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James Bergeron

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TRANSNATIONAL ORGANISED CRIME AND INTERNATIONAL SECURITY

A PRIMER

JAMES BERGERON

Crime is central to security concerns and to defence and policing activities. James Bergeron explores the nexus between transnational organised crime and international security, and the role that the military can play in combating organised crime.

The relationship between transnational organised crime and international security may appear to be an interesting sidebar from core defence-related concerns. The reality, however, highlights the centrality of crime – and in particular transnational organised crime – to both security as a concern and defence and policing as activities that seek to combat it.

The interaction between organised crime and organised political violence has been a clear trend for more than a decade. Somali piracy, the Afghan drug trade, precious minerals in the Democratic Republic of the Congo, and the smuggling of arms to insurgent or opposition movements in Gaza, Libya and Syria are all examples showing the close proximity of crime to ‘classical’ international security dynamics and to military operations. Crime and security increasingly inhabit a shared space with which the spheres of both defence and policing interact. Of course, crime is primarily a problem of domestic policing, even when it has international origins and linkages. Yet this linked dynamic – explored more fully below – makes it both important and difficult to intelligently determine how military force can best be applied in support of wider governmental efforts to counter organised crime, in particular where

it impacts on military operations or international security concerns.

A Complex Relationship

Any discussion of the relationship between organised crime and international security will necessarily depend on what one means by those terms. A major problem in conceptualising the relationship between crime and security is that both concepts are essentially opaque; they deal with apparently different subject matters and yet also share much in common. This opacity and the political complexity it generates partly explain why the global community still lacks a common definition of organised crime. In considering the problem, a critical issue is whether these fields simply share interests, whether they also overlap in some structural ways, or whether they are indeed in certain aspects symbiotic.

Definitions are a good place to start, even if they are not agreed. The UK Home Office’s 2011 Organised Crime Strategy defines organised crime as:¹

Individuals, normally working with others, with the capacity and capability to commit serious crime on a continuing basis, which includes elements of planning, control and coordination, and benefits those involved. The motivation

is often, but not always, financial gain. Some types of organised crime, such as organised child sexual exploitation, have other motivations.

In contrast, the US National Security Council (NSC) offers the following:²

Transnational organized crime refers to those self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/or violence, or while protecting their illegal activities through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms.

Both definitions stress the importance of organisational elements (the NSC definition more explicitly) and interestingly both say that financial gain is not the only motivation. However, if one were to remove the illegality aspects, what would be left is a statement that comes very close to a definition of the governmental enterprise in many countries. The central point is that governments, militaries and organised criminal networks are all organisations



Weapons seized during a police raid are displayed in Coban, Guatemala, where authorities are concerned by an apparent alliance between the Guatemalan MS-13 street gang and the Mexican Los Zetas drug cartel. *Courtesy of AP Photo/Rodrigo Abd.*

per se. They all rely on organisation, planning, process, management and leadership, from which their value-added arises. Both states and organised criminal networks exercise powers of violence and protection. The state's normative distinction from organised crime is, of course, its claim to legitimacy, including its claim to the legitimate monopoly of force on behalf of the body politic and for the general good. In modern times, that claim to legitimacy manifests itself in democratic governance, popular support, liberty and the rule of law, including its due process. States that lack some of those attributes, however, come uncomfortably close to the definition of organised crime. In Augustine's words, without justice, the *polis* is just a band of robbers. Yet in the real world, practice often departs from political theory. The 1944 Montevideo Convention defines a state as a given territory, a stable population and a government with the capacity to exercise governance and enter into international relations. This more *realpolitik* approach to the state emphasises power over legitimacy, privileging the capacity to control and defend.

In the sphere of practical application of their goals, states and criminal networks can overlap. The state claims jurisdiction over a given territory for all purposes, albeit limited by liberal concepts of private property and individual rights. Some traditional criminal networks – from Al Capone to the Camorra – also focus on a geographical concept of control, although usually over a much more constrained sphere of human activity. Recent hybrid models of insurgent criminality – such as the IRA, Al-Qa'ida and the Taliban – merge both ideological and territorial ambitions with regional and global activities normally regarded as criminal.

So much for structural similarities and essential differences between organised crime and the state. What of the inter-relationship between crime and security? The easy answer is that organised crime has a powerful direct and indirect impact on human security based on the threat of violence that generally, but not always, underpins criminal activity; or from the effects of such activity that are not violent in themselves, but whose results lead to a less secure environment for some.

Moreover, transnational criminal activities interfere directly with NATO military operations such as in Bosnia and Afghanistan.

