks. Organized crime groups exploit existing legal loopholes and governance deficits, leveraging corrupt practices to embed themselves within the very structures designed to counter them, thereby subverting democratic processes and eroding public trust (Taraciuk Broner, 2023). From this perspective, organized crime can be understood not only as a criminal phenomenon, but also as an indicator of deeper structural and institutional weaknesses that impede the effective realization of human rights.

Despite growing recognition of the governance dimensions of organized crime, state responses in many contexts continue to rely heavily on enforcement-focused strategies. Militarized policing, mass incarceration, emergency regimes, and expanded executive powers have become prominent features of anti-crime policies, in particular in Latin America and Caribbean (Cutrona et al., 2025). While such measures are often justified as necessary to restore public order, a substantial body of empirical research suggests that enforcement-first approaches have had limited success in dismantling organized crime and, in some cases, have contributed to increased violence, institutional strain and human rights violations (OHCHR, 2023).

One central limitation of enforcement-first approaches is their failure to address the institutional conditions that allow organized crime to persist. Where corruption affects police forces, judicial systems, and political institutions, enforcement measures are applied selectively and inconsistently. Low-level actors are disproportionately targeted, while higher-level criminal figures and their political protectors remain insulated from accountability, reflecting patterns of selective enforcement and institutional capture (Buscaglia & van Dijk, 2008). This pattern reinforces impunity and undermines public confidence in democratic institutions, as citizens perceive justice systems as instruments of coercion rather than protection.

Enforcement-heavy responses also carry significant human rights risks. States of emergency, preventive detention, and expansive surveillance powers may restrict due process guarantees and disproportionately affect communities already exposed to criminal violence. Human rights bodies and scholarship have documented how such measures can lead to arbitrary detention, ill-treatment, and undue restrictions on freedom of expression and association, particularly where oversight mechanisms are weak or absent (UNWGAD, 2021; OHCHR, 2023; Obokata, 2006). Rather than weakening organized crime, these practices risk normalizing exceptional governance and contributing to democratic backsliding. These dynamics reveal a mismatch between the complexity of organized crime and the narrowness of prevailing responses. Treating organized crime primarily as a law enforcement problem obscures its roots in governance failure and social exclusion, while sidelining human rights considerations that are central to legitimacy and effectiveness. Recognizing these limitations is essential for identifying alternative approaches that move beyond enforcement and address the structural drivers of organized crime.

International responses: emerging recognition, persistent gaps

At the international level, awareness of the human rights implications of organized crime has broadened, particularly within human rights institutions and development-oriented agencies. Human rights bodies, including the Human Rights Council and treaty bodies, have increasingly engaged with the impacts of organized crime through thematic concerns such as inequality, access to justice, violence, and the protection of civic space. In this regard, the Human Rights Committee has clarified that states' obligations extend to preventing and addressing abuses committed by private actors, including criminal groups (Human Rights Committee, 2004). Similarly, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations (UN) special procedures have repeatedly criticized punitive security paradigms — most notably in the context of the global "war on drugs" — for their disproportionate effects on marginalized and racialized communities and their incompatibility with international human rights standards (OHCHR, 2023). In specific country contexts, special procedures have also identified criminal groups as contributors to human rights violations, particularly in situations characterized by widespread violence and institutional breakdown (OHCHR, 2020).

Alongside these developments, UN agencies and regional organizations have increasingly framed organized crime as a challenge to development and governance rather than solely a matter of security. Recent policy analyses emphasize how organized crime exacerbates inequality, undermines service delivery, and weakens institutional resilience, particularly in contexts already marked by social exclusion and fragile governance (UNDP, 2025). This reframing reflects a growing recognition that criminal violence and illicit economies are embedded within broader political and socio-economic dynamics.

Despite this expanded recognition, international responses remain uneven and lack clear points of convergence. While human rights institutions have articulated relevant normative principles, these have rarely been translated into operational guidance capable of shaping crime prevention and security policies. Engagement with organized crime within human rights mechanisms has tended to be indirect and episodic, mediated through thematic mandates rather than addressed as a distinct governance challenge requiring sustained attention.

This limited operationalization is reinforced by the structure of international legal regimes. Crime control norms have evolved largely through instruments designed to facilitate criminalization and inter-state cooperation, whereas human rights law has developed around the protection of individuals from abuse. Scholars have long observed that the absence of institutionalized dialogue between these regimes has produced parallel bodies of law that intersect only partially in practice (Boister, 2002; Obokata, 2019; Noortmann & Sedman, 2016). As a result, crime prevention frameworks often operate without sustained human rights oversight, creating space for coercive responses – such as militarization, mass incarceration, and extraordinary security measures – to expand with limited accountability.

Although such measures are, in principle, subject to human rights scrutiny, the absence of systematic integration within crime control regimes has constrained the ability of human rights institutions to influence how states design and implement responses to organized crime. The UNTOC exemplifies this dynamic. The Convention ultimately prioritizes prosecutorial efficiency and cooperation, with only limited and largely procedural references to rights, such as in relation to extradition, mutual legal assistance, and witness protection (Boister, 2002).

At the same time, international human rights law offers tools that remain underutilized in this field. Doctrines of due diligence and positive obligations provide a basis for holding states accountable for failures to prevent harm by non-state actors and to ensure access to effective remedies (Obokata, 2006; Obokata, 2019). Yet most global human rights treaties do not explicitly address organized criminality, with notable exceptions such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which impose specific obligations on states to protect women and children from trafficking and exploitation.

Taken together, these dynamics reveal a pattern of fragmented engagement rather than systematic integration. While international institutions increasingly acknowledge the human rights harms associated with organized crime, this recognition has rarely translated into coherent frameworks capable of shaping crime prevention, security policy, or governance reform in practice. Human rights and crime control regimes continue to operate largely in parallel, limiting their capacity to address the institutional conditions – such as corruption, selective enforcement, and impunity – that sustain organized criminal power. These limitations underscore the central role of corruption in this disconnect by weakening institutional integrity, distorting enforcement priorities, and sustaining impunity, since corruption enables organized crime to generate widespread human rights harms while remaining largely insulated from accountability.

2. The nexus between corruption, organized crime, and human rights

Without addressing corruption, neither enforcement measures nor human rights protections are likely to disrupt organized crime. Corruption plays a central role in enabling criminal groups to consolidate power, evade accountability, and influence state institutions, thereby contributing to transforming organized crime from a criminal phenomenon into a structural governance challenge. A growing body of research demonstrates that corruption functions as a key connective mechanism linking organized crime to democratic erosion and to the widespread human rights harms associated with criminal governance (Marquette et al., 2021; Albanese, 2025; Peters, 2018; Andersen, 2018).

From a governance perspective, corruption weakens the institutional foundations required for effective crime control and democratic accountability. From a human rights perspective, it constitutes a structural barrier to the realization of rights, particularly where it enables violence, exclusion, and impunity. The following subsections examine four interrelated ways in which corruption links organized crime to democratic erosion and rights violation by i. enabling criminal operations, ii. facilitating institutional capture, iii. normalizing impunity and iv. contributing to erosion of economic, social and cultural rights (ESCR).

Table 1. Corruption, organized crime, and differentiated human rights impacts

Analytical level	Role of corruption in organized crime	Primary effect	Human rights implications
Operational (3.1)	Enables protection from enforcement through bribery, coercion, and informal agreements	Criminal groups operate with reduced risk and predictability	Direct human rights harms, including killings, forced displacement, trafficking in persons, exploitation, and chronic insecurity
Institutional (3.2)	Facilitates institutional capture and criminal infiltration of governance	Distorts decision-making, enforcement priorities, and regulatory oversight	Weakening of the state's capacity to act as a human rights duty-bearer, including failures of prevention, protection, and effective remedies
Systemic (3.3)	Normalizes selective enforcement and shields powerful actors from accountability	Entrenchment of impunity and erosion of the rule of law	Denial of access to justice, inequality before the law, and increased exposure to abuse for marginalized groups
Structural / ESCR (3.4)	Diverts public resources through illicit financial flows and corrupt procurement	Underfunding of essential services and social protection	Erosion of economic, social, and cultural rights, reinforcing vulnerability to criminal recruitment and exploitation

To clarify the distinct but interrelated ways in which corruption sustains organized crime and produces human rights harm (Table 1), there are different impacts across operational, institutional, systemic, and structural (ESCR) levels that are explained in the following topics.

How corruption enables organized crime operationally

Corruption is widely recognized as a critical facilitator of organized crime. Through bribery, coercion, and informal agreements, criminal groups secure protection from law enforcement agencies, judicial authorities, political actors, and regulatory bodies, allowing illicit markets to operate with reduced risk and predictability (Buscaglia, 2008). In this sense, corruption functions as an operational enabler, reducing transaction costs and enabling criminal enterprises to expand, diversify, and adapt to enforcement pressures (Schwuchow, 2023). Beyond facilitating protection from enforcement, corruption enables organized crime to flourish by normalizing violence and exploitation. In situations officials tolerate or profit from criminal activity, violence becomes an embedded governance tool, deployed systematically to control territory, labour, and populations with minimal interference (Buscaglia, 2008; Arias & Barnes, 2017; Lessing, 2017; Lessing & Willis, 2022, 2022).

Corruption thus lowers not only legal risks but integrates organized crime–related violence into the everyday governance of illicit economies, directly shaping the lived experiences of affected communities (Rodgers, 2006; Oliveira, 2023; Oliveira, 2025). The human rights implications of this enabling role are significant. In Haiti, for example, entrenched corruption and elite collusion have weakened justice and security institutions, allowing criminal groups to exert systematic violence and intimidation with limited accountability (OHCHR, 2025; United Nations Security Council, 2025). Affected populations experience sustained violence, including high levels of gender-based violence, illustrating how corruption can enable not only criminal activity but direct human rights violations.

Where corruption operates: institutional capture and organized crime infiltration

Beyond facilitating day-to-day criminal operations, corruption enables organized crime to penetrate and reshape state institutions (Buscaglia & van Dijk, 2008; van Dijk, 2008). Through systematic bribery, coercion, and political financing, criminal actors seek to influence decision-making processes and secure protection at higher levels of governance, extending their reach beyond law enforcement into political, judicial, and regulatory spheres (Buscaglia & van Dijk, 2008). This dynamic – commonly described as 'state capture' – blurs the boundary between criminal and political authority and undermines democratic accountability by allowing illicit actors to shape laws, policies, and institutional practices in their favour (Hellman et al., 2000).

In contexts of institutional capture, formal democratic mechanisms such as elections, judicial appointments, and legislative oversight may continue to function procedurally, while substantive accountability is hollowed out (Arias & Barnes, 2017; Transparency International, 2019). Organized crime benefits not only from insulation against prosecution, but from the ability to influence enforcement priorities, allocate public resources, and shape policy outcomes (Buscaglia & van Dijk, 2008). Rather than confronting the state directly, criminal actors operate through it, normalizing forms of criminal governance that coexist with – and distort – official authority (Lessing & Willis, 2022). In some contexts, organized crime assumes quasi-state functions, providing livelihoods, services, or informal justice mechanisms, thereby further entrenching its legitimacy within affected communities without requiring open confrontation with state power (Rodgers, 2006; Lessing & Willis, 2022).

From a human rights perspective, institutional capture undermines the state's role as the primary duty-bearer for rights protection. When criminal influence shapes state priorities, prosecutorial discretion, and regulatory oversight, states lose the capacity to act with due diligence to prevent harm, ensure accountability, and provide effective remedies, engaging their responsibility under international human rights law (UNHRCtte, 2004; UNHRCtte, 2019; Guercke, 2021). Human rights violations in such contexts are therefore not solely the result of criminal activity, but of institutional arrangements that systematically distort decision-making and hollow out mechanisms designed to protect rights (UNHRC, 2021; UNHRC, 2023). Institutional capture thus constitutes a structural failure of human rights governance, rather than a direct or incidental source of abuse.

What corruption and organized crime do to law and democracy?

If institutional capture undermines the state's capacity to act, impunity represents the outcome of that failure. Where justice and security institutions are compromised, investigations are selectively pursued, prosecutions stall, and sanctions are applied unevenly. Accountability mechanisms tend to target low-level actors and marginalized communities, while politically connected or powerful perpetrators remain shielded from scrutiny (Buscaglia & van Dijk, 2008; Human Rights Watch, 2025). This erosion of the rule of law has cumulative effects on democratic governance. Equality before the law, access to justice, and legal certainty are weakened, contributing to declining public confidence in institutions. Comparative research on democratic backsliding and corruption consistently identifies elite impunity and selective enforcement as key drivers of institutional decay, particularly in contexts marked by inequality and weak oversight (Levitsky & Ziblatt, 2018; Transparency International, 2022).

From a human rights perspective, the normalization of impunity constitutes a distinct form of rights violation. International human rights law recognizes access to justice, equality before the law, and the right to an effective remedy as core guarantees (UNHRCtte, 2004). Where corruption and criminal infiltration shield powerful actors from accountability, these guarantees are systematically denied. Victims are left without truth, redress, or protection, while selective enforcement reinforces discrimination and exclusion, engaging state responsibility under established human rights jurisprudence (UNHRCtte, 2019; Guercke, 2021).

Who pays the price? Corruption, resource deprivation, and the erosion of economic, cultural and social rights

While corruption undermines accountability and the rule of law, it also produces material harms by diverting public resources and weakening the state's capacity to fulfil economic, social, and cultural rights. The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees a range of economic and social entitlements, including housing, healthcare, education, work, and social protection, and obliges states to take deliberate steps toward their realization using the maximum of available resources (Sepúlveda, 2014). In many contexts, the non-fulfilment of these obligations cannot be explained by resource shortages alone, but rather by entrenched corruption, elite capture, and discriminatory political and economic decision-making. (Alston, 2019). When organized crime benefits from corrupt arrangements within public institutions, the resulting loss of resources constitutes a rights-relevant harm that disproportionately affects marginalized communities. In such contexts, deficits in service delivery are often compounded by insecurity, further restricting access to schools, health facilities, and employment opportunities.

The erosion of economic and social rights also feeds back into the dynamics of organized crime. Limited access to education, precarious livelihoods, and inadequate social protection increase vulnerability to criminal recruitment and exploitation, particularly among young people and populations living in informal settlements (Oliveira, 2023). From this perspective, ESCR violations are not only outcomes of corruption and organized crime, but enabling conditions that sustain criminal governance over time. UN Human Rights Council resolutions have explicitly recognized that corruption undermines the enjoyment of economic, social and cultural rights by diverting public resources, weakening institutions, and entrenching inequality (UNHRC 2021; UNHRC 2023).

Taken together, corruption operates across multiple levels to sustain organized crime and its human rights impacts. As an operational enabler, it reduces accountability risks and normalizes violence; as a mechanism of institutional capture, it distorts governance and drives impunity; and as a structural force, it diverts public resources, eroding democratic institutions and the realization of economic, social, and cultural rights. These dynamics are mutually reinforcing, producing environments in which criminal governance can persist without overt state collapse. Understanding corruption as a cross-cutting structural driver of organized crime is therefore essential to explaining why enforcement-centred responses have repeatedly failed to curb criminal power or prevent associated rights violations, and to identifying more coherent approaches capable of addressing these interlinked challenges.

3. Integrating human rights into responses to organized crime: lessons from anti-corruption frameworks

Building on the preceding analysis of organized crime as a source of systemic human rights harm and of corruption as a cross-cutting enabler of criminal governance and institutional failure, this section examines how human rights approaches can be more effectively integrated into responses to organized crime. While international frameworks addressing organized crime and corruption have historically evolved along separate institutional and normative tracks, anti-corruption agendas have progressively incorporated human rights, transparency, accountability, and participation as core elements of governance reform. By contrast, responses to organized crime remain predominantly enforcement-driven and insulated from sustained human rights scrutiny. This section argues that anti-corruption frameworks offer not only normative guidance but concrete governance tools and accountability mechanisms that can inform more coherent, rights-centred responses to organized crime, particularly in contexts marked by institutional capture, impunity, and democratic erosion.

This is not to suggest that anti-corruption frameworks are comprehensive or uniformly effective in protecting human rights; rather, their uneven and contested evolution nonetheless highlights practices and institutional innovations that remain comparatively underdeveloped within responses to organized crime. Drawing on these lessons, integrating human rights into responses to organized crime requires a shift from parallel agendas to coordinated governance strategies. Key entry points include:

Corruption as a human rights issue

Over the past decade, international human rights bodies have increasingly reframed corruption as a human rights issue rather than solely a governance or development concern. This shift has been articulated most clearly through the work of the Office of the United Nations High Commissioner for Human Rights (OHCHR), which has consistently emphasized that corruption undermines the enjoyment of all human rights by distorting public decision-making, weakening institutions, diverting public resources, and entrenching inequality. This understanding has developed through a sustained institutional process, beginning with early normative analysis by the Human Rights Council Advisory Committee, followed by the articulation of best practices and, more recently, by operational guidance aimed at translating human rights standards into anti-corruption action (HRC Advisory Committee, 2015; OHCHR, 2016; OHCHR, 2025). This trajectory has been reinforced politically through Human Rights Council resolutions explicitly recognizing corruption as a structural obstacle to the realization of economic, social, and cultural rights and calling for closer integration between human rights and anti-corruption efforts (UNHRC, 2021; UNHRC, 2023).

Human rights scholarship has reinforced this institutional shift by conceptualizing corruption as a structural constraint on rights realization rather than merely a series of isolated criminal acts. Rather than focusing on individual bribery, literature highlights how systemic corruption produces durable patterns of exclusion, discrimination, and harm that mirror – and often generate – human rights violations (Peters, 2018). In contexts affected by organized crime, these dynamics are intensified: corruption facilitates violence, shields perpetrators from accountability, and enables forms of criminal governance that displace state authority and undermine the state's capacity to act as a human rights duty-bearer.

This evolving understanding has informed the development of human rights–based approaches to anti-corruption, which emphasize participation, accountability, transparency, access to information, and non-discrimination as core principles (OHCHR, 2025). Crucially, these approaches translate human rights norms into governance tools by strengthening oversight bodies, enabling meaningful public participation, protecting access to information, and ensuring that affected communities have avenues to challenge abuse (OHCHR, 2016; Global Civil Society Coalition for the UNCAC Working Group on Human Rights and Corruption, 2025). In contrast to purely punitive or technocratic models, human rights–based anti-corruption frameworks seek to prevent corruption by addressing the institutional and social conditions that allow it to persist, while rebuilding public trust in state institutions.

Importantly, anti-corruption practice has also developed institutional pathways for integrating human rights considerations that go beyond abstract principles. Civil society organizations and international actors have increasingly mobilized UN human rights mechanisms – such as the Universal Periodic Review, treaty body reporting, and special procedures – not to restate normative concerns, but to translate corruption-related governance failures into concrete recommendations on institutional reform, accountability, and guarantees of non-repetition (OHCHR, 2025; Global Civil Society Coalition for the UNCAC Working Group on Human Rights and Corruption, 2025). Mapping exercises and policy guidance have shown that recommendations emerging from human rights mechanisms frequently overlap with findings under the UNCAC Implementation Review Mechanism, revealing practical entry points for greater policy coherence rather than parallel engagement (OHCHR, 2025a).

Human rights integration has further sharpened attention to civic space, remedies, and asset recovery as central components of effective anti-corruption strategies. Human rights special procedures have highlighted the indispensable role of journalists, human rights defenders, and civil society organizations in exposing corruption, while documenting the heightened risks they face through intimidation, reprisals, and violence (OHCHR, 2021). At the same time, emerging guidance on asset recovery has emphasized that the return of stolen assets is not merely a matter of financial restitution, but engages states' obligations to ensure transparency, participation, and access to remedies for affected individuals and communities (OHCHR, 2022). Taken together, these developments position victims, communities, and rights-holders – rather than institutions or markets alone – at the centre of anti-corruption responses (OHCHR, 2025).

