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Globalization and Organized Crime: Challenges for International Cooperation

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INTRODUCTION

The concept of transnational organized crime is not clear-cut or straightforward. There is no standard definition for it in criminological or criminal law theories. Moreover, transnational criminal organizations differ substantially from each other—in organizational structure, types of activities, or size, for example. Despite this lack of consensus on the definition of transnational organized crime, several crucial elements are evident in all cases.

First, such organizations conduct criminal acts, violating legal frameworks and carrying out punishment outside the legitimate procedures of law enforcement. Individuals who intentionally join the groups operate under the direction of established leaders and execute their activities efficiently. And although they are well organized, their structure is more or less permanent, even when they are not composed of rigidly subordinated groups. Sometimes, transnational organized crime in fact occurs through a network of homogeneous groups linked to one another across borders by various forms of solidarity, complicity, and a hierarchical order.¹

Additionally, transnational criminal organizations are active in a variety of fields. Their full spectrum of activities includes bank fraud, cyber crime, and the illegal trafficking of goods or people. Moreover, in order to achieve their goals and protect their interests, transnational criminal

organizations are willing to use violence, bribery, and other such instruments to carry out their business activities. And, of course, a main characteristic of these groups is that their criminal practices are not limited to national boundaries.² In the Convention against Transnational Organized Crime (CATOC), the United Nations stated that an offense is transnational in nature if: (a) it is committed in more than one State; (b) it is committed in one State but a substantial part of its preparation, planning, direction, or control takes place in another State; (c) it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) it is committed in one State but has substantial effects in another State.³

In an earlier document, the United Nations also listed several categories of transnational organized crime: money laundering, terrorist activities, theft of art and cultural objects, intellectual property theft, illicit arms trafficking, aircraft hijacking, sea piracy, land hijacking, insurance fraud, cyber crime, environmental crimes, trafficking of persons, trade of human body parts, illicit drug trafficking, fraudulent bankruptcy, infiltration of legal business, corruption and bribery of public officials as defined in national legislation, corruption and bribery of party officials and elected representatives as defined in national legislation, and other offenses committed by organized criminal groups.⁴



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GLOBAL CRIME: A NEGATIVE EXTERNALITY OF GLOBALIZATION

There has been some discussion on the relationship between globalization and organized crime. According to professor Phil Williams, globalization has been beneficial to transnational organized crime. He argues that, while globalization facilitates international trade and the exchange of goods, it also increases the difficulty of regulating other activities such as the trade of illegal goods and the enforcement of laws that intend to stop them. In the same context, the global financial system has undergone widespread deregulation since the 1980s, facilitating money laundering to hide the ill-gotten profits of organized crime. In other words, financial deregulation benefits criminal actors because it allows them to launder money through placement, layering, and ultimately integration into the legitimate financial system. Moreover, the negative externalities of globalization may have contributed to engrossing the ranks of organized crime. As Williams (2012) put it:

In terms of sociological impacts, globalization has also brought about some negative effects...The process of globalization generated not just winners, but also losers. Its disruptive effect, causing higher inequality and poverty for many across the globe, led some people into engaging in organized crime and criminal activities, mainly as the result of a lack of opportunities and an extreme unequal income distribution.⁵

Broude and Teichman argue that in taking advantage of globalization processes, transnational crime organizations also expanded their networks not only at regional levels but also globally as well. Broude and Teichman draw particular attention to technological developments. They state that illicit activities flourished, just as legal international business transactions have, due to technological advances in transportation and telecommunications that facilitate the freer movement of goods, services, money, and people. Just as there are direct links between technological progress and

economic liberalization, the removal of barriers to the international trade of goods and the free flow of funds have just as easily facilitated cross-border illicit trade.⁶ There is, in other words, no reason to believe that these developments would one-sidedly benefit only legal activities and not become instruments for illegal transactions as well. Thus, transnational networks now have access to state of the art technologies (planes, submarines, drones, etc.) to transport illicit drugs and also use complex cyber operations for money laundering and financial operations. The power of transnational crime has grown dramatically in recent years. Based on available academic research, organized crime now accounts for perhaps as much as 15 percent of the world's GDP.⁷