However, transnational organised crime and international security have complex linkages that go beyond binary and opposed relations. 'International security' also encompasses the interests, the egos and functions of governments acting on the domestic and the world stage. Here the relationship becomes complex and not always oppositional.

Transnational organised crime exists in a world of states, and is both constrained and enabled by complex networks of laws and national and international institutions. Transnational organised crime would exist and operate differently in other global formats: in a Hobbesian world of powerful but autarkic and isolated states with high entry barriers, the vacuum between states and societies would make international criminal action more difficult and less systematic. Equally, however, in a world based on truly effective and legitimate global governance, the ability of organised crime to exercise arbitrage across the fault lines of jurisdiction,

national particularism, conflict of laws and so on would also face much greater challenges. The transnational criminal phenomenon that is currently visible seems to thrive best in a situation where states are weak but the international community is not strong. This has the added benefit of preserving local or regional cultural affiliations that many criminal networks draw strength from.

Organised crime challenges the state's monopoly on the use of force

There are also critical elements of criminal dependency on the state itself. At the most basic level, of course, the state of Hobbes, Locke and Adam Smith exists to make for the Peaceable Kingdom – a Social Contractarian world where citizens need not be armed against each other for protection. This is also of benefit to organised crime, so long as the prohibitions against private ownership of weapons are not too effective. In its more violent forms, organised crime challenges the state's monopoly on the use of force by offering protection where the state cannot, but also relies upon certain spheres of security and civility to maximise or launder their returns.

Organised Crime as Market Response to Constrained Demand

However, crime does more than simply exploit the fractures in the system of states; it can draw a considerable amount of its *raison d'être* from the activities of the state itself. Organised crime is partly a consequence of public policy, especially that which attempts to deny economic demand by prohibiting certain transactions such as prostitution or drugs, or (with much the same effect) raising their 'market' price through taxation. It also acts at times as a privatisation of state functions, such as a conduit of arms or resources to proxy forces; and it serves as an important financial instrument for terrorist or insurgent movements in their own right.

The first aspect to deserve consideration is the parasitic effect of public policy. The modern regulatory state attempts to organise and promote – but also at times limit – economic demand, usually on moral or public order grounds. This provides transnational organised crime with the prospect of meeting public demand for capital, goods, services and labour that the state has forbidden or – via regulation or taxation – has raised the cost of obtaining. This creation of denied demand and illicit value as a by-product of public policy is an important linkage between the state system and some of the opportunities available to organised crime.

There is a parallel with anti-trust economics, wherein the state, like a would-be monopolist, is raising the price of a commodity above the 'global market value' – in this case, the value that a competitive global dynamic of supply and demand would realise without regulation. Of course, for the vast majority of consumers, regulation proves effective. A faith in legality or fear of prosecution encourage legal compliance. For a minority at the high end of the demand curve, however, the costs and risks of a non-state alternative outweigh doing without. Drugs and the trade in illegal body parts come to mind. However, this process also perversely confers upon organised crime an oligopoly power of its own (policed by turf wars, a classic example of market partition) and an ability to charge over and above a 'global market value' to its tied consumers.

The marginal-cost dynamic cuts both ways: if denied demand is prompted by the capacity of the state and the system of states to enforce its prohibitions and regulations – but not completely effectively – then organised crime depends on the ability of extra-legal organisation and management to exploit that gap in effectiveness to deliver a value to the consumer of illegality. A no-cost illegality is not likely to attract criminal networks or a demand signal for them, since individual consumers have little need for those additional services. Local black-marketeering need not involve high levels of organisation, which may be one reason that organised crime networks have attempted to subjugate them and

often with only partial success. Another more modern example is illegal Internet file-sharing. Throughout most of the last decade this was virtually unenforceable, with file-sharing networks provided not by organised criminals but enthusiasts – good example of widespread 'unorganised crime'. Indeed, one of the greatest challenges to 'traditional' organised crime in the Internet era may be the reduced need for the middleman. This raises the interesting question of whether it is the crime or the organisational rival that is truly the greatest concern of states.

Strange Bedfellows

States and transnational criminal networks are not always opposed. At times, the organisational skills, linkages and lack of attribution that transnational organised crime provides can prove useful to governments. Criminal networks can act as a poor state's alternative to the advanced security services and networks richer states can use to support proxy forces. That market is large. In Gaza and Chechnya, Darfur and Somalia, Libya and Syria, weaponry clearly flows to regime or opposition forces from somewhere, and the clandestine arms networks appear to be deeply involved. A quandary for governments emerges where a consistent policy must be struck, comprising treatment of illegal arms transfers to groups one opposes as well as to groups the state is more favourably inclined to see succeed.