At the same time, human rights integration within anti-corruption practice has been uneven, politically contested, and at times selectively applied. Progress has often depended on sustained civil society advocacy and remains vulnerable to backlash, co-optation, and institutional resistance (Rose, 2016; Global Civil Society Coalition for the UNCAC Working Group on Human Rights and Corruption, 2025). Nevertheless, the anti-corruption field has advanced further in articulating the human rights dimensions of governance failure – and in developing tools to operationalize them – than comparable efforts within organized crime control frameworks, where human rights engagement remains largely indirect, fragmented, or confined to procedural safeguards. This relative asymmetry provides a critical point of departure for examining how lessons from anti-corruption practice can inform more coherent and rights-centred responses to organized crime.

From parallel agendas to integrated governance responses

As demonstrated in Section 4.1, anti-corruption frameworks have progressively incorporated human rights principles, governance reform, and accountability mechanisms into their responses, reflecting the ways in which corruption has increasingly been understood as a systemic governance challenge. International approaches to organized crime, by contrast, have evolved within legal and institutional settings that prioritize criminalization, inter-state cooperation, and enforcement capacity, and have engaged more unevenly with the institutional and social conditions that sustain criminal power. This divergence has resulted in parallel agendas addressing closely related phenomena, limiting opportunities to account for how corruption functions as a key mechanism through which organized crime consolidates influence and how human rights harms arise from their combined effects.

Treating organized crime primarily as a security threat constrains the capacity of states to address its structural drivers, including institutional capture, inequality, and exclusion. As anti-corruption practice has demonstrated amd as argued elsewhere (Oliveira, 2025), effective responses require moving beyond criminal law to confront governance failures that enable illicit activity. Where corruption distorts law enforcement, judicial processes, and political decision-making, enforcement-led strategies risk reproducing selective justice, reinforcing impunity, and exacerbating the very conditions that allow organized crime to persist.

Applying these lessons to organized crime responses requires rethinking how success is defined and measured. Enforcement outputs – such as arrests, prosecutions, or seizures – offer only a partial and often misleading picture of effectiveness. A human rights–centred approach would instead assess whether responses reduce harm, strengthen institutional integrity, expand access to justice, and protect affected communities. This shift mirrors developments in anti-corruption practice, where emphasis has increasingly been placed on prevention, accountability, and trust-building rather than on punitive outcomes alone.

Key areas for integration include strengthening oversight of security and justice institutions, ensuring access to remedies for communities affected by both criminal violence and state abuse, and explicitly addressing corruption as a central enabling condition of organized crime. Incorporating transparency, participation, and accountability mechanisms into anti-crime strategies can help prevent the normalization of exceptional measures – such as militarization or emergency powers – and reduce the risk of systemic rights violations.

The rule of law is weakened and impunity entrenched where mechanisms to investigate and redress violations – whether committed by state or non-state actors – are absent or ineffective (Oliveira, 2025). In this sense, access to justice constitutes an essential component of a human rights-based strategy against organised crime. Crime prevention strategies that seek not only to repress criminal activity but also to restore public trust and democratic legitimacy must prioritise strengthening institutional integrity, ensuring independent oversight, and guaranteeing non-repetition. One illustrative example is Guatemala's International Commission against Impunity (CICIG), which demonstrated that addressing corruption and organized crime in tandem can reinforce institutional integrity and drive legal and prosecutorial reform (OHCHR, 2019).

Integrating human rights into responses to organized crime does not require abandoning criminal law or international cooperation. Rather, it requires reorienting these frameworks to address the governance failures that allow organized crime to persist, drawing on the more developed experience of anti-corruption practice. As this chapter has shown, corruption operates as a cross-cutting structural driver of organized crime, enabling institutional capture, impunity, and the erosion of economic, social, and cultural rights. Responses that fail to confront this reality risk reinforcing the very conditions they seek to dismantle. By embedding human rights principles – such as accountability, participation, transparency, and non-discrimination – within anti-crime strategies, states and international actors can move toward more coherent and legitimate approaches that reduce harm, strengthen democratic institutions, and address organized crime as a governance and human rights challenge rather than solely a security threat.

Conclusion

Organized crime are corruption are deeply interconnected challenges that shape contemporary patterns of human rights violations. However, they are typically addressed through distinct international legal and policy frameworks, each with its own priorities, institutions, and logics of intervention. This fragmentation has limited the capacity of states and international actors to grasp how these phenomena interact in practice and how their combined effects undermine democratic governance. This chapter has argued that understanding organized crime as a governance challenge – rather than solely as a criminal or security problem – requires situating it at the intersection of corruption and human rights frameworks.

By examining corruption as a central enabling mechanism, the chapter has shown how organized crime is sustained through institutional capture, selective enforcement, and impunity, producing systemic human rights harms that extend beyond individual criminal acts. A human rights lens reveals that these harms are not incidental, but are embedded in institutional arrangements distorted by corruption and weak accountability. Drawing on the evolution of human rights integration within anti-corruption frameworks, the analysis has highlighted governance tools – such as oversight, access to justice, protection of civic space, and accountability mechanisms – that help explain why some responses address root causes more effectively than others.

The contribution of this chapter lies in highlighting the analytical and practical value of bridging human rights, anti-corruption, and organized crime agendas. As argued elsewhere, addressing organized crime through a human rights lens requires moving beyond reactive enforcement and towards strategies that prioritize prevention, accountability, and institutional legitimacy (Oliveira, 2025). It suggests that responses focused narrowly on enforcement overlook the structural drivers that allow organized crime to persist and adapt. By contrast, approaches that engage with corruption, institutional integrity, and rights protection provide a more robust framework for understanding how criminal governance takes hold and how democratic institutions are weakened. Situating organized crime within this broader governance and human rights framework allows for a more precise diagnosis of its causes and consequences, and offers a foundation for responses that seek to restore accountability and democratic legitimacy rather than merely suppress criminal activity.

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7 Disappointment and Faint Hope in Law: Everyday Justice Experiences and Legal Consciousness of Youth in Nairobi Slums

Dr. Makiko Arai

Abstract

This chapter examines the legal consciousness of youth in Nairobi's informal settlements, based on qualitative fieldwork conducted to the youths in Mathare and Majengo between 2024 and 2025. Drawing on interviews and focus group discussions, the study explores how everyday experiences of justice shape young people's perceptions of law and justice. While prior research has emphasized ethnic divisions as key drivers of inequality in African contexts, the findings presented here suggest a different pattern. Rather than ethnic or religious divisions, vertical inequalities — particularly in relation to interactions with state authorities such as the police — play a more prominent role in shaping experiences of injustice. The findings reveal that young people's legal consciousness is characterized by mistrust, disappointment, and a faint yet persistent expectation of justice. Applying procedural justice theory, the chapter demonstrates how discriminatory and coercive policing practices undermine institutional legitimacy and foster adversarial relationships with legal authorities. At the same time, drawing on recent legal consciousness scholarship, it highlights the perception of law and justice are constructed through everyday interactions within hybrid legal contexts, shaped by the intersection of gender, poverty, and spatial marginalization. The study contributes to existing debates by foregrounding the significance of vertical inequalities and their interaction with horizontal forms of differentiation. It calls for policy approaches that prioritize procedural fairness and respect for dignity in everyday law enforcement practices in order to rebuild trust in legal institutions and promote more inclusive forms of justice in urban Kenya.

Keywords: Africa, informal settlements, legal consciousness, trust in law, youth.

Introduction

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> *"You see, this is Kenyan Constitution. I always carry this with me in my backpack when I'm driving Boda boda. When I'm stopped by the police on the street, I show this to them. They treat me more carefully when they see this." – Jay1, a youth leader in Majengo slum, Nairobi.*

Nairobi, the capital of Kenya and home to more than four million people, hosts a multitude of informal settlements — commonly referred to as slums — where residents have gradually settled over time, often through informal processes of land occupation and community formation. Although these settlements occupy only a small fraction of the city's total land area, they are said to accommodate over one million people. These communities face a range of socio-economic challenges, including high rates of unemployment, poverty, inadequate sanitation, limited access to education, and elevated levels of crime and violence. Young residents in these areas are particularly vulnerable, not only experiencing social prejudice and discrimination from the broader population, but also are said to be frequently subjected to harassment by public authorities, especially the police (van Stapele, N., 2016, Oniang'o, 2022).

In the African context, horizontal inequality (HI) — particularly ethnic HI — has been widely discussed as a major source of socioeconomic instability (Brown & Stewart, 2012, Mine et al., 2013, Stewart, 2011). A substantial body of literature has examined the role of HI in shaping political and social dynamics across the continent. For instance, Mine et al. (2013) offer a comprehensive study of HI and state stability through case studies from several African countries. In addition to ethnic division and conflict, scholars have also highlighted the role of intergroup competition, exclusion, and the rise of violent extremism as drivers of social instability and insecurity (Hino et al., 2012, 2019, UNDP, 2023,). However, legal inequality as a dimension of HI remains underexplored. Emerging research points to inequalities in access to justice and concerns about unequal treatment within legal institutions, particularly among socio-economically marginalized populations in Africa (Logan et al., 2026; Akoensi & Nivette, 2025).

Against this background, this study seeks to address this gap by examining how legal exclusion and unequal access to justice shape the lived experiences of young people in Nairobi's informal settlements, and how these experiences, in turn, inform their perceptions of law and justice.

This chapter offers an empirical analysis of these experiences through a socio-legal lens, examining how they inform young people's perceptions of law and justice. It investigates how such experiences engender a sense of disappointment and faint hope in legal institutions, and how these sentiments may potentially be entangled with broader dynamics of criminalization and violence. The central research question guiding this study is: What kinds of experiences of justice do young people living in Nairobi's slums encounter, and how do these experiences shape their perceptions and consciousness of law and justice? This question is grounded in existing research suggesting that young people in marginalized urban contexts are frequently exposed to discrimination and violence by both society and public authorities, and often face limited or unreliable access to legal protection. Drawing on the framework of legal consciousness studies, this research investigates how everyday justice experiences influence the formation of legal perceptions among marginalized youth, revealing a complex interplay between distrust, disappointment, and fragile hope in law.

While the study initially sought to examine whether ethnic HI manifests in the experiences of discrimination and injustice among residents of informal settlements, the empirical findings suggest otherwise. Rather than ethnic or religious divisions, fieldwork revealed deeply rooted vertical inequalities (VI) among individuals — understood here as hierarchical disparities based on socio-economic status, spatial marginalization, and access to state power. Although gender is typically conceptualized as a form of horizontal inequality, the findings of this study suggest that gendered experiences of injustice are closely intertwined with vertical inequalities, particularly in relation to differential exposure to and interaction with state institutions such as the police.

These inequalities are closely associated with the structural conditions of living in informal settlements itself, including poverty, spatial marginalization, and limited access to state institutions. As such, the findings suggest that the experiences of injustice among slum residents are shaped less by identity-based differences and more by their position within broader socio-economic and institutional hierarchies, particularly in relation to public authorities such as the police.

1. Procedural Justice Theory and Legal Consciousness Studies

Tyler and Huo (2002) argue that public cooperation with legal authorities is not primarily driven by fear of punishment or the favorability of outcomes, but rather by the perceived legitimacy of those institutions. As they demonstrate — based on empirical data from Oakland and Los Angeles —, individuals are more likely to comply with the law when they feel they have been treated fairly, respectfully, and with dignity by police officers and judges. This insight forms the basis of the 'procedural justice model', which contrasts with the 'instrumental model' of regulation that relies on deterrence and sanctions. According to procedural justice theory, the fairness of the processes through which legal decisions are made — particularly perceptions of neutrality, voice, and respectful treatment — is a critical determinant of institutional legitimacy and voluntary compliance by the citizens.

Building on these findings, Tyler (2006) further develops the theoretical framework by distinguishing between 'instrumental' and 'normative' models of legal compliance. He emphasizes that legitimacy is not merely an institutional attribute, but a psychological construct shaped by individuals' perceptions of moral alignment and felt obligation to obey. Tyler argues that when legal authorities are perceived as legitimate — because they act fairly and uphold shared moral values — people are more likely to comply voluntarily, even in the absence of coercion. His work underscores the importance of procedural fairness in fostering trust, legitimacy, and long-term cooperation with legal institutions, offering a normative foundation for justice system reform.

Although Tyler's theory was originally developed in the United States, its applicability has been tested in other regions. Hough, Jackson, and Bradford (2013) conducted an empirical study using data from the European Social Survey to examine the relationship between procedural justice, institutional legitimacy, and law-abiding behavior across across a range of European countries. Their findings provided strong support for procedural justice theory, demonstrating that perceptions of fair and respectful treatment by legal authorities enhance institutional legitimacy, which in turn is associated with greater willingness to comply with the law and cooperate with authorities.

In the scope of this chapter, procedural justice theory supports the argument that individuals' perceptions of law and justice are shaped not only by legal outcomes but also by the quality of their interactions with legal authorities. In contexts where these interactions are characterized by unfair treatment, violence, and corruption, institutional legitimacy is undermined, resulting in distrust and complex orientations toward law and justice.

While procedural justice theory provides a valuable framework for understanding how perceptions of fairness shape legitimacy and compliance, it remains primarily focused on individuals' responses to institutional encounters. To gain a deeper understanding of how law is experienced and interpreted in everyday life — especially in contexts characterized by inequality, violence, and contested authority — this study also draws on the framework of legal consciousness.

On legal consciousness, it has been widely studied as the way individuals perceive and interact with law in everyday life. Ewick and Silbey (1998) famously conceptualized this through three narrative schemas[1] — "before the law," "with the law," and "against the law" — arguing that legality is a cultural schema through which people make sense of their experiences (pp. 46–49). Building on this foundation, Silbey (2005) called for a shift "after legal consciousness," urging scholars to move beyond typologies and focus on how legality is constituted through institutional practices and everyday interactions. She argues that legal consciousness should be studied as "a set of discursive and material practices through which legality is produced and reproduced" (p. 345), thereby foregrounding law's embeddedness in social structures and its role in sustaining hegemonic power. More recently, Chua and Engel (2021) reconceptualize legal consciousness as a dynamic and relational process, emphasizing that it is "not merely a reflection of individual

1 Ewick and Silbey (1998) identify three common schemas of legal consciousness. "Before the law" reflects a view of law as a distant, authoritative, and impartial institution to be respected. "With the law" portrays law as a game-like resource that individuals can strategically use to pursue their interests. "Against the law" describes law as an arbitrary and oppressive force, prompting resistance or avoidance in everyday life.

attitudes towards law, but a mode of participation in legal meaning-making embedded in social practices and power relations" (p. 12). This trajectory reflects a growing emphasis on the constitutive and contested nature of legality in lived experience.

Recent scholarship has increasingly explored how law, legitimacy, and justice are understood and experienced in post-conflict societies, where the rule of law is often unstable and contested (Dunn 2023, Opongo, 2021; Ubink & Ribeiro de Almeida, 2023). Holly Dunn (2023) argues that in such contexts, legal consciousness emerges not from fixed legal norms but through everyday negotiations of legitimacy and justice. She highlights how individuals engage with law as a fluid and evolving construct, shaped by their lived experiences, collective memory, trauma, and unequal access to legal resources.

Central to Dunn's analysis is the concept of 'hybrid legality', which refers to the coexistence and interaction of formal state law with informal, customary, and community-based legal practices (2023). In post-conflict settings, where institutional trust is often eroded, people frequently turn to non-state actors — such as religious leaders, elders, or local networks — for dispute resolution and protection. These hybrid legal orders challenge the notion of law as a singular, coherent system, instead revealing a fragmented and negotiated landscape of legal authority. Law, in these environments, is perceived with ambivalence: it can represent both a potential source of justice and a reminder of past violence and exclusion. Dunn's work contributes to a broader understanding of how legal meaning is constructed and contested in transitional societies (2023). By foregrounding the voices of those navigating hybrid legal systems, she offers a critical lens for examining the role of law in rebuilding trust, legitimacy, and social cohesion.

Within the scope of this chapter, legal consciousness studies support the argument that individuals' perceptions of law and justice are not fixed, but are actively constructed through everyday experiences, social interactions, and power relations. Particularly in contexts marked by inequality, violence, and contested authority, legal consciousness provides a critical lens for examining how people interpret, negotiate, and sometimes resist the law. This perspective highlights that people's orientations toward legal institutions are shaped not only by institutional performance, but also by their lived experiences within broader social, political, and economic structures.

Taken together, procedural justice theory and legal consciousness studies offer a complementary framework for understanding how individuals relate to law and legal authorities. While procedural justice theory emphasizes the importance of fair and respectful treatment in shaping institutional legitimacy and compliance, legal consciousness research extends this analysis by illuminating how legal meanings are constructed, contested, and transformed in everyday life. In contexts such as Nairobi's informal settlements, where legal authority is fragmented and experiences with state institutions are often characterized by inequality and coercion, these perspectives jointly enable a more nuanced understanding of the complex and often ambivalent ways in which people experience, perceive, and engage with law and justice.

2. Slums in Nairobi and the Trust in Police

In Kenya, 40.5% of the urban population lived in slums or informal settlements as of 2022 (UN-Habitat, 2022). In Nairobi, it is estimated that nearly half of the city's population resides in slum areas that occupy only about 1% of the city's total land area (Amnesty International, 2019). A recent study utilizing spatial population data from 2000, 2010, and 2020 indicates that population density in Nairobi's informal settlements has significantly increased over the past two decades (Ren et al., 2020). These areas are severely affected by a range of social problems, including poverty, crime, violence, and drug abuse. Of particular concern is the violent radicalization of youth, which has been accompanied by arbitrary arrests and police brutality. In addition, the lack of educational and employment opportunities makes youth in informal settlements particularly vulnerable to recruitment by Islamic extremist groups (Hellsten, 2016).

Gang activity is also particularly prevalent in informal settlements, which are often described as breeding grounds for organized criminal groups. However, the relationship between gangs and slum communities is ambivalent — marked by both fear and dependence. Mutahi (2011) examines how criminal gangs in Nairobi's Kibera and Mathare slums operate between legality and illegality, filling gaps left by the state's failure to provide security and basic services. According to Mutahi's (2011) study, in response to the government's failure to provide adequate security and basic services, and amid widespread police corruption and institutional inefficiency, residents have come to rely on gangs for protection, dispute resolution, and access to water and electricity. These gangs have evolved into informal governance structures, charging fees and enforcing local norms. Drawing on the argument by Boege et al., (2009), Mutahi (2011) describes Kenya as a "hybrid state" where formal and informal actors share authority. Boege et al. (2009) argue that in a "hybrid state," "the 'state' does not have a privileged position as the political framework that provides security, welfare and representation; it has to share authority, legitimacy and capacity with other structures" (p. 10).

In this regard, while the concept of a "hybrid state" captures the coexistence of formal and informal systems of governance in Nairobi's informal settlements, it does not fully resolve the question of how security, authority, and justice are experienced by residents. Although gangs and other non-state actors may fill governance gaps left by the state, their presence often introduces new forms of coercion and insecurity rather than stable protection. This results in an ambivalent landscape in which residents depend on, yet remain vulnerable to, multiple and overlapping systems of authority. Within such a fragmented environment, the role of the state — particularly the police as the primary agents of legal authority — becomes central, shaping how law, order, and justice are experienced in everyday life.

However, as documented in various international reports and media coverage, excessive and unlawful law enforcement — including arbitrary and extrajudicial killings — remains a serious concern in Kenya, particularly in informal settlements (van Stapele, N., 2016, Oniang'o, 2022). The issue extends beyond interpersonal violence among civilians to encompass systemic abuses perpetrated by the police. As will be discussed in detail, slum youth's expectations and trust in law and justice in Kenya are profoundly shaped by interactions with the police, who serve as the most immediate embodiment of legal authority. Therefore, before examining the everyday justice experiences and legal consciousness of young people living in slums, it is essential to understand the broader context of violence and policing in Kenya. This section outlines these dynamics by drawing on findings by international organizations and from the existing large-scale social surveys.

