



Reinforcing Multilateral Approaches to Transnational Organized Crime by Strengthening Local Ownership and Accountability

Input to the High Level Independent Panel on Peace Operations

1. Introduction

In the last review of the United Nation System's peacekeeping operations, the 2000 high-level panel convened under Lakhdar Brahimi asserted that *"when the United Nations does send its forces to uphold the peace, they must be prepared to confront the lingering forces of war and violence, with the ability and determination to defeat them."* Fifteen years ago, this frank and groundbreaking assessment concluded that the UN was neither fully empowered nor enabled to achieve this in its most core of mandates: peace and security.

As this High Level Independent Panel on Peace Operations embarks on its critical work, it is clear that much has been achieved since the publication of the Brahimi report. However, in one area of increasing relevance to war, violence and their resolution in both peacekeeping and peacebuilding contexts, organized crime, the UN System appears to be lacking both the *"ability and determination"* to respond.

The capacity of both state and non-state actors to draw upon illicit flows or ally with criminal groups to exacerbate violence, prompt and prolong conflict, and resource war has been thrown into increasingly sharp relief in the context of modern conflict. Countries beset by rampant crime, not inter- or intra-state war, rank as the most violent in the world. But while the synergistic relationship between crime and conflict is becoming increasingly recognized, it remains poorly understood, marked by the paucity of responses and apparently stymied by lack of political will.

This short input brief is intended to highlight the core impacts of organized crime on the ability of UN peacekeeping, peacebuilding and political missions to achieve their mandates; provide a brief overview of the evolution of UN System responses and their efficacy, and finally propose for consideration by the High-Level Panel, a number of ways the threat of organized crime and illicit resources could be better addressed. The report draws upon the expertise and experience of the Global Initiative Network: an independent, multi-disciplinary and globally representative network of experts on transnational organized crime.

2. Making the Case

Organized crime has become a clear driver of conflict and insecurity. As Peter Andreas has noted, in today's globalized economy, *"[m]ilitary success on the battlefield can significantly depend on entrepreneurial success in the illicit economy."*¹ There are numerous examples, going back multiple decades, of armed groups resorting to illicit trade to finance violence. The current threat posed by the Islamic State is so formidably potent thanks to a combination of smuggling, oil theft, kidnapping for ransom and protection rackets that has netted them an estimated \$2 billion in surplus capital and a daily revenue of between \$1-3 million per day, which then allows them to finance mercenary armies, purchase and upgrade weaponry and munitions, and attract

¹ Peter Andreas, "Illicit International Political Economy: The Clandestine Side of Globalization," Review of International Political Economy 11, no. 3 (August 2004): 650.



THE GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

skilled fighters, technicians and propaganda merchants both in the region and abroad. Conflicts in Colombia, Burma, Liberia, Sierra Leone, Angola, Nigeria, DRC, Somalia, Iraq and Syria have all been partially funded by natural resources. Terrorist and insurgent groups in Lebanon, Northern Ireland and across the Sahel have been financed through illicit cigarette trade. Drug trafficking has fuelled and funded conflict in theatres as geographically dispersed as Afghanistan, Colombia, Peru, Myanmar, Nepal, Uzbekistan and Peru.

As well as perpetuating violence and conflict, it has long been acknowledged, that a post-conflict or transition environment offers an opportunity for criminal groups or actors to undermine or penetrate political processes and statebuilding efforts. The Brahimi report observed that, *“Powerful local political factions can and have taken advantage of the [post-conflict] learning period to set up their own parallel administrations, and crime syndicates gladly exploit whatever legal or enforcement vacuums they can find.”* This has resulted in the proliferation of states with sizeable shadow economies, and complicit and corrupt states, profoundly impacting democratic governance and the rule of law. The recent crisis in Mali has highlighted the extent to which statebuilding efforts that overlook the infiltration of criminal factors create hollow, nominal democracies, and do little to promote genuine, effective governance. The long-term pernicious impact of illicit flows on governance and stability is evidenced by the violent breakdown of local governance in the southern states of Mexico, for example.