Operations in Afghanistan and Iraq taught vital lessons

Conversely, there are often close causal linkages between military operations and criminal activity. Disruption of civil authority during military operations, as well as impacts on food supply and currency values, can all create opportunities for organised crime to prosper. Certain peacekeeping operations have expanded prostitution in areas where these forces operate. Finally, operations in Iraq and Afghanistan taught vital lessons in the danger of infusing huge amounts of capital into states where

a culture of corruption and clientelism was already deeply embedded.

The Role of the Military in Countering Transnational Organised Crime

The preceding sections serve hopefully to induce some realism and some modesty into the issue of military support to the civil power in countering transnational organised crime. They are intended to remind that the state's own policies are sometimes implicated in the demand for criminal services and that the military must ensure that its own legitimate activities do not have the effect of creating new opportunities for corruption and criminality. That said, the military instrument can offer substantial utility in assisting governments in combating some forms of organised crime. UK and allied defence forces possess substantial capabilities for intelligence collection, surveillance and reconnaissance, as well as direct action. They are large, well-manned and well-funded organisations. Their value-added tends to be in responding to the manifestations of crime rather than addressing their causes, but that must also be part of any viable strategy to reduce crime and enhance security.

Combating piracy illustrates the possibilities and challenges of military support

There is growing awareness of the collective security threat that organised crime poses. In its 2010 Strategic Concept, NATO highlighted terrorism, (Chemical, Biological, Radiological and Nuclear) CBRN transport, arms, narcotics and people trafficking,

cyber-attacks, energy security, critical-infrastructure protection, and disruption of international trade routes as new security threats. All of these are partly or solidly related to organised criminal activity, although appellations such as 'terrorist' or 'insurgent' might also apply.

One of NATO's security concerns involves the protection and policing of international transport routes across the global commons. A decade of national and NATO efforts to monitor security at sea after the 9/11 attacks has raised awareness of a 'grey market' in international shipping that asks few questions and might be used to transport drugs, CBRN materials, ballistic missiles, arms, illegal immigrants and refugees, and possibly insurgent or terrorist operatives. This is especially true on the high seas, an area where both NATO and the EU are well placed to make a distinctive contribution in countering criminal activity that has defence implications. Naval forces are well positioned to act in international waters where police forces might be constrained by law, policy or by the capabilities of their craft. The efforts of NATO, the EU and Combined Maritime Forces in combating piracy is an excellent case in point, and illustrates the possibilities and the challenges of military support.

Nonetheless, military support does have its limits. Transnational criminal activity crosses more than borders: it traverses contested constitutional, legal and cultural boundaries between defence and policing, national sovereignty and the rights of the international commons. Thus this activity is not always easily susceptible to a co-ordinated military response. There are activities that military organisations do well; others less well. Rapid and decisive action is a military virtue, but extensive post-operation forensics, evidence-gathering and support of trial preparation is not

intuitive and requires training and a new mind-set.

Nations need to rethink the security-defence-criminality relationship

Greater use of the military instrument against formally 'criminal' activity will require greater inter-ministerial co-operation and cross training. It will also require that nations – in particular NATO members – reach beyond their traditional policy positions to rethink the security-defence-criminality relationship. This may require greater use of the military instrument in supporting whole-of-government efforts to counter global criminality. It may also require new forms of training and career development for military personnel, as well as far greater civilian judicial control over such operations. Little should be off the table in this debate.

Conclusion

Security is an essentially contested concept and nowhere more so than between the branches of the state charged with national defence and domestic policing. Enhancing human security – especially during times of fiscal austerity and budget cuts – will require a new degree of co-operation and understanding both between the branches of government and between governments. It will be imperative to resist the urge to 'circle the wagons' and lay exclusive claims to particular problems. There are more than enough challenges for everyone. ■

James Bergeron currently serves as Political Advisor to the Commander, Striking and Support Forces NATO, Lisbon, Portugal.

Notes

1 HM Government, *Local to Global: Reducing the Risk from Organised Crime* (London: The Stationery Office, 2011), <<http://www.homeoffice.gov>.

uk/publications/crime/organised-crime-strategy>, accessed 2 January 2013.

2 National Security Council, 'Strategy

to Combat Transnational Organized Crime', 25 July 2011, <<http://www.whitehouse.gov/administration/eop/nsc/transnational-crime/threat>>, accessed 2 January 2013.