Violence and Police Reform

Following the post-election violence in 2007–2008 in the country, in which approximately 1,300 people were killed and thousands more injured (Commission of Inquiry into Post-Election Violence, 2008), the Kenyan government undertook a series of police reforms in response to both domestic reflection on its handling of the crisis and mounting international criticism (Commission of Inquiry into Post-Election Violence, 2008, Ogada, 2011). As part of these reforms, the government launched a series of legal and institutional ones aimed at enhancing police accountability and restoring public trust (National Police Service Act, 2011; Independent Policing Oversight Authority Act, 2011). In response to the post-election crisis, the 2010 Constitution of Kenya laid the foundation for comprehensive police reforms (Constitution of Kenya, 2010). These included the institutionalization of the National Police Service and the creation of independent oversight mechanisms aimed at enhancing accountability and professionalism in law enforcement.

This constitutional framework was subsequently operationalized through key legislation, notably the National Police Service Act (2011), which formally established the National Police Service with a mandate to uphold human rights, and the Independent Policing Oversight Authority Act (2011), which created a new civilian oversight body. Together, these reforms sought to restructure the police service and align it with democratic principles and the rule of law.

However, the path toward comprehensive police reform remains incomplete, as reports of police corruption and violence continue to surface (Human Rights Watch, 2024, U.S. Department of State, 2024). Despite the establishment of oversight mechanisms, incidents of excessive use of force, extrajudicial killings, and lack of accountability persist, particularly in the context of public protests and operations in informal settlements such as Kibera and Mathare (Human Rights Watch, 2024). The United Nations Office of the High Commissioner for Human Rights (UNOHCHR) has also recently raised serious concerns regarding the excessive use of force by Kenyan police during protests in June 2025, which resulted in multiple deaths and injuries (OHCHR, 2025).

The following two recent nationwide perception surveys conducted in Kenya have yielded important findings related to the police, shedding light on the paradoxical socio-legal conditions surrounding access to justice and public trust in law enforcement by police.

Public Perception of Police and Justice Institutions

The first one refers to the report on Justice Needs and Satisfaction in Kenya 2017, also known as Hiil report, which is based on a nationally representative survey of 6,005 respondents (Hiil, 2017). The survey was commissioned by the Judiciary of Kenya as part of its broader efforts to improve access to justice and understand the legal needs of ordinary citizens. The analysis examines overall trends, socio-economic disparities, and how individuals of lowest income bracket have experienced justice .

According to the survey result, the police are among the most frequently accessed formal institutions for resolving legal problems in Kenya. They are particularly involved in cases related to crime and violence, which were among the most commonly reported legal issues.

However, formal justice mechanisms, including the police, are often perceived as costly, slow, and procedurally complex, especially for individuals lacking legal representation (HiiL, 2017, p. 24–26). Among the 6,005 respondents, 63% reported experiencing at least one legal problem in the past four years. Crime-related issues, including violent crime and domestic violence, were among the most prevalent. While 81% of those affected took action to resolve their issues, 54% did not achieve a satisfactory outcome. The justice journey was frequently described as stressful, with many respondents reporting emotional and mental health impacts due to unresolved legal problems (HiiL, 2017, p. 18–22).

The survey further reveals that the respondents from the lowest income group were significantly less likely to access formal justice mechanisms such as police and courts. Financial constraints and procedural complexity were major barriers. Instead, these individuals often relied on informal mechanisms, such as local chiefs, which were perceived as more accessible and less costly. The report emphasizes that poor and uneducated users are particularly impeded by technical procedures and lack of legal representation. Despite these challenges, many low-income respondents actively sought resolution, indicating a strong demand for justice among vulnerable populations (HiiL, 2017, p. 27–30).

On the other hand, more recent findings were cataloged by Afrobarometer's Round 9 survey (2021/2022), that further illuminates the deep-seated mistrust between Kenyan citizens and the police. The survey reveals that only one-third of Kenyans express any level of trust in the police, with just 13% stating they trust them "a lot" and 21% "somewhat." Alarmingly, the proportion of citizens who report having no trust in the police at all has increased by 12% since 2014 (Afrobarometer Round 6 Survey, 2014).

Moreover, 68% of respondents believe that “most” or “all” police officers are corrupt, representing the highest level of perceived corruption among 11 public institutions assessed in the study.

The report also highlights that while 19% of Kenyans sought police assistance in the previous year, more than twice that number (44%) encountered police in other contexts, such as checkpoints, identity checks, or traffic stops. It is reported that these interactions were frequently marred by demands for bribes and perceptions of misconduct. Citizens commonly accused the police of engaging in criminal activities, disrespecting citizens’ rights, and using excessive force, particularly during public demonstrations (Human Rights Watch, 2024; U.S. Department of State, 2024). These findings underscore the persistent gap between the expected role of the police as protectors of public safety and their perceived role as agents of insecurity and abuse (Kamau, Onyango, & Salau, 2022).

Taken together, these findings reveal a deeply contradictory socio-legal environment in Nairobi’s informal settlements, where legal institutions are simultaneously present, accessible, and yet profoundly distrusted. While the police remain one of the most visible and frequently encountered formal actors, their role is often associated with corruption, coercion, and violence rather than protection and justice. At the same time, residents continue to seek resolution to their legal problems through both formal and informal avenues, reflecting an enduring demand for justice despite systemic barriers and repeated disappointment. This coexistence of distrust and continued engagement points to an inherently ambivalent relationship with law, which provides a critical backdrop for understanding how young people experience, interpret, and construct meanings of law and justice in their everyday lives.

While the foregoing section has highlighted the broader socio-legal context of violence, policing, and public distrust in Kenya, such macro-level analyses cannot fully capture how law is actually encountered and lived in everyday settings. In contexts characterized by structural inequality and fragmented authority, understanding legal consciousness requires close attention to individuals’ lived experiences. For this reason, this study adopts an empirical, qualitative approach to examine how young people in Nairobi’s informal settlements experience, interpret, and make sense of law and justice in their daily lives. The following section outlines the research design, field sites, and methodological approach employed in this study.

3. Methodology

Within the broader context of violence and policing in Kenya, young people living in informal settlements are widely regarded as among the most marginalized and at risk of both state and non-state violence, including radicalization. To explore their everyday experiences of justice and their evolving legal consciousness, this chapters applies a qualitative methodology based on fieldwork conducted in Kenya in March 2024, September 2024 and February 2025. During each visit, which lasted approximately one week, data were collected using three distinct methods: questionnaires, focus group discussions (FGDs), and semi-structured and in-depth individual interviews. In the in-depth interviews, a life history interview approach was employed. Life history interviews are a qualitative method that focuses on eliciting detailed narratives of individuals' lived experiences over time, situating personal accounts within broader social and historical contexts. This approach allows for an in-depth understanding of how individuals interpret their experiences and construct meaning in relation to social structures and institutions (Bertaux, 1981, Atkinson, 2011).

For the purposes of this chapter, two primary sites were selected: Mathare and Majengo. Both settlements have long histories as informal urban communities and are situated in close proximity to one another on the eastern side of the Central Business District in Nairobi. While some of Nairobi's slums are predominantly inhabited by immigrants from other African countries, Mathare and Majengo offer a compelling contrast in terms of demographic composition. Mathare is largely populated by Kenyan-born Christian residents, whereas Majengo is primarily home to the Kenyan-born Muslims. This distinction was intentionally chosen to provide a meaningful comparative lens through which to examine how religious and cultural identities intersect with experiences of marginalization, violence, and legal consciousness in urban informal settlements. The contrasting social profiles of these two communities — despite their geographic proximity — were considered by the author to offer valuable insights into the differentiated ways in which law and justice are perceived and experienced.

Mathare

Mathare is a large slum area that developed and expanded mainly along the lowlands known as Mathare Valley, located along the Mathare River. It has a long history; according to Slum Dwellers International, an international platform that supports community-led slum upgrading and advocates for the rights of the urban poor, the first residents began settling in Mathare during the 1920s. In the 1950s, villagers actively participated in the nationalist movement, which led the British colonial government to demolish homes and detain residents during the 1952 State of Emergency. After Kenya gained independence in 1963, the population of Mathare grew rapidly with people looking for employment, often settling in informal settlements (Slum Dwellers International, 2012).

Although the majority of residents are Kenyan Christians, a significant number of Muslims also live in the area. In Mathare, slum upgrading projects by the Kenyan government as well as by various NGOs and community-based organizations have been conducted to improve sanitation, water supply, and electricity. In addition to such infrastructural improvements, many international organizations — including UNICEF, the French Embassy, the United States government, and a registered charity in the Netherlands — have partnered with local community groups and NGOs to implement projects aimed at empowering local youth and fostering community leadership. Japan also provided support through the Ministry of Foreign Affairs' Grant Assistance for Japanese NGO Projects from 2012 to 2015, with the aim of preventing large-scale riots and conflicts by mitigating inter-ethnic tensions (Ministry of Foreign Affairs of Japan, 2012a, 2012b, n.d.).

Majengo

Although Majengo has long been considered home to a large population of Kenyan Muslims, in recent years, the area has experienced increasing religious and ethnic diversification, with a growing number of Christians and new immigrants from abroad. Following the intensification of activities by the Somalia-based Islamist militant group al-Shabab in 2008, a significant number of young people from Majengo were reportedly recruited into such extremist organizations. In 2006, al-Shabab was a relatively small group with approximately 400 members, but by 2008, it had expanded into a force of several thousand fighters, largely due to support from Somali communities. In 2010, the group gained international attention after formally declaring allegiance to al-Qaida and, subsequently, escalated its terrorist operations beyond Somalia.

According to Anzalone (2012), the Muslim Youth Center, originally founded in 2008 in the Majengo district as an informal advocacy group for Kenyan Muslims, has become an important recruiting ground for al-Shabab. Marginalized youth were drawn to the group simply for economic reasons, or from social isolation (Swanson, 2014). As a result, Majengo has increasingly been associated with narratives of 'radicalization', 'violence', and 'danger', contributing to the stereotyping and stigmatization of male residents. In response to these perceptions, incidents of arbitrary arrests and police violence targeting young people in Majengo have become a growing concern. In March 2025, a 17-year-old boy was fatally shot by police on his way home from mosque prayers, despite no clear charges being presented. Similar incidents have been reported in the past, highlighting a pattern of excessive force and impunity.

Respondents' profiles and participation

The survey explored experiences of discrimination, perceptions of law and justice, and personal encounters with injustice. The semi-structured interviews were conducted with a total of 33 participants. It was designed first with a multiple-choice questionnaire using a five-point Likert scale (1 = strongly disagree, 2 = somewhat disagree, 3 = neither agree nor disagree, 4 = somewhat agree, 5 = strongly agree). Broadly, these questions asked whether respondents perceived themselves as experiencing discrimination, who they identified as sources of such discrimination, what they considered to be the main grounds for it, and how they evaluated their relationship with the law, including whether they felt protected by it and whether they saw themselves as complying with it.

Responses to the Likert-scale items (1–5) were aggregated to analyze participants' subjective perceptions of discrimination and law. Mean scores were calculated for the overall sample, as well as separately for male and female respondents. This allowed for an examination of gender differences in responses and the identification of broader patterns in how discrimination and legal protection are perceived across groups.

This set of multiple-choice questions was then followed by two open-ended questions: (1) "In the past six months, have you experienced any events of injustice? If yes, please describe what happened and how you felt." and (2) "What do you think needs to be done to correct or reduce injustice in Kenya?" Of the 33 respondents, 30 responded in English, while 3 provided responses in a mix of Swahili and English, which were subsequently translated into English by an interpreter.

Participant demographics were collected through the face sheet section of the questionnaire. Of the respondents, 17 were female and 16 were male. Their ages ranged from 20 to 33 years. In terms of residence, 7 participants lived in Mathare, 20 in Majengo, and 6 in other informal settlements. Regarding religion, 21 identified as Christians (including Catholics, Protestants, and other denominations), while 11 were Muslims. Ethnic backgrounds included Kikuyu (8), Luhya (7), Kamba (6), Luo (5), and one each from Kalenjin, Somali, Kisii, Mijikenda, and another group. As for educational attainment, 11 participants had attended university (though the majority had dropped out or were on leave), 2 had attended vocational training institutions, and the remaining 10 had completed secondary education or less, including dropouts. None of the participants held full-time employment; 15 were unemployed, while the remaining 18 engaged in informal, irregular work such as carpentry assistance, phone repair, cooking, or second-hand clothing sales. Two participants did not respond to the question regarding occupation. Participant selection was conducted through purposive sampling method. The preliminary questionnaire followed by interviews were administered in English. Interpretation was provided as needed by bilingual interpreters, who were themselves native to either of the target slums and fluent in both English and Swahili.

A total of ten in-depth individual interviews were also conducted, involving six male and four female participants. Each interview lasted approximately 60 to 90 minutes and was carried out on a one-to-one basis in English, with interpretation between English and Swahili provided as needed. Participants were drawn from two major informal settlements: six from Majengo and four from Mathare. In terms of religious affiliation, four identified as Christian, five as Muslim, and one did not specify. Half of the interviewees held positions of influence within or beyond their communities, including two practicing lawyers, while the remaining half were male and female non-leadership youth in their twenties without such positions, most of whom were unemployed and occasionally engaged in informal day labor or small-scale self-employment.

Besides the semi-structured and in-depth interviews, six focus group discussions (FGDs) were conducted, each comprising approximately 7 to 9 participants per session. Around 80% of the participants were residents of Mathare or Majengo, with the remainder coming from other nearby informal settlements. While efforts were made to group participants from the same area within each session, some sessions included mixed groups. Participants were evenly distributed between Mathare and Majengo, and the gender ratio was approximately balanced. Within a duration of 60 minutes per session, participant selection was conducted through purposive sampling. The discussions were facilitated in English, with interpretation provided as needed by bilingual interpreters who were native to the target slum communities and fluent in both English and Swahili. Thematic prompts included experiences of discrimination, violence, and injustice; encounters with crime as victims or perpetrators; interactions with police officers, judges, and lawyers, and impressions of these actors; as well as experiences with or perceptions of gangs.

4. Life History Narratives

In order to concretely and empirically illustrate the life trajectories and everyday realities of the study participants — including the overlapping socio-economic challenges they face — the following section presents the life history of two individuals. These narratives were collected through individual in-depth life history interviews, which allowed for a nuanced exploration of personal experiences, structural constraints, and evolving perceptions of justice and legality.

Jay's Story: Structural Exclusion, Presumed Criminalization, and Ambivalent Expectations of the Law

Jay, a male Muslim Kikuyu resident of Majengo in his mid-thirties, represents the fourth generation of his family to reside in the area. His life history illustrates how structural exclusion and informal socioeconomic status shape legal consciousness among urban youth. Born into a large family with six siblings, Jay was raised by a father who worked as a juakali mechanic — an informal and unregulated occupation conducted outdoors — and a mother who sold food and later operated a small eatery. Despite economic hardship, his parents prioritized education, enabling Jay to attend school.

Jay's educational trajectory, however, was shaped by systemic barriers. He first attended a boarding school for secondary education, then transferred to a Muslim academy, where he completed his studies in 2008. However, due to unpaid fees, he was never issued a certificate. His only certificate — from primary school — was lost during the process of obtaining a birth certificate at a government office. This administrative loss has had lasting consequences, as Jay remains unable to prove any educational attainment, limiting his access to formal employment.

Following school, Jay engaged in informal labor — shoe shining, street vending, and assisting with neighbors' relocations. Since 2016, he has worked as a Boda boda (motorcycle taxi) rider, renting a bike from a friend and paying daily margins. On slow days, his earnings barely cover rental costs. He supplements his income through ad hoc phone repair work and voluntarily serves as a trainer in some youth-led organizations, reflecting his commitment to community empowerment despite structural constraints.

A pivotal aspect of Jay's narrative is the story of his younger brother, who joined Al-Shabaab and was later killed in Somalia. The brother had trained as an emergency medical technician (EMT) and worked as an emergency responder before joining the militant group. His work as an EMT provided him with a stable income and a strong sense of professional pride. Accordingly, Jay believes his brother was not driven to Al-Shabaab by poverty but by a desire to "do the right thing," shaped by his outspoken nature and close ties to the Somali community within Kenya. He was under constant police surveillance, which Jay interpreted as a form of presumed criminalization in Majengo. Initially angry, Jay later came to view his brother's departure as a means of escaping from persistent and deeply unjust state scrutiny. Jay now believes that his brother's strong desire for justice and a sense of belonging — neither of which could be fulfilled in his home country — led him, in his naivety, to embark on his journey to Somalia that ultimately resulted in his tragic death.

Jay, as a Muslime from Majengo, explains that his everyday life remains closely intertwined with injustice, even now that he has gained a certain degree of trust in the community as a youth leader. As indicated in the opening quote, he carries a copy of the Kenyan Constitution in his backpack whenever he drives a boda boda, almost like a protective talisman. Despite confronting the reality that the law does not always protect him, he continues to hold a faint expectation that the law might. His words can thus be seen as emblematic of his ambivalent position toward law and justice.

Kinjo's Story: Intersectionality of Gender and Poverty, Justice Experiences, and Legal Consciousness

Kinjo, a Christian Kikuyu woman in her late thirties, offers a gendered and intersectional perspective on injustice and legal consciousness in Nairobi's informal settlements. Born in Mathare, she was evicted at age fifteen from squatted land and relocated within the settlement. She now resides in a government-allocated house under informal tenancy. Her early life was shaped by trauma including her own experience of sexual violence at age thirteen, when her stepfather attempted to sexually abuse her. She fled and began living on the streets, dropping out of school permanently.

While homeless, Kinjo became pregnant at sixteen and gave birth while addicted to drugs — a dependency that began with glue sniffing and escalated to other substances. She remained addicted until her son turned ten. Although she quit at twenty-six, she continues to suffer physical aftereffects. She describes her addiction as a survival strategy to escape violence and emotional pain. Her turning point came when her son expressed shame and distress, prompting her recovery.

Kinjo's encounters with justice institutions reflect systemic failure. When she sought help from a village elder following her stepfather's attempted sexual abuse, he accepted a bribe from the stepfather and took no action. She never considered going to the police, citing both inaccessibility and fear stating: "I did not even think of seeking help from the police because I didn't know where they were, and I was too scared to see them." During a period of addiction, she once committed petty theft and was beaten by the police but not arrested — experiences that highlight forms of informal punishment and the absence of procedural justice within everyday policing practices.

Now a community leader and cultural performer, Kinjo has witnessed numerous cases of violence, including the rape of a teenage girl by three boys. She referred the girl to Médecins Sans Frontières (MSF) in the community, who provided medical care and emergency contraception. Although the girl filed a police report and one perpetrator was arrested, he was released after paying a bribe and fled the community.

Despite these challenges, Kinjo expresses a belief in justice and institutional accountability. She now feels empowered to report crimes and consult lawyers, noting the presence of a gender desk at the local police station. For her, justice does not mean compensation for damages, but rather moral accountability — "to pay for his or her own sin," as she puts it. Kinjo's narrative illustrates how intersectionality — gender, poverty, trauma, and informal status — and her resilience shapes legal consciousness in Nairobi's slums. Her journey from victimhood to leadership highlights the potential for transformation, and the importance of proximity to justice institutions, community solidarity, and personal agency in navigating legal journeys.

6. Vertical Inequalities and Gender

While individual narratives such as Jay's and Kinjo's provide insight into lived experiences of injustice, the following section examines broader patterns across participants based on both the questionnaire and qualitative data collected during field study. Drawing on the analytical approach outlined in the methodology section, the findings identify key patterns in participants' perceptions of discrimination and legal protection.

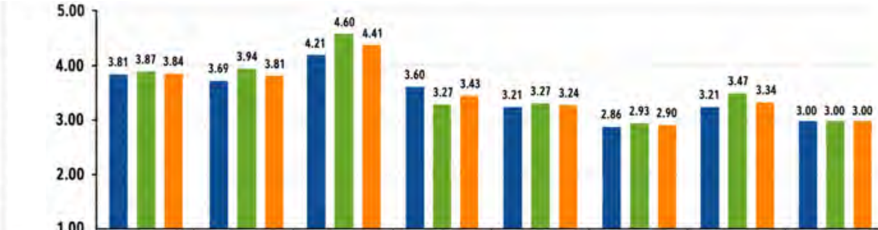
The results indicate that the police, followed by other government officials, are perceived as one of the most significant sources of discrimination among participants (Figure 1). A majority of respondents reported low levels of perceived legal protection and tended not to view the law in a positive light, while simultaneously indicating a strong sense of personal compliance with the law (Figure 3). This suggests a discrepancy between expectations of legal authority and lived experiences of justice.