DRUG TRAFFICKING IN GLOBALIZED MARKETS

One of the main transnational criminal activities under aggressive expansion is illegal drug trafficking. For illegal drugs, modern transportation and telecommunications act as a conveyor belt. It is estimated, for example, that almost 90 percent of the cocaine transported to the United States by plane is loaded onto aircrafts in Honduras. The cocaine itself originates in Colombia and can make several stops at various hubs for further transport to North America or Europe. In the United States, Mexican dealers and their American counterparts distribute drugs in several parts of the country, with well-heeled business models, markets organized into territories, and profit-sharing arrangements. Networks are often organized in cells involving at least four countries, all of which are well coordinated in their operations. Regional coordination and cooperation mechanisms expand from South to Central to North America and all along the U.S.-Mexico border. Production, transportation, retail, financial, and enforcement wings work in tandem. Units specialized in coopting law enforcement and political actors are in place along the Mexican border, and U.S.-trained special police forces have been deployed in addition to existing units, as is the case in Honduras.⁸

Another point to revisit is the fact that the drug cartels have been able to grow to a global scale thanks to the similarities they share with legal multinational companies. International business professor Peter Enderwick detected four crucial similarities:

First, both appear to pursue similar objectives, with profit assumed to be the key driver. For legitimate businesses, this assumption is endemic, and the same applies for the transnational criminal organizations. Second, both types of businesses establish worldwide facilities to maximize the production, marketing, and distribution of products and services. Third, output and growth are led by market demand. Fourth, the level of analysis generally adopted in examining both the legitimate and illegitimate sectors are comparable.⁹

In this context, drug cartels are able to expand not only at the regional level but also into other continents, taking advantage of the technological, commercial, and financial frameworks that carry other globalization processes. All the similarities multinational companies share with transnational crime organizations have in many ways been the byproduct of globalization, a link not yet made very clear in the literature in general.

Paradoxically, increasing cross-border global trade flows, pushing economic liberalization reforms, and weakening the power of the nation-state have all also facilitated opportunities for transnational organized crime by providing gray spaces where these “dark” corporations can flourish and offering the incentives to profit from the trade of illicit goods and services, expand their networks, and ultimately prosper.¹⁰

INSUFFICIENT COOPERATIVE MECHANISMS TO FACE GLOBALIZED CRIMINAL NETWORKS

The growing problem of transnational organized criminal networks has stimulated countries to cooperate in joint approaches to tackle the issue. However, these mechanisms are no longer enough and need to be reformed to face the new challenges of

globalized crime. The State itself needs to reformulate its institutions and the way they work bilaterally and in a global context. As Williams argues, “States and the communities of states are still bureaucratic, hierarchical, slow to operate, slow to respond to groups that are very agile, very networked, very flexible, and able to respond very quickly both to opportunities and dangers.”¹¹

Governments from the United States and Mexico seem to understand the growing global scope of organized crime and have started to develop a combined approach toward combatting it. Implicit in this approach is the fact that isolated nation-based law enforcement or even traditional cooperation among countries is no longer an efficient mechanism to fight organized crime. Organized crime, however, is ahead of governments, given that most anti-organized crime is still largely based on traditional methods of policing, bilateral cooperation, and country-based law enforcement.

FINAL REMARKS

The process of globalization has brought about the need to reform the way in which institutions are structured and how they operate in different contexts. International cooperation among domestic institutions is not enough anymore to face international challenges such as global crime. New institutional structures involving participation from states and non-state actors has become a requirement to overcome global problems. There is a need for the domestic institutions to become more “global” and work where overall good is desired instead of aspiring for national advantages or looking for media attention.¹² The State faces enormous challenges due to global crime, and the current institutions and legal systems are sometimes isolated or work only within a national scope. These imperfections are used by the organized crime groups, which freely exploit the loopholes of state-based legal systems to extend their reach.¹³

Globalization processes have provided opportunities for the worldwide expansion of legal businesses, but also illegal businesses. The traditional mechanisms to control

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organized crime on a global scale are not enough. Nation-states must now look for new and improved ways of combatting illegal businesses, much as they seek new and innovative ways to regulate world corporations. Academic research shows that one of the greatest challenges of international collaboration are differing national penal laws.¹⁴ Globalization calls for nations to set common law principles in order to fight crime. Just like transnational organized crime groups use a horizontal hierarchal system in order to do business, nations should establish similar systems in fighting them. States are called to evolve, look beyond their borders, and act against the grand, negative impact of organized crime through mutual collaboration. The harmonization of national legislations is one of the main challenges in the fight against transnational organized crime within the context of globalization.

ENDNOTES

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12. Attina, "Globalization and crime. The emerging role of international institutions."

13. See Louise Shelley, "The Globalization of Crime and Terrorism," IIP Digital U.S. Embassy, February 2006. <http://iipdigital.usembassy.gov/st/english/publication/2008/06/20080608103639xjyrrep4.218692e-02.html#axzz4AM8WPVwS>.

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