Gender-disaggregated analysis reveals notable differences. Particularly pronounced gender disparities were observed in responses related to discrimination by the police and perceptions of legal protection, with male respondents reporting lower scores than female respondents on both measures (Figure 1 and 2). This suggests that men are more likely to experience discrimination from the police and, consequently, to feel less protected by the law. This pattern is further supported by responses to the open-ended question on experiences of injustice over the past six months. Male participants frequently referred to police violence and arbitrary arrest, whereas female participants more often highlighted interpersonal conflicts and cases of domestic violence. These findings highlight distinct gendered patterns in experiences of law and injustice.

Patterns in Perceptions of Discrimination and Law

Figure 1 presents participants' perceptions of the main sources of discrimination, based on Likert-scale (1-5) responses. The results are disaggregated by gender to illustrate differences between male and female respondents.

Figure 1. Source of Discrimination (1 = strongly disagree, 5 = strongly agree).

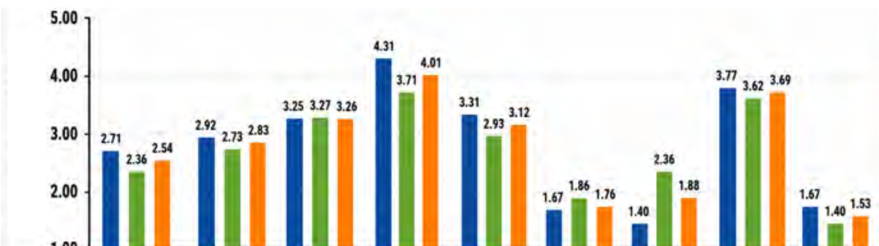


	Perceived Discrimination	Government Officials	Police	Formal Sector People	Other Slums	Neighbors	Other Ethnicity	Other Religion
Female	3.81	3.69	4.21	3.60	3.21	2.86	3.21	3.00
Male	3.87	3.94	4.60	3.27	3.27	2.93	3.47	3.00
Overall	3.84	3.81	4.41	3.43	3.24	2.90	3.34	3.00

The results indicate that the police are perceived as one of the most significant sources of discrimination, followed by other government officials. Notable gender differences are also observed, with male respondents reporting higher levels of perceived discrimination from the police compared to female respondents. This suggests that men are more likely to experience direct encounters with state actors, particularly in the context of law enforcement.

Figure 2 illustrates participants' self-perceived reasons for discrimination, including socio-economic, demographic, and identity-based factors. The responses are presented by gender to examine potential variations in perceived causes.

Figure 2. Self-perceived Reason for Discrimination



	Ethnicity	Religion	Informal Settler	No Money	Education Level	Presumed Criminality	Presumed Drug Use	Unemployment	Presumed Gang Affiliation
Female	2.71	2.92	3.25	4.31	3.31	1.67	1.40	3.77	1.67
Male	2.36	2.73	3.27	3.71	2.93	1.86	2.36	3.62	1.40
Overall	2.54	2.83	3.26	4.01	3.12	1.76	1.88	3.69	1.53

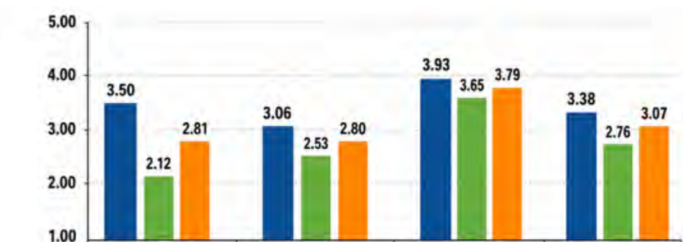
(1 = strongly disagree, 5 = strongly agree).

The findings suggest that socio-economic factors, particularly poverty and unemployment, are the most commonly perceived reasons for discrimination among participants. In contrast, religious and ethnic differences appear to play a less prominent role. Gender differences in perceived reasons are relatively limited, indicating that both male and female respondents share similar structural understandings of the causes of discrimination.

While previous studies have often emphasized ethnic and religious divisions as key drivers of horizontal inequalities and social instability, the findings here point to a different pattern. For young people living in informal settlements, discrimination is less frequently understood in terms of ethnicity or religion, and more commonly perceived as rooted in their socio-economic conditions and the fact of living in marginalized urban environments. This suggests that vertical inequalities — particularly those related to class, poverty, and spatial marginalization — play a more central role in shaping experiences of discrimination in this context, challenging dominant narratives that prioritize identity-based divisions alone.

Figure 3 presents participants' perceptions of law and justice, including their views on legal protection, compliance with the law, and the existence of justice. The results are disaggregated by gender to identify differences in legal perceptions.

Figure 3. Perception of Law and Justice



	PROTECTION BY LAW	LAW IS GOOD	COMPLIANCE OF LAW	BELIEF IN EXISTANCE OF JUSTICE
FEMALE	3.50	3.06	3.93	3.38
MALE	2.12	2.53	3.65	2.76
OVERALL	2.81	2.80	3.79	3.07

(1 = strongly disagree, 5 = strongly agree).

The results reveal a complex and somewhat contradictory pattern in participants' perceptions of law and justice. While many respondents reported low levels of perceived legal protection and tended not to view the law in a positive light, they simultaneously indicated a strong sense of personal compliance with the law. This suggests a discrepancy between normative perceptions of the law and lived experiences of justice. Notably, male respondents expressed more positive responses to the question of whether justice exists than to questions concerning legal protection and whether the law is a good thing. This indicates that, despite experiencing discrimination and a lack of protection, they may still hold a residual or aspirational belief in the possibility of justice, a residual or aspirational belief in justice that persists despite negative experiences with legal institutions.

Gender differences are particularly evident in perceptions of legal protection, with male respondents reporting significantly lower levels of perceived protection than female respondents. This aligns with earlier findings indicating that men are more likely to experience direct forms of state-related discrimination, especially in interactions with the police.

Qualitative Insights from Open-Ended Responses and Focus Group Discussions

The findings presented above are further enriched by qualitative data from open-ended responses and focus group discussions (FGDs), which provide deeper insight into how participants interpret and articulate their experiences of injustice and their perceptions of law.

Responses to the open-ended question on experiences of injustice reveal a range of everyday encounters with both state and non-state actors. Male respondents frequently described direct encounters with police violence, including arbitrary arrest, physical abuse, and harassment. In contrast, female respondents more often referred to interpersonal and domestic forms of injustice, including family conflict and gender-based violence. These qualitative accounts help explain the gendered patterns observed in the survey data and highlight the different contexts in which injustice is experienced.

Across both open-ended responses and FGDs, several key themes emerge. First, socio-economic conditions — particularly poverty and unemployment — are widely identified as central drivers of discrimination, while religious and ethnic differences are less prominently emphasized. Second, despite expressing skepticism toward legal protection and the effectiveness of justice mechanisms, both male and female participants report a general willingness to comply with the law. Third, participants consistently express deep mistrust toward legal institutions, including the police, lawyers, and, in some cases, traditional authorities. These themes are vividly illustrated in participants' own words. For instance:

- P1: "In Kenya, being born as a boy in the ghetto is a crime. You have to prove yourself innocent all through your life."
- P2: "They (the police) never even ask questions. They start with a slap."
- P3: "Lawyers work if you have money. Money talks everywhere in Kenya."

Such accounts underscore the normalization of both state and structural forms of injustice in participants' everyday lives. Findings from the FGDs and individual interviews further reveal that many participants — especially men — hesitantly yet candidly acknowledged occasional contact with gang members. Some described feeling protected by their presence and even expressed a degree of admiration or aspiration toward them. These insights highlight the lived reality of navigating "between legality and illegality" within what Mutahi (2021) describes as a "hybrid state."

Seen in this light, the survey finds that many respondents identify themselves as law-abiding, which must be interpreted with caution. Their understanding of "law" may not necessarily correspond to formal legal standards but may instead reflect a more localized and pragmatic conception shaped by everyday survival. The following narrative illustrates how compliance with the law is negotiated in practice, often involving informal and technically illegal strategies in response to structural constraints: "I'm now trying to build a small kiosk for my phone repair job. The internal construction is going on now. I have no official permits — it's so hard to get them. So, I do the work on weekends to avoid government raids. I rely on neighbors to warn me when police come." (Salim, male, Majengo, individual in-depth interview)

5. Discussion

Field research indicates that young residents in these communities frequently experience discriminatory and aggressive policing practices, which erode trust and foster adversarial relationships with legal authorities. These findings illustrate how repeated experiences of procedural injustice — characterized by prejudice, arbitrariness, and disregard for personal dignity — contribute to the erosion of trust in the police among respondents, particularly among young men. In this sense, the results offer a critical, inverse validation of procedural justice theory by demonstrating the consequences of its absence. The findings further suggest that slum youth experience vertical form of discrimination from public authorities more acutely than horizontal discrimination among citizens. Within the survey and qualitative data, "profiling" emerged as a recurring theme, used by participants to describe repeated encounters with police marked by suspicion and stigma. Such experiences contribute to a profound mistrust in legal institutions and reinforce skepticism about existence and accessibility to justice.

Overall, the relationship between slum youth and legal institutions can be described as deeply fractured. While many participants express a normative commitment to law — indicating a willingness to comply with legal norms and procedures — their everyday experiences are shaped by fear, distrust, and marginalization. Encounters with police are often perceived as coercive and arbitrary, reinforcing the view of law as an instrument of control and oppression rather than protection. This dissonance between legal ideals and institutional realities weakens the perceived legitimacy of the justice system and undermines confidence in legal authority.

Gender differences are particularly pronounced within this broader pattern. Male respondents frequently reported profiling, harassment, and physical abuse by police, while female respondents more often highlighted domestic and interpersonal forms of injustices. These distinctions suggest that legal consciousness is not monolithic but shaped by intersecting social identities and structural vulnerabilities. An important implication of these findings concerns the role of gender in shaping experiences of injustice.

While gender is typically conceptualized as a form of horizontal inequality, the findings of this study suggest that gendered differences in legal experiences are closely intertwined with vertical inequalities, particularly in relation to access to and interaction with state institutions. Male participants' greater exposure to police violence and profiling reflects a position that is structurally embedded within power relations governing law enforcement, while female participants' focus on domestic and interpersonal violence highlights a different, yet equally structured, form of vulnerability. These patterns suggest that gender does not operate as an independent axis of horizontal difference, but rather is mediated through vertical structures of inequality, including class, spatial marginalization, and state power. This perspective calls for a more integrated understanding of inequality that moves beyond a rigid distinction between horizontal and vertical inequalities, and instead examines how they intersect to shape everyday experiences of injustice.

At the same time, the perception of corruption further complicates trust in legal institutions. During FGDs, some participants used the term jurispesa — a coined term combining the Latin juris (law) and the Swahili word pesa (money) This term, which has recently gained traction in news media and public discourse, was frequently invoked to critique the Kenyan justice system, where legal outcomes are often perceived as transactional and accessible primarily through financial means.

Taken together, these findings underscore the importance of procedural justice in shaping legal consciousness. When legal authorities are perceived as unfair, abusive, or corrupt, trust deteriorates and relationships become adversarial. Conversely, the persistence of expressed compliance and residual expectations of justice suggests that normative commitments to law are not entirely extinguished, but remain fragile and contingent. This tension between distrust and expectation highlights the deeply ambivalent nature of young people's engagement with law and justice in contexts of structural inequality.

Conclusion

In previous studies on horizontal inequality (HI) in Africa, considerable attention has been paid to the relationship between ethnic HI and political or socio-economic stability. This focus has extended to discussions on the rule of law and public security. In contrast, this study — centered on the legal experiences and consciousness of young people living in Nairobi's informal settlements — reveals a different pattern. Ethnic and religious divisions were not prominently expressed by participants. Instead, the data pointed to pronounced vertical inequalities in relation to state authorities, particularly the police, as well as intersectional socio-economic forms of marginalization associated with living in informal settlements.

These findings suggest that, rather than ethnic fragmentation, it is the structural positioning of slum youth vis-à-vis public institutions and broader urban socio-economic order that shapes their experiences of injustice and exclusion. Importantly, the findings also suggest that gender, while typically understood as a form of horizontal inequality, operates in practice through vertically structured relations of power, particularly in shaping differential exposure to state authority and forms of violence. This study thus contributes a new analytical perspective to the literature by re-centering structural and spatial inequalities in discussions of injustice in African urban contexts.

In addition, this study contributes to a growing body of literature on legal consciousness in marginalized urban settings. It demonstrates that slum youth are not passive victims of injustice but active agents navigating complex and often contradictory legal landscapes. Jay's remark cited at the outset of the chapter — that carrying a small booklet of the Constitution could sometimes be helpful when stopped by the police — succinctly encapsulates the situated and pragmatic nature of legal consciousness among young people in Nairobi's informal settlements.

Confronted daily with discrimination, violence, and institutional failure, these youth develop an ambivalent orientation toward the law, characterized by distrust, disappointment, and a faint yet persistent expectation of justice. Within the realities of a 'hybrid state', they navigate the shifting terrain 'between legality and illegality', striving to remain faithful to their own notions of law and justice, adhering not only to formal legal norms but also to locally grounded and context-dependent understandings of law. In doing so, they embody a form of legal consciousness that is deeply personal yet socially situated. In this sense, legal consciousness emerges not as a fixed attitude toward formal institutions but as a situated practice shaped by everyday encounters, structural constraints, and power relations. This study thus empirically substantiates Chua and Engel's argument that legal consciousness is "not merely a reflection of individual attitudes toward law, but a mode of participation in legal meaning-making embedded in social practices and power relations" (2021: 12). By highlighting how vertical inequalities and everyday interactions with state actors shape legal perceptions, the findings extend this framework to contexts of structural marginalization.

Finally, these findings call for a reorientation of policy frameworks addressing inequality and justice in urban Kenya. Rather than focusing primarily on ethnic or religious divisions, interventions should prioritize the structural and intersectional conditions that marginalized youth in informal settlements. Given the central role of law enforcement in shaping legal consciousness, reforms must address the everyday practice of policing. If the state seeks to promote law-abiding behavior, it must move away from coercive or abusive practices and instead foster interactions grounded in procedural justice —

emphasizing fairness, transparency, and respect for dignity. By acknowledging and addressing the vertical inequalities that structure everyday encounters with the law, policymakers can strengthen institutional legitimacy, rebuild public trust, and promote more inclusive and effective systems of justice.

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8 Why is corruption a major concern for corporations? ABAC Policy Principles & Practices

Dr. Víctor Hugo Guerra Hernández

"Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life, and allows organized crime, terrorism and other threats to human security to flourish"

Kofi Annan (+) (Statement by the Secretary-General, 2003).

Abstract

Corruption presents various risks to corporations, impacting operational efficiency, reputational integrity, and long-term sustainability. This article examines the reasons why corruption remains a concern for businesses globally, focusing on the legal, financial, and ethical implications. It discusses Anti-Bribery and Anti-Corruption (ABAC) principles and practices as key tools for reducing these risks. By reviewing global regulatory frameworks, compliance challenges, and case studies, the article explains how effective ABAC programs can safeguard corporate interests, promote ethical cultures, and improve stakeholder trust. Additionally, it emphasizes the importance of incorporating anti-corruption measures into corporate governance and risk management systems.

Keywords: anti-bribery, corporate governance, corruption, regulatory frameworks, risks.

Introduction

When I studied law, we thought corruption was a crime limited exclusive to the public sector. In other words, corruption necessarily and exclusively affected government agencies and public officials. Later, through my professional practice, I learned two things: corruption involves both a corrupt party and a corrupting party, in which the first one is… and the second is… in cases that a private actor can play the role as corrupt party. Corruption encompasses various crimes, and in some jurisdictions, it is considered a crime, for example…. Related offenses include influence peddling, embezzlement, and bribery. Nowadays, in compliance practices and programs, bribery and corruption are often discussed together, to prevent and combat them with antibribery and anticorruption principles, practices, and rules (ABAC, for its acronym). Corruption threatens the integrity, sustainability, and competitiveness of private companies through practices of bribery, fraud, embezzlement, and collusion, which undermine business operations by distorting markets, increasing costs, and exposing companies to legal and reputational risks.

In a globalized economy, businesses increasingly operate across borders and in environments where regulatory frameworks and enforcement levels vary widely. This exposes companies to heightened risks of engaging, knowingly or unknowingly, in corrupt transactions. Even a single incident of corruption can lead to significant financial penalties, exclusion from major markets, and lasting damage to brand credibility. Moreover, it can erode employee morale and investor trust, which are essential pillars of organizational stability and growth. For these reasons, addressing corruption is not just a matter of compliance but a strategic imperative for private corporations to act as anti-corrupt players. Companies that proactively implement robust anti-corruption policies, foster a culture of integrity, and engage in transparent practices are better positioned to thrive in a competitive marketplace while contributing positively to the societies in which they operate. This article outlines key aspects for a corporation's internal standards to prevent and combat ABAC.

1. ABAC standards at Private Companies

Preliminary words

Why should private companies care about ABAC issues? Besides the obvious answer: doing the right thing is the right and necessary thing to do. It turns out that today, private companies, especially large corporations, but increasingly also micro, small, and medium-sized enterprises, have a responsibility to ensure proper governance. It includes respect for human rights and their integration into efficient business programs throughout their value chain, as well as preventing and combating bribery and corruption by means, for example, of effective ABAC standards. Business integrity has been significant in postmodern society, especially since the introduction of the Global Compact by former United Nations Secretary-General Kofi Annan. This initiative is embedded in the Sustainable Development Goals and the associated ecosystem (United Nations Global Compact, n.d). Without a doubt, the topic of compliance and transparency is on the rise today. Not without reason, organizations as United Nations Commission on International Trade Law (UNCITRAL) and the International Chamber of Commerce (ICC) have incorporated ABAC into their agendas. UNCITRAL, for example, has approved a Convention and complementary systems to promote transparency and prevent corruption in international investment arbitration, the so-called Mauritius Convention (Guerra, 2024).

In 2023, the ICC also approved its rules on combating corruption (International Chamber of Commerce, n.d.), and in 2024 the ICC Commission published the document on *"Red Flags or Other Indicators of Corruption in International Arbitration"* (International Chamber of Commerce, 2024). In this latter document, the Commission stresses the importance "…to identify, examine and assess the use and relevance of 'red flags' of corruption (…) in the context of international arbitration"; the purpose of this document is "... to assist arbitral tribunals, set-aside, annulment, and enforcement judges, and arbitral institutions when they are alerted by red flags of corruption in the facts of an arbitration, i.e. when allegations of corruption are raised, either affirmatively or as a defense by parties to a dispute that has been submitted to arbitration, or when the arbitral tribunal, sua sponte, develops concerns about possible corruption" (International Chamber of Commerce, 2024). However, UNCITRAL and the ICC are not the only international organizations caring for ABAC principles and standards. Other examples come from the World Bank Group and its Integrity Compliance Guidelines; the various recommendations and principles for integrity, particularly on public procurement, from the Organisation for Economic Co-operation and Development (OECD); the practical guide about anticorruption, ethics and compliance program for business from the United Nations Office on Drugs and Crime (UNODC); among others. The International Organization for Standardization (ISO) has also developed important standards about transparency and antibribery management, specifically the ISO Standards 37001 (2016) and 37301 (2021) (*Compliance Antisoborno,* n.d.).

Sources of law

There are two key international treaties dealing with corruption. They are the Interamerican Convention Against Corruption (Organization of American States, n.d.), signed in Caracas, Venezuela in 1996; and the UN Convention Against Corruption (United Nations Office on Drugs and Crime, n.d.), signed in Mérida, Mexico in 2003. In addition to the international sources of law, States Parties have also approved, domestically, various pieces of law, either as special acts dedicated to counter corruption or as rules included mainly in criminal codes. The most significant act to counter corruption is the US Foreign Corrupt Practices Act (FCPA), a federal law enacted in 1977 that prohibits companies and their employees from bribing foreign government officials to gain business advantage. The FCPA has two main buckets of provisions; the one related to the antibribery, which criminalizes offering or giving anything of value to foreign officials for corrupt purposes; and the accounting, which requires publicly traded companies to maintain accurate books and records and implement internal controls (U.S. Department of Justice, Criminal Division, n.d.).

Other countries have been inspired by the longstanding and effectiveness of the FCPA, and therefore, approved their own rules. For example, the UK Bribery Act (UKAB) in 2010 (United Kingdom, 2010); the Canadian Corruption of Foreign Public Officials Act (CFPOA-1999, amended 2013); the French Law No. 2016-1691 (2016), which sets the anticorruption legal framework in this country, and is also known as the Sapin II Law; and the Brazilian Clean Company Act (2014), among others. Different authorities can oversee the implementation of the anticorruption rules. In the case of the FCPA, both the U.S. Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) enforce it; in contrast, in the case of the UKAB is the UK Serious Fraud Office (SFO) only responsible for enforcement UKAB at the national jurisdiction. The FCPA has extraterritorial reach, meaning it applies to U.S. companies, foreign companies listed on U.S. exchanges, and even foreign entities or individuals acting within U.S. jurisdiction. Other domestic rules have followed the same across borders model. Worthy to mention that on February 10, 2025, President Donald Trump signed an executive order directing US Attorney-General Pam Bondi to pause enforcement of the FCPA (Chao-Fong, 2025). President Donald Trump stated that this would benefit American business greatly (Chao-Fong, 2025. And U.S. Office of the Federal Register, 2025). Nevertheless, as Kalman stated (year of the publication), the Donald Trump's decision could undermine the US's fight against global corruption (U.S. News & World Report, 2025), warning that the global levels of corruption remain an issue of concern, in which efforts to reduce them are faltering (Transparency International, 2025).

General comments about ABAC

Bribery and corruption are illegal, unethical, erode democracy, and hurt business. Even "normal" business practices can be problematic if done wrongly or for the wrong reason. As evidence, laws around the globe are actively enforced against multinational companies, and the investigation, fines and remediation are very expensive, including criminal penalties for individuals. The ABAC rules and programs are not exclusive to common law systems. As indicated, the French and Brazilian acts are good examples. Consequently, multinational companies accustomed to the demands of the anti-corruption enforcement regimes of the U.S., the U.K., and relevant international bodies, as OECD and the World Bank, will not be surprised by the scope and reach of all these various ABAC regulations (Baker & Mckenzie, 2014). As said by the former U.S. Deputy and U.S. Attorney General, Lisa O. Monaco, companies should feel empowered to do the right thing, to invest in compliance and culture, and to step up and own up when misconduct occurs; and, for those who do not, however, the prosecutors from the Department of Justice (DOJ) will be empowered, to hold accountable those who breach the law (Monaco, 2021). In my perspective, this is an important enforcement reason for corporations and businesses to care about ABAC principles, which aim to diminish the impact of those reputational damages that could be caused if businesses do not comply with the laws.

Assessment of key elements of ABAC policies - Recommendations

An ABAC policy should aim to prevent and detect bribery and corruption, complying with laws such as the FCPA. It should outline principles for interactions with third parties and government officials, and the so-called government instrumentalities. For multinational companies, a global policy should be set and adhered to by headquarters, subsidiaries, and affiliates, including all employees, directors and officers, as well as all agents, and third parties when acting on behalf of the business or corporation. It is also recommended to set the company "policy statement", such as "Bribery and corruption of any kind are prohibited. We never give or promise to give anything of value to induce anyone to give us an improper benefit or to improperly influence anyone's decision" For example, Philip Morris International compliance and integrity statement argues that *"We expect exceptional results obtained only in full compliance with the letter and spirit of applicable laws and regulations, our internal policies, and our values"* (Philip Morris International, 2025).

An ABAC policy shall contain its key principles, such as:

1. **Integrity**: the company is committed to doing business with integrity and complying with applicable legal and ethical standards.
2. **Legitimate Purpose**: everything the company does must be done with clear and legitimate intent and business purpose, without hidden agenda or ulterior motive.
3. **Reasonable and appropriate**: everything the company gives or provides should be customary, reasonable and appropriate in value and appearance, and never offensive.
4. **Transparency**: all transactions and interactions must be transparent, and the company's books and records must be accurate. (Philip Morris International, 2025)

The ABAC policy shall set the main definitions of terms applicable to these matters. These definitions could be sometimes broader than those set by the law or even fill a regulatory gap. Two examples are:

> **Government Official**: any officer, employee of, or person acting on behalf of (i) a government or one or more of its departments, agencies or Government Instrumentalities or (ii) a Public International Organization or any officials of a political party or candidates for political office. If you are not sure whether someone is a Government Official, consult the Law Department. Note that in some contexts, as indicated in this policy, interactions with close family members of a Government Officials may be treated as an interaction with that Government Official. (Philip Morris International, 2025)
>
> **Government Instrumentality**: an organization that serves a public purpose and is closely tied to any level of government but may

> not itself be considered a government agency. Many enforcement authorities interpret this term broadly to cover virtually any government-controlled entity, including universities, hospitals and commercial enterprises. (Philip Morris International, 2025)

The ABAC policy can include further elements to define government-controlled entities, for example:

> "…for purposes of the policy, an entity shall be considered government-controlled if a government (i) owns or controls 50% or more of the entity's shares, (ii) funds a majority of the entity's budget, or (iii) can otherwise direct the management, policies or affairs of that entity. A company officer should therefore assume that every government-controlled entity is a Government Instrumentality, unless the entity is expressed excluded and considered as a commercial enterprise". (Philip Morris International, 2025)

In any event, the reasonable doubts about the construction or interpretation of any related concept are always advisable to be consulted with the law and compliance departments of the respective company. Queries to these departments should also include any possible exceptions to the policy.

Specific rules: Gifts, Travel and Hospitality

Companies recognize "Gifts, Travel and Hospitality" as well-established business practices. In fact, when used appropriately, "Gifts, Travel and Hospitality" can help strengthen existing relationships, foster new opportunities, and convey respect and appreciation for stakeholders, including government officials, private individuals, and other third parties. However, "Gifts, Travel and Hospitality", especially when given to government officials, can pose corruption risks and therefore require careful review to ensure consistency with the law and our standards of conduct. Therefore, they must always be provided with clear intent, and must be reasonable, appropriate, infrequent and transparent. It should mean in the respective ABAC policy, that "Gifts, Travel and Hospitality" must be intended for legitimate business purposes, and never to bribe or unduly influence. They shall be only customary, modest tokens of appreciation or recognition, and must be appropriate under the circumstances, and not cause offense or be perceived as improper. It is recommended to ban in the ABAC policy cash, cash-equivalents, cash-equivalent gift cards, luxury items, as well as anything that could be perceived as offensive, sexual in nature or otherwise inappropriate, are prohibited. The "Gifts, Travel and Hospitality" should only be provided infrequently, for example, up to 2 to 4 times per calendar year; and therefore, limited for special occasions or holidays, an occasional meal with a business partner, or in the context of necessary business meetings and activities. Obviously, common sense must prevail, which must undoubtedly be adjusted to the conditions of time and space in which it is considered to execute the respective "Gifts, Travel and Hospitality". Ultimately, anything that a company provides should be done directly, openly and not hidden and must be accurately recorded and documented in the company's books and records. (Philip Morris International, 2025)

Offers of Employment, Fee-for-Service Agreements, & Contracts with Government Instrumentalities and Government Officials

Companies can also benefit from employing, retaining or contracting consultants, Government Instrumentalities or Government Officials. It can provide unique insights and opportunities. However, contracting and paying Government Instrumentalities, Government Officials, Former Government Officials, or any of their close relatives, can also pose corruption risks and therefore should only be done rarely when there are no other reasonable alternatives. These employment/services engagements require careful review to ensure consistency with the law and the respective ABAC policy and conduct of ethics. The following principles should be considered:

i. There must be a real and documented need to hire an individual (or contract with an entity) with the expectation that they perform a service or deliver an outcome that is legitimate and expected to add value to the company;

ii. payments must not be excessive and must be in line with prevailing market rates for similar services, deliverables and employment arrangements;

iii. all engagements must be documented in an agreement that sets forth the payment, commercial terms, role, expected outcomes and/or deliveries, and all required disclosures must be made to employers, the public and/or other oversight bodies, as applicable; and

iv. any person or entity hired or retained must have the necessary qualifications and experience to perform the task. (Philip Morris International, 2025)

Grants, Donations, Sponsorships, Memberships and Political Contributions

Companies can do grants, donations, sponsorships, memberships and political contributions (all together "contributions") for many legitimate ways, to support specific principles and policies and to demonstrate the company commitment to being an active and supportive member of our industry and the communities they serve. However, contributions can pose corruption risks and must never be made to improperly achieve any business objective. Contributions, including monetary or kind items or services, may only be made with clear intent to legitimate organizations, and they must be appropriate and transparent. (Philip Morris International, 2025)

Legitimate organizations to receive contributions are those properly established organizations with a clear purpose and good governance that are legally able to receive them from private corporations. These organizations could be industry associations or non-profits that are recognized in their communities for fulfilling a social, charitable, economic or political purpose. Once again, any Contribution should be done transparently, directly, openly and not hidden and must be accurately recorded and documented in the company's books and records. It shall include all required disclosures to the public and/or oversight bodies, as applicable. (Philip Morris International, 2025)

Third Parties Who Interact with Government Officials on Company's Behalf

Occasionally, companies may have a business need to directly or indirectly engage agents, distributors, local partners or other third parties to interact with Government Officials and Government Instrumentalities on their behalf or for their benefit. These third parties are commonly known as "Business Intermediaries". Since the actions of "Business Intermediaries" can be the single biggest corruption risk a company may face since the actions of the third party can be attributed to a company. Therefore, their engagements require careful review and oversight to ensure consistency with the law and company standards of conduct. Consequently, "Business Intermediaries" must act in accordance with company policies and standards and in compliance with all legal and regulatory requirements, including ABAC laws. It is recommended to always conduct compliance due diligence on "Business Intermediaries" and only engage them when there is a legitimate need, payments are fair market value and mitigating and monitoring measures are in place to address risks. (Philip Morris International, 2025)

Facilitating payments

According to the FCPA, facilitating payments are small payments made to foreign government officials to expedite or secure the performance of routine, non-discretionary governmental actions. In other words, compensating through payments to the duties the official is already obligated to perform. Facilitating payments are technically allowed under the FCPA's antibribery provisions, making them an exception to the general prohibition against bribing foreign officials. Routinary actions related to these payments can include processing visas or permits; providing police protection; scheduling inspections; delivering mail; and supplying utilities like water, phone, or power. Both the U.S. Department of Justice and Securities Exchange Commission discouraged these payments, which warn that such payments can quickly lead to larger, more serious violations. Therefore, the best practice recommended to companies is to prohibit facilitating payments, even if technically permissible under U.S. law, to align with global standards and reduce legal and reputational risk. (U.S. Department of Justice, n.d.)

The OECD recommends that companies prohibit facilitating payments, although its Bribery Convention (1997) provides for such an exception. The UKAB prohibits such payments, when it bans any payments that could influence a government official, even on routine activities bans (Section 1 – Offenses of Bribing Another Person and Section 6 – Bribery of a Foreign Public Official). Many companies also ban such payments to avoid confusion between bribes and routine payments, reducing the risk of misconduct. However, a complete ban may not be realistic in cases where payment is necessary to prevent imminent physical harm. If a government official requests a facilitating payment, the best practice is not to make it, and must clearly refuse it, even if there will be negative business consequences. It is recommended to notice immediately the compliance department about such requests for facilitating payments. (Organisation for Economic Co-operation and Development, 1997)

Finally, these facilitating payments should not be confused with fees or charges for the provision of services, normally administrative services, by government officials and agencies called "Enabling Payments" or "Habilitaciones Administrativas" in Spanish. The main difference between them is that "Enabling Payments" are:

i. specifically assessed and defined;

ii they are charged equally to everyone;

iii they are not discretionary; and

iv nvoices or receipts are issued by the governmental agency for such "Enabling Payments". (Organisation for Economic Co-operation and Development, 1997)

Conclusion

The UN General Assembly stated that it was "concerned about the seriousness of the problems and threats posed by corruption to the stability and security of societies by undermining the institutions and values of democracy, ethics and justice and by compromising sustainable development and the rule of law (…) Convinced that corruption is no longer a local problem but a transnational phenomenon affecting all societies and economies, which makes international cooperation essential to prevent and combat it. ...A comprehensive and multidisciplinary approach is required to effectively prevent and combat corruption." (United Nations General Assembly, 2021; see as well, Rojas Aravena, 2024, p. 59).

Therefore, I recommend that corporations treat anti-bribery and anti-corruption (ABAC) as a core component of their strategic risk management architecture. Corruption is not merely a legal exposure; it is a strategic risk capable of undermining corporate objectives, eroding stakeholder trust, distorting market positioning, and triggering significant financial penalties. Integrating strong ABAC principles into enterprise risk management frameworks enhances institutional resilience and supports sustainable operations. Companies that demonstrate consistent, well-documented ABAC controls are more attractive not only to investors and business partners, but also to regulators, enforcement authorities, and the broader community, as they signal predictability, transparency, and long-term value creation.

In an environment of increasingly stringent global anti-corruption regulations and more assertive enforcement, ABAC compliance must be treated as a non-negotiable business imperative. Proactive implementation of internal controls, third-party due diligence, risk-based monitoring, and continuous training significantly reduce legal, financial, and reputational exposure. Multilateral and regional legal frameworks underscore this reality: instruments such as the United Nations Convention against Corruption and the Inter-American

Convention against Corruption reflect a global consensus that combating corruption requires coordinated, systemic action. Corporations operating across borders must therefore align their internal compliance programs with these evolving international standards.

A strong ethical culture, reinforced by effective ABAC practices, does more than prevent misconduct; it enhances corporate reputation, attracts responsible investment, and strengthens customer and employee loyalty. Organizations that embed integrity into decision-making processes and operational structures gain a durable competitive advantage. ABAC should be integrated as a central compliance pillar across all business units and functions, serving as a guiding principle for conduct and governance. In this sense, a robust compliance culture should function as the company's true North Star, shaping both strategic choices and day-to-day behavior.

Unchecked corruption inflates costs, distorts procurement and contracting processes, weakens internal controls, and generates systemic inefficiencies that ultimately impair performance. Effective ABAC programs act as operational and financial safeguards, ensuring that resources are allocated transparently, decisions are based on merit, and internal processes remain aligned with corporate objectives. These safeguards are essential not only to protect assets but also to maintain credibility in increasingly scrutinized markets.

Ultimately, the effectiveness of any ABAC framework depends on visible and sustained leadership commitment supported by sound corporate governance. Boards of directors and senior executives must lead by example, ensuring that policies are not merely formalities but living standards that are actively enforced, periodically reviewed, and continuously improved. Tone at the top must translate into conduct at every level of the organization. In short, leadership must truly "walk the talk" if ABAC principles are to move from policy statements to operational reality.

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Part 4

Building Resilience: The role of multilateralism and civil society

9 Beyond Silos: The Interlocking Legal Frameworks of UNTOC and UNCAC

Dr. Yuliya Zabyelina

Abstract

This chapter examines the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC) as the twin cornerstones of the international legal architecture governing organized crime and corruption. Although negotiated at different moments and oriented toward distinct primary objectives, the two conventions reveal normative, functional, and institutional convergence. The chapter argues that understanding UNTOC and UNCAC as interdependent and mutually reinforcing instruments — rather than as separate, self-contained regimes — better reflects the operational realities and governance challenges facing States. It concludes that more coherent, integrated, and strategically aligned approaches to implementing the two treaties will be essential for addressing the evolving and deeply intertwined threats posed by organized crime and corruption.

Keywords: UNTOC, UNCAC, organized crime, corruption, regime integration, civil society

Introduction

The United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC) occupy a distinctive position in contemporary international law.[1] They are not simply two large sectoral treaties, but part of a broader attempt to construct a global legal response to complex, networked harms that cut across traditional boundaries between crime control, governance, and economic regulation. Both conventions were negotiated in response to mounting concern that domestic law and bilateral cooperation were ill-equipped to address increasingly sophisticated forms of criminal activity, and that entrenched corruption undermined the very institutions tasked with enforcing the law (Tennant & Paula Oliveira, 2024).

This chapter takes UNTOC and UNCAC as an entry point into a larger question: how do international legal instruments that were conceived as separate, specialized instruments come to operate, in practice, as components of a shared governance architecture? Instead of treating the two conventions as discrete responses to "organized crime" and "corruption" respectively, the chapter explores how they interact, overlap, and gradually align — at the level of norms, procedures, institutions, and actors. The focus is not on evaluating their effectiveness in a narrow sense but on understanding the patterns of relationship that have emerged between them and what those patterns reveal about the evolution of international legal order in this field.

Analytically, the chapter is situated at the intersection of three debates: the nexus between organized crime and corruption; the fragmentation and subsequent interaction of treaty regimes; and the role of international institutions and civil society in shaping how legal instruments are used. UNTOC and UNCAC provide an empirically grounded case through which to observe how nominally distinct regimes can become intertwined over time — through drafting choices, cross-references, shared institutional custodianship, converging cooperation tools, and the practices of States, international secretariats, and non-state actors. In this light, "integration" of UNTOC and UNCAC remains a useful but imperfect descriptor: it does not imply collapsing the treaties into a single legal instrument or erasing their distinct mandates. Instead, it captures an emerging trajectory grounded in

1 United Nations. (2000). United Nations Convention against Transnational Organized Crime (UN Doc. A/RES/55/25). Retrieved from https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf; United Nations. (2003). United Nations Convention against Corruption (UN Doc. A/58/422). Retrieved from https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf.

functional convergence, institutional harmonization, and shared operational realities.

What is emerging is not a formally unified regime but a coordinated mechanism in which UNTOC, UNCAC, and — subject to separate analysis — the newly adopted United Nations Cybercrime Treaty[2] may be mobilized together, draw on overlapping institutional capacities, and increasingly function as interdependent tools for addressing corruption-enabled, technologically mediated, and globally networked forms of criminality. Understanding this dynamic is essential not only for interpreting the two conventions themselves, but also for assessing how international law can confront hybrid threats through a treaty landscape that is fragmented in design yet normatively and functionally interoperable.

As the International Law Commission (ILC) observed in its Fragmentation of International Law report, contemporary treaty regimes inevitably proliferate along specialized lines, but this diversification does not mean that they float freely from the general legal order (ILC, 2006). Rather, the ILC emphasized that what appears as fragmentation at the level of formal instruments often becomes, in practice, a process of systemic integration in which "chains or clusters of treaties" are applied as interconnected parts of a broader normative system (para. 497). It is within this theoretical terrain that the chapter undertakes its analysis, showing how the relationship between UNTOC and UNCAC not only illuminates past and present treaty interaction but also provides insight into the future architecture of international responses to complex, hybrid forms of criminality.

1. The Nexus between Organized Crime and Corruption

There is an extensive body of scholarship covering criminal organizations that to different degrees are interwoven with and integrated into state institutions (Albanese, 2018; Beare, 2003; Gamba et al., 2018; Gounev & Bezlov, 2010; Gounev & Ruggiero, 2014; Pozsgai-Alvarez & Huss, 2024; Rose-Ackerman & Palifka, 2018; Shelley, 2014; von Lampe, 2015). This scholarship underscores how the entanglement of organized crime with state apparatuses provides a fertile ground for the expansion of criminal enterprises. A central pillar of this relationship is corruption, which serves as both a catalyst and enabler for organized crime. By weaponizing corruption, organized criminal groups skilfully circumvent legal and

2 United Nations Convention against Cybercrime was adopted by the UN General Assembly on 24 December 2024 by Resolution 79/243. As of 30 June 2026, the Convention has not yet entered into force.

bureaucratic barriers, facilitating the trafficking of drugs, arms, human beings, and other illicit commodities (Finckenauer, 2005; Jonsson, 2019; Richards, 2004).

From drug cartels to wildlife traffickers, criminal organizations strategically exploit corruption as an operational tool, ensuring their activities remain shielded from law enforcement scrutiny and disruption (Duncan, 2014; Lupsha, 1993; Morris, 2013; van Uhm & Moreto, 2018; Wyatt & Cao, 2015). By bribing law enforcement officials, customs officers, border control agents, and other key state actors, organized criminal groups may effectively neutralize law enforcement barriers, thereby guaranteeing the continuous flow of contraband across borders and jurisdictions (Izcara Palacios, 2019; Jancsics, 2019, 2021; van de Bunt, 2004). Thus, corruption evolves from being merely a byproduct of organized crime to becoming a crucial mechanism that enables and sustains the growth of illicit economies.

Criminal organizations benefit from corrupting state officials to secure contracts and licenses that can be used to further their illicit activities (Zabyelina & Heins, 2020). By manipulating the awarding of government contracts, these groups can ensure that their front companies or affiliated businesses receive lucrative deals. This not only provides a legitimate front for laundering money but also generates additional income to fund their operations (Fourie et al., 2021; Zabyelina, 2022). For example, in regions where construction and public works projects are prominent, organized criminal groups might secure contracts for building infrastructure, which they can then use to siphon public funds or facilitate other illegal activities (Caneppele & Martocchia, 2014; Savona, 2010).

For corrupt officials, the financial incentives provided by organized crime — whether through bribery, illicit deals, or other corrupt schemes — are substantial (Kupatadze, 2015). Organized crime groups seek to secure and expand their control over illicit markets, while corrupt officials are enticed by the prospect of substantial financial rewards — including resources that can be redirected to sustain their political campaigns (Briscoe & Golf, 2016; Curzio, 2013; Zabyelina, 2024). This mutual reinforcement creates a clandestine arrangement where corruption becomes the crucial lubricant for criminal operations. Officials who accept bribes facilitate everything from border crossings and procurement fraud to the issuance of fake licenses and the laundering of proceeds. Criminal groups, in turn, depend on these compromised officials to shield them from law enforcement pressure and provide timely intelligence about investigations. Over time, such practices create predictable channels of influence and protection, allowing criminal networks to function with remarkable resilience and efficiency. As impunity becomes entrenched, the systemic character of corrupt networks ensures that even officials who initially refuse bribes may eventually be pressured or compelled to comply (Johannsen & Pedersen, 2020; Meyer & Luiz, 2018).

Pertinent scholarship also notes that the relationship between states and organized crime is not merely a one-directional process in which organized crime groups infiltrate the state apparatus; rather, it can also involve the purposeful mobilization and co-optation of criminal actors by the state to advance strategic objectives. In such contexts, organized criminal groups become instruments of statecraft — used to secure political loyalty, exert territorial control, suppress opposition, generate off-the-books revenue, or conduct activities that the state prefers to keep at arm's length (Decoeur, 2018; Kelman, 2015). This dynamic blurs the boundary between legitimate authority and illicit power, producing hybrid governance arrangements in which criminal organizations operate with direct involvement of the state (Ceccarelli, 2007; Chambliss, 1989; Kelman, 2015; Wang, 2013; Zabyelina, 2024). In one of his works, von Lampe insightfully remarked, '[o]rganized crime conduct may be directed against government, it may take place within government, or organized criminal conduct may be carried out by government' (von Lampe, 2015, p. 262). This trajectory reveals a shift from petty corruption to a deeper entanglement in which state institutions and their representatives no longer merely tolerate organized crime but become its facilitators, coordinators, and, at times, its masterminds (Hirschfeld, 2015).

2. UN Framing the Nexus Between Corruption and Organized Crime

The nexus between organized crime and corruption is deeply embedded in UN policy discourse, where it functions as a foundational analytical lens for understanding governance vulnerabilities, criminal market dynamics, and the limitations of conventional law-enforcement responses. Across UN General Assembly resolutions, decisions of the Conference of the Parties to UNTOC (COP), and resolutions of the Conference of the States Parties to UNCAC (COSP), the UN has steadily articulated a conceptual understanding of corruption not as a peripheral concern but as an essential driver, facilitator, and amplifier of organized criminal activity. More specifically, General Assembly resolutions provide the earliest formal articulation of this nexus. Resolution 54/128 (1999) (UN Doc. A/RES/54/128) recognized that corruption is often linked to organized criminal activities (para. 5) and instructed the Ad Hoc Committee preparing the text of UNTOC to examine the need for "an international instrument against corruption, either ancillary to or independent of" the Convention (para.6). General Assembly Resolution 55/25 (2000) (UN Doc. A/RES/55/25), which adopted UNTOC, went further, expressing the conviction that the Convention would offer "the necessary legal framework for international cooperation in combating… money-laundering, corruption, [and] illicit trafficking in endangered species," as well as the "growing links" between transnational organized crime and terrorism (preamble).

In the early years of both treaty regimes, the organized crime–corruption nexus appeared only intermittently — and often implicitly — in the formal deliberations of the UNTOC Conference of the Parties (COP) and the UNCAC Conference of the States Parties (COSP). The institutional machinery of the COP and COSP initially treated the two phenomena as separate governance spheres, each with its own working groups, reporting lines, and implementation priorities. Early COP sessions concentrated on trafficking protocols, criminalization, and international cooperation and technical assistance, while early COSP sessions focused primarily on prevention, asset recovery, and the establishment of the Implementation Review Mechanism (IRM).[3] In neither forum did the nexus emerge as a structured topic of debate or an operational priority.

Gradually, the recognition of the organized crime–corruption nexus began to surface within COSP proceedings. An important early signal appeared in Resolution 6/6 (2015), "Follow-up to the Marrakech declaration on the prevention of corruption," adopted at the sixth session of the COSP. In its preamble, the resolution expressed concern about "the links between corruption and other forms of crime, in particular organized crime and economic crime," marking one of the first explicit acknowledgments within the COSP that corruption could not be treated in isolation from other criminal phenomena (preamble). This trajectory continued at the seventh session of the COSP (2017), where States parties were urged to operationalize the Convention more robustly in cases where corruption intersects with organized criminal activity. Resolution 7/2 emphasized the need to prevent, investigate, and prosecute corruption offences — including those involving "vast quantities of assets" — and explicitly called on States to apply freezing, seizure, confiscation, and asset-return measures in accordance with UNCAC (para. 3).

Momentum accelerated at the eighth session of the COSP (2019), where the nexus was further elaborated in sector-specific contexts. Resolution 8/4, addressing corruption in sport, underscored that such offences are "exacerbated… by the

3 The full record of COP and COSP resolutions and decisions is available at https://www.unodc.org/unodc/en/treaties/CTOC/resolutions-and-decisions-conference-of-the-parties-to-the-united-nations-convention-against-transnational-organized-crime.html (for UNTOC) and https://www.unodc.org/corruption/en/cosp/conference/session10-resolutions.html (for UNCAC).

infiltration of organized crime." In paragraph 3, States parties were encouraged to strengthen cooperation between law enforcement authorities to more effectively tackle corruption in sport, ensure the timely sharing of information on corruption, fraud, and money-laundering, and make use of relevant modern technologies. By explicitly identifying organized crime as a driver and beneficiary of corruption in sport, the resolution extended the nexus framing beyond traditional criminal markets into emerging areas of global concern. The ninth session of the COSP (2021) further consolidated this trajectory. Resolution 9/1 ("Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery") expressed concern about "the negative impact of organized criminal activities" and explicitly acknowledged the need to "identify, analyse and counter the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering" (preamble). Resolution 9/1 urged States parties to deepen their understanding of these linkages — especially in crisis contexts, where vulnerabilities are magnified — and encouraged them to explore and enhance their knowledge of the nexus (para. 22).

This discourse on the organized crime–corruption nexus culminated at the tenth session of the COSP in 2023, which adopted the first resolution explicitly dedicated to corruption involving organized criminal groups. Resolution 10/5 constitutes the most comprehensive and operational articulation of the nexus within the COSP framework to date, reflecting what may be described as a decisive institutional maturation. The resolution begins by expressing concern about "the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering," and recalls that corruption can serve as "an enabler of other transnational crimes and illicit financial flows" (preamble). In doing so, it embeds the nexus not merely as a contextual observation but as a central governance challenge requiring systematic attention. Substantively, Resolution 10/5 moves from recognition to prescription, urging States to "enhance their understanding of the risks and impacts of corruption involving organized criminal groups" (para. 1) and to strengthen measures that prevent the infiltration of public institutions and procurement systems (paras. 2 and 6). Importantly, the resolution situates the nexus within the broader ecosystem of international cooperation mechanisms. It encourages States to pursue "joint or parallel investigations" (para. 14), to make fuller use of multilateral law-enforcement networks (para. 20), and to afford the "widest measure of mutual legal assistance" in cases involving corruption linked to organized criminal groups (para. 18). In doing so, Resolution 10/5 operationalizes the idea — implicit in earlier COSP debates — that corruption cannot be addressed effectively without leveraging cooperation tools traditionally associated with transnational organized crime investigations.

The maturation of this discourse is further demonstrated in the Secretariat's 2023 background paper for COSP10 (CAC/COSP/2023/18), which synthesizes submissions from 45 States. The report reveals a global consensus that corruption is deeply embedded across a wide range of organized criminal markets. The United Nations Office on Drugs and Crime (UNODC) notes that 91 percent of responding States identify strong links between corruption and money-laundering, and more than half report direct associations with drug trafficking, environmental crime, migrant smuggling, and human trafficking (UNODC, 2023, p. 9). These findings show that States increasingly view corruption not as an adjacent phenomenon but as a critical mechanism through which organized crime operates, expands, and sustains impunity.

3. Normative, Doctrinal, and Functional Integration of UNTOC and UNCAC

Parallel Criminalization Frameworks

Although UNTOC and UNCAC were negotiated at different times and with different primary objectives, their criminalization provisions reveal a striking degree of structural parallelism. Both treaties employ a functional, rather than conceptual, approach to defining the conduct they target, relying on enumerated offences and operational criteria rather than prescriptive definitions of "organized crime" or "corruption." In UNTOC, the focus is not on defining what constitutes "organized crime" in the abstract, but rather on outlining specific forms of participation, facilitation, and profit-driven criminality that capture the essential operational dynamics of transnational criminal enterprises. Similarly, UNCAC avoids articulating a universal definition of "corruption," a concept that varies widely across legal traditions. Instead, it mandates criminalization of concrete manifestations of corrupt conduct.

UNTOC requires States parties to criminalize participation in an organized criminal group (Art. 5), money laundering (Art. 6), corruption (Art. 8), and obstruction of justice (Art. 23). These offences form the backbone of a framework designed to dismantle the organizational structures and financial systems that sustain transnational criminal enterprises. The emphasis is on group criminality, illicit financial flows, and interference in investigative processes — elements seen as indispensable for tackling profit-driven, network-based criminal activity. UNCAC, although broader in scope tailored to the fight against corruption, establishes a parallel catalogue of offences that overlap substantially with UNTOC's framework.

It mandates the criminalization of bribery (Arts. 15–16), embezzlement and misappropriation (Art. 17), trading in influence (Art. 18), abuse of functions (Art. 19), illicit enrichment (Art. 20, optional), money laundering (Art. 23), and obstruction of justice (Art. 25). UNCAC's criminalization regime thus mirrors and expands upon the offences addressed in UNTOC, extending the focus from corruption within organized criminal groups to corruption across public and private institutions. This overlap is not accidental. Both conventions draw heavily on the "follow-the-proceeds" logic originating in the 1988 Vienna Drug Convention, which pioneered the international criminalization of money laundering, confiscation of assets, and cooperation in financial investigations. Delegates to both UNTOC and UNCAC explicitly invoked the 1988 model, resulting in nearly parallel provisions on laundering, freezing, seizure, confiscation, and the handling of proceeds.

These shared foundations make it possible for investigators and prosecutors to mobilize offences under both treaties simultaneously. In cases where criminal networks operate through corrupt officials — such as bribed customs inspectors enabling wildlife trafficking, or municipal officials colluding with organized waste traffickers — UNTOC and UNCAC provide complementary bases for prosecution. Conversely, corruption schemes that involve structured, continuous, and financially motivated collaboration among multiple actors may qualify as organized criminal activity under UNTOC's Article 2 definition. The legislative guides for both treaties explicitly note this bidirectional interaction, observing that corruption often facilitates organized crime and that organized criminal groups frequently depend on systemic corruption to protect, expand, or conceal their operations (UNODC, 2012, 2017). In this sense, the criminalization frameworks of UNTOC and UNCAC are not merely parallel, they are mutually reinforcing components of a broader architecture aimed at constraining illicit markets and the governance failures that sustain them.

Convergence in Procedural and Investigative Tools

One of the most significant forms of convergence between UNTOC and UNCAC lies in their nearly identical frameworks for international cooperation. Although the treaties address different substantive offences, both rely on the same procedural machinery to enable States to investigate, prosecute, and adjudicate complex, cross-border cases. This shared architecture ensures that practitioners can apply familiar tools and legal standards regardless of whether a case concerns organized crime, corruption, or — as is frequently the case — both simultaneously.

At the center of this "complementarity"[4] is the alignment of extradition provisions. UNTOC Article 16 and UNCAC Article 44 adopt comparable formulations on the conditions, evidentiary thresholds, and dual criminality requirements governing extradition requests. Both treaties encourage States to treat Convention offences as extraditable and to rely on the conventions themselves as a sufficient legal basis for extradition in the absence of a bilateral treaty. UNTOC Article 16 (para. 4) requires States to deem all Convention offences extraditable and explicitly provides that the Convention shall be deemed to be the treaty "basis for extradition" where no bilateral or multilateral treaty exists. Likewise, UNCAC Article 44 (para. 4) contains parallel language, directing States to treat UNCAC offences as extraditable and allowing UNCAC to serve as the legal basis for extradition between Parties. This parallel structure promotes predictability and reduces procedural fragmentation across the treaty regimes.

An even more pronounced alignment exists in the area of mutual legal assistance (MLA). UNTOC Article 18 and UNCAC Article 46 are not only parallel in structure and substance — they are also the longest and most detailed MLA provisions in the landscape of international criminal law. Both articles enumerate an extensive catalogue of forms of cooperation. Both treaties further require States to designate a central authority to receive and execute MLA requests (UNTOC Art. 18(13); UNCAC Art. 46(13)), accept requests in flexible formats, and ensure that bank secrecy does not constitute a ground for refusal (UNTOC Art. 18(8); UNCAC Art. 46(8)). Because these MLA regimes mirror one another so closely — both structurally and linguistically — States parties can harmonize their domestic implementing legislation to satisfy both conventions simultaneously, thereby reducing fragmentation and strengthening cross-border cooperation.

The conventions also converge in their treatment of joint investigations. UNTOC Article 19(1)-(2) encourages States parties to establish joint investigative bodies, permit secondment of personnel, and conduct coordinated investigations when tackling offences covered by the Convention. Similarly, UNCAC Article 49 calls on States to undertake joint investigations and special investigative measures, echoing UNTOC's formulation almost verbatim. Both articles explicitly emphasize direct cooperation, information-sharing, and real-time coordination of investigative strategies. These mechanisms are crucial where organized crime and corruption intersect — for example, when bribery facilitates illicit trade routes, procurement fraud enables organized criminal infiltration of public institutions, or money

4 This is the term employed by COSP Resolution 3/4 (para. 11) (2009) to characterize the relationship between UNTOC and UNCAC.

laundering networks serve simultaneously as financial infrastructure for criminal groups and corrupt officials. The parallel structures of Articles 19 and 49 allow practitioners to rely on either treaty as a legal basis for forming joint investigation teams, thereby reinforcing operational convergence across the two regimes.

Finally, both treaties incorporate nearly identical provisions on special investigative techniques, such as undercover operations, controlled delivery, electronic surveillance, and other covert methods (UNTOC Art. 20; UNCAC Art. 50). These tools allow investigators to infiltrate criminal networks, monitor financial flows, and preserve chain-of-custody standards across borders. The shared language and procedural logic mean that law enforcement agencies can apply the same technical protocols and evidentiary safeguards regardless of the treaty basis for cooperation. Both Legislative Guides highlight the value of special investigative techniques — controlled deliveries, undercover operations, electronic surveillance, joint investigations — as tools necessary for modern criminal justice cooperation. While UNTOC mandates these techniques in its cooperation chapter, the UNCAC guide explicitly suggests that the provisions of Art. 50 of UNCAC "are especially useful in dealing with sophisticated organized criminal groups because of the dangers and difficulties inherent in gaining access to their operations and gathering information and evidence for use in domestic prosecutions" (UNODC, 2012, para. 633). Thus, when States adopt UNTOC's investigative architecture, they are already fulfilling a large portion of UNCAC's operational expectations — and vice versa.

Taken together, these procedural and investigative parallels create a high degree of interoperability between the two regimes. Practitioners are not required to navigate two divergent cooperation systems; instead, they can rely on a unified procedural toolkit that functions seamlessly across both organized crime and corruption cases. This convergence not only enhances operational efficiency but also strengthens the coherence of the broader international legal framework governing illicit economies and financial crime.

Convergence in the Implementation Architecture

A further point of convergence between UNTOC and UNCAC lies in their remarkably similar implementation architecture, which creates the institutional conditions for the two treaties to function as coordinated components of a broader global governance framework. Both conventions establish a Conference of the (States) Parties — UNTOC under Article 32 and UNCAC under Article 63 — tasked with promoting implementation, facilitating cooperation, and reviewing progress. These bodies serve parallel functions: they adopt resolutions, oversee technical assistance strategies, and provide a forum through which States identify common priorities and interpretative approaches. The structural symmetry of these mechanisms encourages cross-fertilization between the two regimes, as States often participate with the same delegations, institutions, and legal experts.

A central factor reinforcing this convergence is the role of the UNODC, which serves as the Secretariat and institutional "guardian" of both UNTOC and UNCAC. In practice, this means that UNODC is responsible for supporting the COP and COSP, respectively, preparing technical documentation, facilitating negotiations, developing guidance tools, administering the review mechanisms, and coordinating technical assistance globally. As the guardian of both treaties, UNODC ensures interpretive consistency, maintains institutional memory, and helps States understand the connections between their obligations under each regime. This dual guardianship also means that, although UNTOC and UNCAC are serviced by distinct branches within UNODC's Division for Treaty Affairs, their proximity within the same institutional architecture fosters regular coordination and cross-fertilization. The Organized Crime and Illicit Trafficking Branch (OCB) supports UNTOC, while the Corruption and Economic Crime Branch (CEB) supports UNCAC. Both branches draw on common services — legal experts, technical-assistance teams, research units, and field offices — and frequently collaborate on cross-cutting issues such as money-laundering, asset recovery, international cooperation, and capacity-building. As a result, implementation practices, training methodologies, and strategic priorities increasingly converge, not because the branches are identical, but because they operate within a shared treaty affairs framework that promotes institutional alignment.

The integration of institutional architecture is also facilitated by the creation of formal review mechanisms for UNTOC and UNCAC. UNCAC's Implementation Review Mechanism (IRM), launched in 2009, provides a peer-review system to assess compliance with criminalization, prevention, and asset recovery obligations. UNTOC, initially lacking such a mechanism, adopted resolution 9/1 in 2018 to establish a parallel process structured around self-assessment questionnaires, country reviews, and expert group evaluations. Modeled closely on UNCAC's IRM, though excluding country visits, the UNTOC Review Mechanism benefits from shared methodologies, guidance tools, and institutional expertise. Recent COP practice goes further by requesting the Secretariat to assist UNTOC focal points in consulting on UNCAC review provisions that are relevant or analogous to those examined under the UNTOC Review Mechanism. This innovation — set out in operative subparagraph (m) of COP resolution 12/1 — effectively institutionalizes cross-treaty coordination, encouraging States to align their reporting and implementation efforts and to cross-reference reforms undertaken under one convention when demonstrating progress under the other.

Collectively, these institutional parallels — aligned governance bodies, shared Secretariat functions, integrated technical assistance, and harmonized review processes — create an administrative ecosystem in which UNTOC and UNCAC operate as interconnected regimes. UNODC's guardianship provides coherence and strategic continuity, enabling States to treat the two conventions not as independent silos but as mutually reinforcing pillars of a unified global approach to combating organized crime, corruption, and illicit financial flows.

4. Civil Society Engagement

Civil society engagement is a significant, though uneven, feature of both UNTOC and UNCAC. Neither treaty was originally designed with a central role for non-state actors, yet both ultimately engage with civil society organizations and other non-governmental stakeholders for prevention, monitoring, and accountability. UNCAC provides the strongest legal basis: Article 13 mandates public participation, and Article 10 requires access to information, enabling a structured space for NGO involvement. As a result, NGOs gained earlier and more formalized access under UNCAC, notably through the UNCAC Coalition's shadow reporting and regular COSP participation. UNTOC, by contrast, remained more closed to civil society engagement until reforms introduced between 2020 and 2022 — spurred largely by the launch of the UNTOC Review Mechanism, as well as sustained pressure from some States and civil society groups to align UNTOC with contemporary standards of transparency and inclusiveness (Tennant & Mahadevan, 2021).

These developments have produced an emerging cross-treaty stakeholder community. Organizations historically focused on corruption now participate in UNTOC discussions on integrity risks, while groups centered on organized crime increasingly engage in UNCAC debates on beneficial ownership, procurement vulnerabilities, and the crime–corruption nexus. Networks such as the UNCAC Coalition, the Alliance of NGOs on Crime Prevention and Criminal Justice, the Stakeholder Engagement for UNTOC (SE4U) initiative, and the Civil Society Regional Networks for UNTOC Implementation (NET4U) platforms increasingly work across both conventions. Through joint side events, cross-referenced reports, and shared advocacy on illicit financial flows, environmental crime, trafficking, and criminal governance, civil society actors help circulate norms and policy ideas across the two regimes, reinforcing their growing interconnection.

Conclusion

The analysis in this chapter shows that UNTOC and UNCAC — though crafted as separate treaty regimes addressing distinct primary harms — in part function as interconnected pillars of the global governance architecture against organized crime and corruption. Their historical development reveals a shared conceptual lineage; their doctrinal structures reflect parallel approaches to criminalization and proceeds-of-crime models; their cooperation and investigative tools are structurally compatible; and their implementation architectures increasingly operate in synchronized and mutually reinforcing ways. Rather than functioning as isolated instruments, the two conventions form what may be described as an emerging interlocking regime complex — one in which fragmentation has generated, rather than undermined, opportunities for systemic integration.

Looking ahead, the central challenge for States is not to merge the two treaties, but to use them in tandem through more coherent, flexible, and strategically aligned implementation approaches. This requires harmonizing domestic legislation, coordinating national governance mechanisms, and promoting cross-treaty learning through the respective review mechanisms — all of which help bridge remaining institutional divides. It also requires embracing the interpretive logic of systemic integration by reading obligations under one convention in light of the other, thereby approaching the fight against corruption and organized crime as a unified governance challenge rather than two parallel compliance tracks.

Ultimately, understanding UNTOC and UNCAC as complementary components of a single, though distributed, anti-crime governance architecture is not simply an analytical reframing — it is a practical necessity. The threats posed by transnational organized crime and corruption — hybridized, technologically enabled, and globally networked — demand a response marked by the same degree of strategic coherence and interdependence. The recent adoption of the United Nations Cybercrime Treaty (2024) adds a new layer to this landscape. The Cybercrime Treaty will inevitably intersect with the operational infrastructures of UNTOC and the integrity and prevention measures of UNCAC. While the full implications of this new instrument require separate analysis, its emergence reinforces the need for cross-treaty coordination, shared investigative standards, and coherent approaches to international cooperation and digital evidence. As this chapter has demonstrated, the foundations for such an approach already exist. The task ahead is to deepen and operationalize this convergence, ensuring that international law remains capable of addressing the intertwined challenges of the coming decades.

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10 Tipping the scale towards change: The essential roles of civil society and independent media

Shaazka Beyerle

Civil society plays a vital role as a first line of defence against organized crime, particularly in contexts where state presence is weak or compromised. Civil society contributes through direct action, education, monitoring, international cooperation, and policy advocacy.

Ian Tennant (2026, 16)

Abstract

Civil society - including independent media, investigative journalism, advocacy, and nonviolent collective action - add an indispensable bottom-up force to top-down efforts targeting malfeasance and organized crime. This chapter takes stock of the illicit playing field, from rising authoritarianism and attacks on civic space, civil society and citizen dissent, to malign transnational networks and emerging threats, such as weaponized AI. Building upon two alternative definitions of corruption, one systemic and one from the vantage point of citizens, it provides an overview of people power countering criminality and graft, along with compelling cases from around the world. In order to overcome the shortfalls of technocratic and institutional measures, add civil society to the equation, and foster holistic, adaptive approaches to countering corruption and organized crime, this chapter introduces the field of systems thinking and systems analysis tools. It concludes with recommendations for civil society, independent media, governments and donors.

Keywords: Civil society, organized crime, corruption, independent media, nonviolent collective action.

Introduction

Civil society - including independent media, investigative journalism, and nonviolent collective action - is part of the constellation of active citizen participation to strengthen democracy, accountability, rights and equitable development. It can wield power, directly and indirectly disrupt systems of graft and abuse, push to reign in enablers of malfeasance, alter political will, shift norms, and tip the balance of power. As this chapter explores, active civil society is a crucial bulwark for democracy, rule of law, justice, human rights, and a driver of positive change. It can add a strategic advantage by bringing extra-institutional pressure to push for change when: (1) state and non-state powerholders are captured by organized crime, corrupt and/or unaccountable, beholden to special interests, and have entrenched vested interests to perpetuate systems of corruption; (2) anti-corruption reformers and integrity champions caught and outnumbered in the corrupt system; and (3) institutional channels may be blocked or ineffective.

One can argue that there is rarely a point in time, if ever, when the stars are aligned to combat corruption and organized crime. Based on five years of accrued data, the 2025 Global Organized Crime Index concludes that we face a point of inflection whereby established criminal patterns are changing. The organized crime ecosystem is not only expanding but reorganizing and intersecting with "macro-level transformations in geopolitics, technology, environmental stress and conflict" (GITOC, 2025, 9). Moreover, according to the report, "these convergences are not only reinforcing existing dynamics, but also generating new forms of criminality that are more adaptive, networked and difficult to counter" (Ibid).

Indeed, because contexts are inevitably complex and tough, it's all the more necessary to persevere. Civilians are caught in violent conflicts involving both state and nonstate actors, directly or indirectly enabled or perpetuated by criminal groups. The world has entered the 20th year of declining freedom (Gorokhovskaia, Grothe & Slipowitz, 2026). Authoritarians "have attacked or undermined civil society groups, journalists, international and regional organizations, and independent election observers because they see these actors and institutions as obstacles to kleptocracy and the unrestrained application of power" (Ibid., 21). Civic space continues to shrink drastically as civil society and independent media across the globe are facing an onslaught of hostility and precipitous drop of donor support following the

U.S. government funding freeze (EU SEE, 2025). Kleptocratic regimes are using their stolen resources to weaponize corruption and fund foreign influence operations (Vittori & Page, 2023). Termed "strategic corruption," malfeasance can even function as a tool to further nefarious geopolitical aims, for example, to destabilize other countries politically and/or economically and erode their institutions (Pozsgai-Alvarez & Huss, 2024).

Civil society and investigative journalists have been drawing attention to many cases of strategic corruption, from Azerbaijan to China to Russia (MacLachlan, 2019). In the former instance, OCCRP and the *Süddeutsche Zeitung* researched and exposed an Azeri money laundering and political bribery operation involving a US$2.9 billion slush fund to influence European Union members of the Parliamentary Assembly of the Council of Europe (PACE) (Bloss & Denis, 2024). These are not isolated cases. OCCRP's Co-founder, Drew Sullivan, reports that "all the big corruption and organized crime stories are cross-border now" (Kaplan, 2021). Consequently, investigative journalism critically needs teams with multiple skills and expertise, from local reporters, cybersecurity reporters, and social media whizzes to researchers and data professionals who have to "mine" information leaks (Ibid.).

Taking a page from transnational activist networks (TANs), anti-democratic and kleptocratic forces are creating their own transnational uncivil society networks (TUSNs) to further their malign aims. They consist of elites, their professional enablers, and international political allies. TUSNs operate to: launder their ill-gotten gains and reputations; strengthen their domestic power and economic exploitation; crush homegrown dissent, civil society and media; neutralize TANs; and broaden their ties to international institutions (Cooley, Heathershaw, & Soares de Oliveira, 2023). Moreover, these networks are adept at accessing the international financial system and are exploiting cryptocurrencies (Vittori & Page, 2023). A key vehicle is "bridging jurisdictions," which these authors define as areas with "strong links to the international and trade systems, act as important destinations and conduits for ill-gotten wealth, and may be authoritarian or kleptocratic themselves" (Ibid., 4).

Youth are particular targets for organized crime in the Global South and increasingly in the Global North. Available data from 2023 found that the highest overall rise in criminality was in Europe. For instance, criminal groups operating in Nordic countries have increased efforts to recruit young people (Neves & Gastélum Félix, 2025). This same situation happens in Latin

America, where the level of homicides related to organized criminal dynamics tend to affect youth, including those under the age of 18 (UNODC, 2023).

Finally, artificial intelligence (AI) is being weaponized at an alarming rate. Schlomit Wagman underscores that "adversarial actors are increasingly exploiting AI's capabilities to destabilize societies, fuel cybercrime, disrupt public order, and undermine democratic institutions" (2025). AI's combination of scale and accessibility is creating security threats that current governance frameworks are unable to confront (Ibid.). I would add that this also applies to national and international law enforcement combatting organized crime. AI is accelerating cybercrime and financial fraud through automated tools. For example, FraudGPT enables criminals in seconds to generate phishing schemes that duplicate banking websites. Deepfakes already are bypassing biometric verification systems, Know Your Customer (KYC) and Anti-Money Laundering (AML) regulations (Ibid.).

This global scenario reflects how corruption and organized crime go hand in hand. Odd Berne Malme and Kosyo Ivanov point out that a prominent attribute of organized crime is its links to the state, which is enabled by corruption (2023). The 2023 Global Organized Crime Index found that transnational organized crime continues to rise, and there is a robust correlation (–0.84) between the Index's state-embedded actors' scores and Transparency International's Corruption Perceptions Index. Corruption can catalyze, facilitate or develop as a by-product of these nefarious entities and networks. First, endemic corruption inhibits equitable development, good governance and trust in political processes. This breeds conditions for organized crime to grow because wealth is more easily generated through illicit means and criminals can recruit from a pool of disadvantaged people, including youth (Chene, 2007). Second, corruption enables organized crime because such groups and networks need state complicity, for example, to transfer and launder money, dodge prosecution, secure protection, and infiltrate legitimate economies. Finally, where organized crime flourishes, corruption increases because it greases the wheels of their illicit activities (Ibid.). Taken to an extreme, countries can become mafia states that are run like criminal cartels to further criminal interests (Kaplan, 2021). Essentially, the state itself becomes a criminal actor.

Although Corruption is traditionally understood as the abuse of entrusted power for private gain (Transparency International, 2025). While succinct, this definition, has limitations. First, as previously highlighted, graft can also be exercised for political and geopolitical gains, and collective benefits for organized crime and third parties such as state security forces, political parties, businesses, financial services, and even unions and religious institutions. Second, graft is not simply a collection of random individual transactions between a corruptor (abuser of power) and the corruptee (victim or willing partner). Third, corruption functions in complex systems of power abuse that involve a myriad of interconnected relationships, some obvious but many other hidden. Within these systems are interests, often entrenched, that want to maintain the malfeasant status quo (Beyerle, 2014). Thus, I define corruption as a system of abuse of entrusted power for private, political, economic, geopolitical, social or criminal gain – often involving a complex, intertwined set of relationships, some obvious, others hidden, with established vested interests, that can operate vertically, horizontally across political, economic, and social spheres in a society or transnationally (Ibid, 25).[1]

In this regard, corruption can also be defined in terms of the experiences of regular people and civil society. Through this grass-roots perspective, graft can be understood as a form of oppression and loss of freedom. Aruna Roy, one of the founders of the Mazdoor Kisan Shakti Sangathan (Union for the Empowerment of Peasants and Laborers, MKSS) and the Indian Right to Information social movement, characterizes corruption as "the external manifestations of the denial of a right, an entitlement, a wage, a medicine," (Ibid., 34).

1. Civil society, independent media, people power

While outcomes are not linear, setbacks often compound gains, and repression and violence are ever present, civil society, independent journalists and regular citizens nonetheless persevere. They take action to counter corruption, kleptocracy, illicit activities, impunity, and social and economic marginalization. Moreover, some of the fullest, most informed and often only coverage of civil society efforts, particularly of nonviolent collective action, comes from independent journalists not encumbered by commercial media outlets (Ulfelder, 2024). In 2025 alone, according to the CIVICUS 2026 State of Civil Society Report, regular people mobilized to challenge corruption amongst other injustices across dozens of countries around the

1 This systemic definition was developed by this author, who wishes to credit, for inspiration, points made by Maria Gonzalez de Asis, World Bank, in an unpublished working paper.

world. The 2025 Global Initiative Against Organized Crime Index finds that the more civil society capacity a state has, the more resilient it is to criminality.

Top-down political, governance, technocratic and law enforcement methods – while necessary – are not enough. Corruption and organized crime require whole-of-society, holistic approaches involving civil society (Tennant and Mahadevan, 2024). As mentioned by Patricia Neves and Gastélum Félix (2025, 6) "Even in the most violent and fragmented environments, civil society actors work with courage and creativity to protect their communities, hold authorities accountable and challenge the power of criminal groups." The following examples reflect the tip of the iceberg of the many ways that civil society and independent media – sometimes working together – play essential roles in curbing corruption and tackling organized crime.

Nonviolent collective action during war: Defending anti-corruption institutions. In the midst of Russia's war against Ukraine, on July 22, 2025, thousands of Ukrainians rallied against Law #12414, which stripped the autonomy of the country's two major anti-corruption institutions, the National Anti-Corruption Bureau of Ukraine (NABU) and the Specialized Anti-Corruption Office (SAPO). The next day, dozens of mobilizations followed around the beleaguered country involving regular citizens, war veterans and even frontline soldiers participating through social media (Dettmer, 2025). Led by youth, their goal was to defend these anti-corruption and accountability institutions. International pressure reinforced their nonviolent action. On July 31, 2025, Law #12414 restored SAPO and NABU's autonomy (Cameron, 2025) in a process that included input from Ukrainian civil society and the anti-corruption agencies and international allies (Rudolph, 2025). Ukrainian civil society calls this complementary internal-external synergy the "sandwich effect", whereby citizen action is the catalyst, generating bottom-up pressure that in turn activates international pressure (Beyerle and Rivers, 2017).

People power against the mafia: Disrupting an extortion system. Originally launched in 2004, *Addio Pizzo* (Good-bye Protection Money) was a youth anti-mafia social movement in Palermo that disrupted the system of mafia extortion by: empowering businesses to publicly refuse to pay pizzo; educating schoolchildren about integrity; mobilizing citizens to resist the Cosa Nostra crime group through simple, everyday acts, such as patronizing pizzo-free stores and businesses (reverse boycott); harnessing national and international support through mafia-free tourism initiatives; seeking ethical public procurement practices; and cooperating with teachers, schools, and the education ministry to instill integrity and anti-mafia values in the next generation. By 2012, 1,000 businesses joined the pizzo-free network, and a new civic group, *Libero Futuro* (Future with Freedom), was formed by the older generation of anti-mafia advocates to complement the youth movement. The latter encouraged and helped businesses go through *denuncia*, the denunciation process of testifying to the police and courts about mafia extortion (Beyerle, 2014).

Investigative journalism propels political will: From sanctions evasion to criminalization. Cyprus has a reputation of being a secrecy haven and hub for Russian money. It has a powerful banking industry, all manner of enablers from banks, offshore service providers, accounting firms, and a legion of approximately 4,000 lawyers (Ellefson, 2025a). In November 2023, the International Committee of Investigative Journalists (ICIJ) and Paper Trail Media released the “Cyprus Confidential” investigation, based on 3.6 million leaked documents belonging to Cypriot financial services providers. It uncovered how Russian oligarchs protected their financial assets from impending war sanctions in the wake of the 2022 invasion of Ukraine. In less than 24 hours after the expose, the country’s president, Nikos Christodoulides, promised to initiate a probe. Finally, on July 10, 2025, the Cypriot Parliament passed a legislative package mandating the creation of a new sanctions’ implementation unit and criminalizing sanctions evasion (Ellefson, 2025b).

Mentorship, education and community support: Thwarting gang recruitment. In addition to providing opportunities to earn an income, criminal groups often cultivate among their members a sense of collective identity, which sociologist Lee Smithey defines as a sense of “we-ness” (Smithey, 2013, 32). To counter these economic and psychosocial enticements, in South Africa’s Cape Flats, MathMoms has been training unemployed women to become academic tutors and emotional support mentors to young people at risk of joining gangs, thereby creating intergenerational support, resilience and socio-economic development. Founded in 2016, and in collaboration with local schools, the women undergo a three-month training that includes community leadership, emotional intelligence and trauma awareness designed not only to support youth but also for the women to overcome their own abuse and trauma. In due course, many of these MathMoms acquire additional education and gain improved employment opportunities, which breaks their own cycle of marginalization (Neves and Gastélum Félix, 2025).

From exposure to outcomes: Legacy of investigative journalism. In addition to uncovering malfeasance, the Organized Crime and Corruption Reporting Project (OCCRP) investigative journalism has kindled action around the world. From 2009 to 2024, outcomes included: over USD 12 billion of monies seized and fines levied; 435 official investigations launched; 762 indictments and arrests; 869 government actions; 135 high level resignations and firings; 261 civil society actions; and 135 corporate actions. (OCCRP in numbers, 2025).

Cycling to prevent human trafficking: Nuns' nonviolent action campaign. In 2016, the Drupka order of Buddhist nuns in the Himalayas completed their fourth 4,000 km bicycle trek in dangerous terrain and inclement weather from Nepal to India to raise awareness about human trafficking, gender equality, and respect for the environment. Knowns as the "Kung Fu" nuns due to their training in martial arts, they engaged with local people, religious authorities and government officials to counter the rise of women and girls sold into sexual enslavement in brothels, and gangs conning villagers and children into bonded labor in urban homes and businesses (Bhalla, 2016).

Anti-corruption and journalist groups raise alarms: Jointly defending access to information. Civil society groups and the media also cooperate, as illustrated from this ongoing case. During August 2025 the government of Tunisia terminated the Access to Information Authority (INAI) without any official announcement, adding to the onslaught against the country's independent oversight bodies (Shenawy & Sbouai, 2025). After IWatch, the Tunisian chapter of Transparency International, exposed this closure, many civil society joined the condemnation, followed by the National Union of Tunisian Journalists, which called it a "serious violation of the constitutional right of access to information and a perpetuation of the blackout policy" and it "represents a means of turning journalism into a mere tool for official propaganda and blocking all serious and investigative journalism… a devastating blow to what remains of professional and independent media" (Ibid.). Their struggle continues.

2. Defining the Civic Realm

There are many terms used when signifying the civic realm. Below are some key definitions.

Civil society refers to "the arena - outside of the family, the state, and the market - which is created by individual and collective actions, organizations and institutions to advance shared interests" (Mati, J., Silva, F., Anderson, T., 2010, 17). This formulation includes non-governmental organizations (NGOs), private voluntary organizations, nonviolent social movements/ campaigns/civic initiatives, community - based organizations, trade unions, charities, social and sports clubs, cooperatives, environmental groups, professional associations, consumer organizations, faith-based organizations, and the not-for-profit and investigative journalist media. Civic groups can be formal or informal, and operate locally, nationally, and/or transnationally (Beyerle and Afzali, 2018).

Civic engagement, also called ***"active citizenship***" is considered a "crucial defining factor of civil society" (Ibid., 26).

Civil society organizations (CSOs) are the "multitude of associations around which society voluntarily organizes itself and which represent a wide range of interests and ties" (Atwood, 2012, 7).

Nongovernmental organizations (NGOs) can be considered a subset of CSOs. Operating at the local, national, or international level, they usually focus on targeted concerns or issues, are task-oriented, and bring together people over shared interests. They can: carry out services and humanitarian activities; present public concerns to state and non-state elites; educate people about their rights; encourage citizen engagement and nonviolent collective action; and monitor government and non-state actor policies and practices, including those of organized crime, corporations, and multilateral institutions. NGOs also conduct research, generate data, analysis and policy recommendations, and undertake more traditional advocacy vis-à-vis elites. Although the terms "CSO" and "NGO" are often used interchangeably, the former are commonly considered to be closer to the grassroots, while the latter are viewed as being more technocratic, elitist, and removed from citizens (Beyerle and Afzali, 2022).

Hybrid NGOs strategically combine a variety of functions that traditionally have been siloed, such as research, analysis, policy recommendations, and advocacy on the one hand, along with active citizenship, empowerment, community organizing and nonviolent action, on the other hand (Beyerle 2023).

Grassroots groups can also be considered a subset of CSOs. Usually informal and localized, they consist of "voluntary associations of community members that reflect the interests of a broader constituency" (Lentfer & Cothran, 2017, 6).

As illustrated by some of the previous examples, independent media plays an indispensable role in tackling corruption and organized crime. It can expose corruption, uncivil society, kleptocracy, organized corruption, give shape to peoples' problems and grievances, provide ammunition to civil society, generate political will, distinguish between honest versus corrupt elites and between integrity champions/reformers versus corruptors, and push for law enforcement attention and sanctions. Its revelations can be used both by civil society actors as well as state reformers and integrity champions to promote accountability, policy and legislative changes and implementation, and advance reforms (Hrvolova, Katz & Alexander, 2022).

Independent media is often considered part of civil society and goes hand in hand with investigative journalism and press freedom. ***Independent media*** refers to news – via television, print publications, radio, documentary film, and digital platforms – that is ideally free from the influence of governments, political entities, private sector, special interests, and even criminal groups. ***Investigative journalism***, one genre of independent media, monitors abuses of state and non-state abuses of power by conducting "systematic, in-depth, and original research and reporting, often involving the unearthing of secrets" (Kaplan, 2013, 10). Its practice often has a social justice and accountability angle and relies on the public records and data (Ibid.). Together, they constitute ***public interest media***, and can both influence and be influenced by policies, policy implementation, democratic governance, rule of law, civil society, civilian security, and citizen mobilization and action. ***Press freedom*** refers to the context in which journalists can carry out their reporting and investigations independently without threats to their own or their loved ones' safety and without political, legal, economic or social interference (Reporters without Borders, 2024).

At the heart of civil society and independent media are citizen agency and bottom-up power dynamics. They involve two central concepts: power and people power. On the one hand, *power* is the ability to influence a person, group or system to get a particular outcome. It's relational rather than finite – it shifts, changes, and is grounded on interactions.[2] To tackle corruption and organized crime, it's essential to map power relations and shifts in a given context. Policymakers, civil society actors, and journalists should take into consideration informal as well as formal power systems - when conducting context analyses, creating policies and implementation plans, and developing projects and nonviolent collective action initiatives. While formal systems may exist on paper, they can be weak and riddled with graft and at the very least, in the short term, may not provide reliable institutional channels for reform, transformation, justice and positive change. There often exist parallel informal systems, such as community-based or customary mechanisms, and even organized crime control. On the other hand, *people power* is the social, economic, political and psychological pressure that is exerted by significant numbers of individuals organized together around shared grievances and goals, conducting nonviolent tactics. Michael Beer has documented over 200 tactics, and new ones are created all the time (Beer, 2021). As evident in the aforementioned synopses, in the anti-corruption/anti-criminality realms, this includes varieties of tactics, such as: noncooperation; civil disobedience; low-risk mass actions; displays of symbols; street theatre and stunts; songs, poetry; humor; "report cards" for political candidates; monitoring of officials, institutions, budgets, spending and public services; "naming and faming" honest officials and integrity champions; digital resistance (e.g., social media organizing, blogging, e-petitions); social and economic empowerment initiatives; parallel institutions; protests, petitions, vigils, marches, sit-ins; strikes, reverse strikes; boycotts, reverse boycotts.

In this regard, civil society, independent media and people power can manifest *nonviolent collective action,* which is understood as the civilian-based method to counter oppression, injustice, corruption, abuse and criminality through which people power is wielded (see Box 1). It's also called nonviolent resistance, civil resistance, and strategic nonviolence. Through nonviolent action, citizens mobilize to wield people power. The nonviolent action spectrum includes social movements (subnational, national, regional, transnational), finite campaigns (local, national, regional, transnational), and local civic initiatives, for example, citizen-driven community efforts

2 This definition is adapted from: Bloch, N. & Schirch, L. (2018). Synergizing Nonviolent Action and Peacebuilding: An Action Guide. United States Institute of Peace.

around development, corruption, criminality, peacebuilding, human rights, extractives, land rights, access to public services, etc. In reality, these issues are interlinked, and in order to tackle corruption and organized crime, it's imperative to analyze their interplay (Beyerle, 2023).

Box 1 – Dynamics of citizen-driven and nonviolent collective action to alter systems of graft and abuse

- *Shifting power* - applying nonviolent pressure through "power of numbers"; people raising their collective voice over specific demands on elites who (up to that point) have been unwilling to change the venal status quo.
- *Disruption* - hampering the smooth functioning of systems of graft, abuse and criminality.
- *Positive engagement and reinforcement vis-à-vis powerholders* - "pulling" them toward the civic initiative and anti-corruption/accountability struggle; and empowering those on the "inside"—honest elites, reformers, and integrity-championing institutions—through grassroots solidarity and social recognition (such as the Accountability Lab's Integrity Icon campaigns), that in turn contribute to shifting norms.
- *Connecting citizens' grievances and problems* to anti-corruption objectives and demands affecting their lives.
- *Incremental objectives and outcomes*—mapping a path for transformative change based on clear objectives and specific demands that build on one another, yield visible outcomes, and foster a sense of citizen agency, inclusion, and dignity. In fragile and closed contexts, this often takes the form of locally led community initiatives, which can inspire others and feed into national efforts for major policy/legislative reforms and implementation. Jonathan Fox and Joy Aceron (2016) documented this process, which they call Vertical Integration.

Source: Beyerle, 2019.

Close to three decades of research has found that organized, sustained nonviolent collective action has a noteworthy track record in terms of effectiveness, countering graft and malfeasance, and improving human rights, development and democratic outcomes (See Box 2).

Box 2 – Nonviolent Collective Action Efficacy and Outcomes

- Updated research, originally conducted by Erica Chenoweth and Maria Stephan (2011), found a two-to-one success rate for the efficacy of nonviolent versus violent struggles against authoritarian regimes and foreign occupiers. In 2020, Chenoweth reported that over the past 120 years, approximately 51 percent of nonviolent campaigns achieved success, compared with only 26 percent of the violent ones.
- A high correlation has been found between nonviolent campaigns and democratic outcomes five years after the end of the struggle (Chenoweth and Stephan, 2011).
- Using quantitative modeling with a pool of over 300 transitions from authoritarian regimes from 1945 to 2015, Jonathan Pinckney found that "nonviolent resistance has a positive effect on democratization independently of other conditions" (2018, 5).
- In a systematic review of studies about social movements for anti-corruption, transparency and accountability, Davin O'Regan calculated that approximately 70 percent "were found to wield strong political and policy influence, and most others modest or weak influence" (2019, 5).
- A quantitative examination of mass atrocities conducted by Evan Perkowski and Chenoweth revealed that 68 percent of violent campaigns challenging incumbent regimes experienced mass killings in comparison with 23 percent of nonviolent campaigns (2018).
- At both the macro and micro levels, this author and others have found that nonviolent social movements, campaigns, and local community efforts have also contributed to anti-corruption, transparency, accountability, good governance, and development and peacebuilding outcomes that touch citizens' daily lives. Outcomes have included gaining access to information, disrupting criminal groups and criminal activities, improving public services, preventing or rectifying corruption and mismanagement, creating ACTAGG political will, pressuring elites for policy and legislative changes, supporting honest officials and anti-corruption and accountability institutions, and shifting norms toward integrity. Finally, such civic initiatives can foster inclusion and build a sense of agency and dignity among those whose voices and needs have been ignored, particularly in fragile and conflict-affected settings.

Source: Beyerle, 2023.

3. The way forward: the role of systems thinking

Technocratic, top-down, formulaic approaches, often favored by elites, have had limited to inconsistent results.[3] Scholars, such as Diana Chigas, Cheyanne Scharbatke-Church, and Peter Woodrow, point to a common lack of contextual analysis where policy makers, donors and practitioners "apply a simple response to a complex, systemic problem that is inseparable from the socio-political context in which it takes place" (Scharbatke-Church, 2016, 2). There is growing acknowledgement that to make inroads against corruption, and as importantly organized crime, it's necessary to take a holistic, multi-faceted approach that factors into the equation all the potential sectors and actors in order to tip the scale towards change. In this final section, we'll delve into systems thinking, as well as recommendations for civil society, independent media actors, researchers, and international actors supporting independent media and civil society, including nonviolent collective action initiatives.

In order to address the above-mentioned shortfalls, some research-practitioner initiatives –for example, Besa Global's Corruption, Justice and Legitimacy Program – have integrated systems analysis into their work on corruption over the past decade. The next step is to extend this approach to tackling organized crime, which is also a complex, adaptive scourge. Moreover, corruption and organized crime are interactive and can have direct and indirect linkages and outcomes. Rather than address them separately in siloes, a systems approach is necessary to discern and understand relationships, interactions and pathways for change (Grady, Diggins, Schneider, & Paley Rose, 2017).

Based on a definition by Danny Burns (2014), systems are: "complex webs of relationships between people, processes, state and non-state entities, and the context in which they are situated" (Beyerle and Afzali, 2022, 482). Systems thinking constitutes "a way of understanding the world (or any particular problem) as a series of complex interactions among multiple factors that, together, form a constantly shifting whole" (Scharbatke-Church, Barnard-Webster and Woodrow, 2017, 3).

Systems can be broken down into four components. Bob Williams and Richard Hummelbrunner identify the following ones: elements (all the parts that make up the whole); links between the parts (processes and

3 See: Beyerle, 2014; Norwegian Agency for Development and Cooperation (NORAD), 2009; Woodrow, 2024.

interrelationships that bind the parts together); boundaries (what falls inside a system and outside a system and the power dynamics at play) (2009). In addition, I add a fourth component, namely power dynamics relevant within and outside the boundaries of the system. In practice, systems thinking involves examining actors/entities, interrelationships, multiple perspectives, boundaries, and power relationships.

In addition to these components, Williams and Himmelbrunner identify three aspects of systems analysis: describing and analyzing situations, managing or changing situations, and learning about situations in order to understand changes to systems and to alter or change understandings about situations (Ibid.). They also point to the dialectical nature of complex situations, which we can see is epitomized by corruption and organized crime. Dialectics refer to the process of bringing together opposites, contradictions and different perspectives in order to gain meaning and better understand a situation (Ibid.).

Systems thinking is different from traditional approaches to tackling corruption and organized crime. The latter is based on linear thinking with a focus on cause and effect while the former takes a holistic approach to complex problems and realities, and questions underlying assumptions (CDA Collaborative Learning Projects, 2017). Systems analysis takes into consideration the enablers, drivers, and functions of corruption. I submit it can also be applied to organized crime. Drivers are what propels people to engage in malfeasance (and criminality), while enablers are individuals, groups or entities that allow the corrupt (or criminal) action to occur (Ibid.)

Implicit in systems thinking is the recognition that change is a non-linear process involving multiple strategies, actors, uncertainty, expected and unexpected outcomes, and incremental gains (Beyerle and Afzali, 2022). As evidenced in Box 3, in contrast to tactical interventions devoid of context and designed or driven by external actors, approaches built upon systems analysis integrate top-down (elite-driven) and bottom-up (civil society) strategies in a more holistic manner. Practitioners have developed a number of analytical tools that can be applied to corruption, organized crime, and their nexus.

Box 3 – Some Systems Analysis Tools

Causal Loop Diagrams – illustrate interactions of factors that drive and enable graft and criminal behavior, including their linkages and feedback loops (Woodrow, 2024).

Critical Systems Heuristics – ascertain key systems boundaries and their consequences (for example, who and what are excluded/marginalized or rendered a victim due to the way the situation is viewed, framed or operates) (Williams & Hummelbrunner, 2009).

Stakeholder Analysis – identify key actors (persons, groups and entities) and their motivations, relationships, incentives, and sources of power and influence (Woodrow, 2024), as well as those persons, groups and entities affected by the corruption and/or organized crime situation or by top-down and bottom-up efforts to tackle the situation (UN Women, 2012).

Outcome Mapping – delineate outcomes instead of impact, with an emphasis on contributions to outcomes, though acknowledging the importance of impact as the ultimate goal (Earl, Carden, Smutylo, 2001).

Source: Elaborated by the author.

4. Recommendations for Civil Society, Independent Media, Governments and Donors

1. *Break down silos*. In reality, mitigating corruption and organized crime is interlinked with democratization, human rights, equitable development, sustainable peace and global crises such as climate change and natural resource extraction. We can no longer approach these realms in silos. It's essential to understand their interplay in a given context – aided by systems analysis – in order to create strategies and support mechanisms that foster synergies, networks, and collaboration.

   A second barrier is between civil society and independent media. Investigative journalists, civil society, and activists have critical roles to play in documenting corruption and enforcing actions against it, but they often work in silos, whereas "tycoons, corrupt officials, and organized criminal networks are highly coordinated across borders (Hrvolova, Katz & Alexander, 2022, 3). While civil society and independent media fall under the same umbrella, they often operate in parallel. Independent media needs civil society to act upon their work and wield people power to push for change. Civil society needs independent media, including investigative journalism, to uncover power abuse and provide them with actionable information and data. When deciding on what to focus and prioritize, independent media should take into consideration its strategic value to civil society, including social movements and nonviolent action campaigns, and explore complementarities and synergies.

One example is the Global Anti-Corruption Consortium (GACC). Launched in 2016 by OCCRP and Transparency International (TI), this "strategic alliance" of "proactive cooperation" has resulted in hundreds of cross-border investigations led by OCCRP and its media partners (GACC, 2025). In turn, hundreds of cross-border investigations have been used by TI's advocacy campaigns and legal casework. The Consortium has grown organically. By 2023, it involved collaborations with over 100 reporting partners, 98 civil society organizations in 76 countries, with expansion to Africa and Latin America (Ibid.). A 2021 externally conducted evaluation identified 228 real-world impacts during GACC's initial four years, and concluded that five times as many outcomes were generated when OCCRP and TI worked together as opposed to working in siloes (Ibid.). International actors can enable such synergies. Hrvolova, Katz and Alexander call on donors, governments, and multilateral bodies to "increase support for free media, investigative journalists, civil society, and activists that work to reveal corruption, including with greater resources for technical assistance and activities to break down the silos they operate in and to increase cooperation among them" (2021).

2. *Research and adoption of AI tools*. Civil society, including independent media and nonviolent collective action campaigns and movements, must increase their use of AI technologies and tools. As importantly, they need to build and/or improve channels of communication and collaboration with AI developers (Lian, 2025). The academic community focused on anti-corruption and crime, democracy, governance and rule of law can support civil society through targeted, action-oriented research on applications of AI and adoption of AI tools. For example, the University of Bologna's RESPOND (Rescuing Democracy from Political Corruption in Digital Societies) initiative includes "exploring how established and emerging digital technologies entangle with political corruption and

how they improve anti-corruption and pro-integrity strategies at both national and cross-border levels" (2025).[4] Under the leadership of Alice Mattoni, a key action outcome is the designing, testing, and revising practices and tools in collaboration with a variety of stakeholders to increase civic monitoring and integrity in European democracies. RESPOND is funded by the European Union's Horizon Europe research and innovation program. It's essential for governments, multilateral institutions and private foundations to support such practical research and as importantly, collaboration with AI developers.

3. *International support for civil society and independent media.*As authoritarianism, kleptocracy, and organized crime are on the rise, civic space and citizen dissent are being trampled, and AI is threatening national security - it is imperative that the international donor community not abandon independent media and civil society, including nonviolent collective action initiatives. Now more than ever, governments, private philanthropy, multilateral institutions, and donors must ramp up support to transnational civil society entities, independent media/investigative journalism entities, action research programs, and international and local groups engaged in nonviolent action and citizen empowerment to tackle corruption and organized crime. This includes financial support, such as flexible and core funding, innovative intermediary grantmaking, participatory grantmaking, trust-based philanthropy, and community-based philanthropy. Equally and often most valuable is nonfinancial support, such as access to information, meeting grassroots needs, nonviolent action organizing and leadership skills, AI and digital security skills, opportunities for local/national/transnational coalition-building, opportunities for civil society and investigative journalism collaboration, and peer-to-peer exchanges (Beyerle, 2023).

4. *Increase international solidarity and protection*. Along with financial and non-financial assistance, international solidarity and protection are crucial. Research by this author and the United States Institute of Peace (USIP) consistently found that civil society practitioners and activists in the anti-corruption, transparency, accountability and good governance realm cite such support as one of their most urgent needs. This applies as well to state reformers, integrity champions and journalists. Even in

4 Full disclosure, the author is on RESPOND's Advisory Board.

Europe – where journalists face less impediments than in other regions – those who expose the wrongdoings of public officials and malign elites are often targeted, as evidenced by increased Strategic Lawsuits against Public Participation (SLAPPs). The civil society Coalition Against SLAPPS in Europe (CASE) warns that "abusive litigation and legal threats" against activists and journalists reporting on abuses of power is "one the most pressing challenges for the universal right to speak and right to know" (2023). Since 2010, the Daphne Caruana Galizia Foundation has documented 1303 lawsuits, and in 2024 alone, 167 were filed (CASE, 2026). Although the EU's new anti-SLAPP law came into force in May 2024, not all member states have met the May 2026 deadline to transpose it into national law (Ibid.).

While at first glance it seems paradoxical, repression is not a sign of civil society weakness. Rather, it indicates that civic actors are perceived as threats to vested malfeasant interests, are gaining traction, and undermining systems of corruption and organized crime. Solidarity and protection are crucial to prevent reprisals from weakening unity and alliances, closing civic space, and devastating media, civic and nonviolent action groups. Moreover, international condemnation and protection can have much wider strategic benefits. Protecting a few can give hope to and empower others. It can make reprisals backfire and thwart adversaries' goals to create fear, apathy and despair. External actors have many options, such as: solidarity statements and affirmations; emergency and rapid response measures; on-the-ground witnessing and accompaniment; recognition, rewards and fellowships (Beyerle, 2023), as well as legal assistance (Hrvolova, Katz & Alexander, 2022).

In conclusion, the civil society constellation of organizations, groups, nonviolent collective action movements and campaigns, independent media and investigative journalism constitute an essential component in the anti-corruption and criminality realm. Through an "all-hands-on-deck" approach that includes civil society, we will be better able to thwart obstacles, rapidly adapt, develop pro-active strategies, prevent or overcome setbacks, foster resilience, and magnify our collective efforts.

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