As a transnational flow, the impact of organized crime in fragile environments also has important consequences for neighbouring states. Conversely, taking a regional view of organized crime is imperative, as it becomes impossible to properly analyze, understand or respond to the phenomena from the perspective of a single nation. For example, both the genesis of and the response to the recent crisis in Mali needs to be viewed within the broader context of growing political and socio-economic vulnerability and conflict in the Sahel and North Africa. The continued instability and failure to control heroin production in Afghanistan increases fragility across Central Asia. UN system assessment tools are poorly calibrated to the breadth of analysis required.

Finally, within another core mandate of the UN System, a range of studies have demonstrated the degree to which organized crime serves to undermine and retard development in a range of sectors, including potentially irreversible damage to the environment. The 2011 World Development Report recognized organized crime as a significant external stressor on nascent peacebuilding, transition and state consolidation exercises, as well diverting an estimated twenty percent of development gains.

3. From Rhetoric to Resolution

The recognition of organized crime as a critical imperative to address within the context of peacekeeping and peacebuilding is expressed in the increasing number of mandates of UN peacekeeping operations that are being expanded to include the requirement to counter organized crime and drug trafficking, and to end the impunity for involvement. Nearly seventy five percent of current UN peace operations work in environments significantly affected by organized crime. Of these missions, roughly half hold a mandate to deal with criminal groups and activity, either directly or indirectly.² This includes actions to address drugs or arms trafficking, stemming illicit resource flows to warring parties or terrorist groups and preventing

² This is based on a review of the mandates of current peacekeeping operations. See also, Walter Kemp and Mark Shaw, “Margins to the Mainstream: Toward an Integrated Multilateral Response to Organized Crime,” September 2014

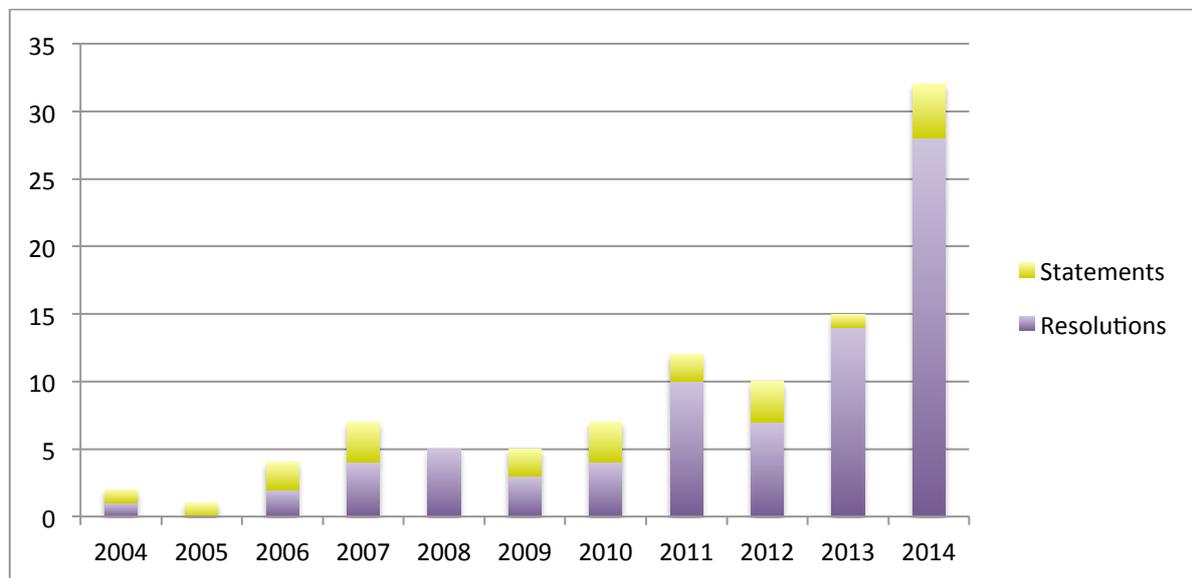


THE GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

its penetration into democratic process, or reinforcing the capacity of state law enforcement or justice institutions to investigate and prosecute criminal actors. For example:

- UN Security Council Resolution 2186 (2014) extending the UNIOGBIS mandate in Guinea Bissau underlines that *“any lasting solution to instability in Guinea-Bissau should include concrete actions to fight impunity and ensure that those responsible for politically motivated assassinations and other serious crimes such as drug trafficking related activities and breaches of constitutional order are brought to justice, including through national judicial mechanisms.”*
- UN Security Council Resolution 1856 (2008) expanded MONUC’s mandate in the DRC to include *“preventing the provision of support to illegal armed groups, including support derived from illicit economic activities”* and *“us[ing] its monitoring and inspection capacities to curtail the provision of support to illegal armed groups derived from illicit trade in natural resources.”*
- The mandate for UNAMA in Afghanistan established by Security Council Resolution 1662 (2006) included *“To provide information and guidance on relief, recovery and development issues and matters related to governance, economic and social development, counter-narcotics and gender in support of the Mission’s responsibilities for coordinating and monitoring the implementation of the Afghanistan Compact.”*

Since the turn of the millennium, the number of UN Security Council resolutions, statements and debates relating to organized crime as an issue overall have also increased. In 2005, there was only one statement, but 2014 alone saw twenty-eight resolutions making reference to forms of organized crime or illicit flows (see below). Whereas resolutions have overwhelmingly been concentrated on Africa, the Security Council has debated a much more globally dispersed set of contexts, including Afghanistan and Central America, as well as thematic debates on corruption, drug trafficking, piracy and terrorism.



Security Council Resolutions or Statements referencing organized crime, 2004-14



THE GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

4. From Resolution to Response

While the increasing number of Resolutions incorporating into UN peace operations a mandate to counter organised crime and criminal networks, and acknowledging that it can prove a fundamental spoiler to sustainable democratic governance and the rule of law, inevitably, in most peacebuilding or state-building exercises the response fails to move beyond rhetoric into tangible efforts to analyse or address the issue in a more multi-faceted national or regional context.

UN peacekeeping operations have primarily addressed the presence of organized crime as a security issue, triggering almost exclusively law enforcement responses. Investments made to increase the capacity of UN Missions to respond to organized crime have also only been seen in the security domain, for example the proposed appointment of organized crime monitors within peacekeeping missions.

Law enforcement actions are unquestionably crucial, but experiences in environments like Afghanistan have shown that focusing exclusively on the security aspects of organized crime has little chance of success. Despite the multi-billion dollar investment on drug control in Afghanistan (the USA alone is said to have spend \$7.5 billion), the withdrawal of the international community comes with the highest recorded level of poppy cultivation and drug-dependency, as well as chronic instability caused by extremist groups enriched by the profits of drug trafficking. It has been argued that standard law enforcement programmes can have unintended consequences, such that *“the weakest criminal groups can be eliminated through such an approach, with law enforcement inadvertently increasing the efficiency, lethality and coercive and corruptive power of the remaining criminal groups.”*³ Security initiatives to address organized crime are essentially reactive, responding to specific incidents of crime rather than addressing the circumstances that allow organized crime to flourish and prosper, or bringing the political, economic or social tools to the table that would mitigate some of the negative externalities of crime.

In a peacekeeping setting, criminal groups present a unique challenge, such that the traditional range of tools available to the UN System are challenged, undermined, or even distorted. For example:

- Mediation efforts, as opposed to other non-state armed groups or conflict parties, criminal groups usually have economic rather than political motivations, which means that they may not necessarily be interested in power-sharing arrangements or peace settlements. Indeed, since they profit from instability they may actively try to derail peace processes.
- Disarmament, demobilization and reintegration (DDR) efforts in one arena may lead to an increased supply of skilled, armed labour who can be co-opted into direct involvement in or the protection of criminal economies and trafficking operations.
- In regions where there is high criminal involvement in state institutions, corruption and widespread impunity, state building and development opportunities can be expressly warped by crime: building the capacity of government structures inadvertently supports officials connected to crime; transparency measures discourage open opposition to crime; enhancements in trade or transport infrastructure facilitates new opportunities for trafficking.

³ Vanda Felbab-Brown, 'The Design and Resourcing of Supply-Side Counternarcotics Policies', April 2010, <http://www.brookings.edu/research/testimony/2010/04/14-drug-funding-felbabbrown>



THE GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

Finally, as noted, the transnational nature of organized requires that analysis and response are focused simultaneously on the local dynamics, as well as within a broader regional context. UN HQ based early warning assessment capacities that work at a regional level have yet to properly incorporate analysis around illicit flows into their tools and frameworks. Whereas on the ground, UN peacekeeping operations rarely have the mandate or resources to extend their good offices or tangible interventions beyond the borders of the country of deployment, and regional efforts, such as UNOWA in West Africa which has a mandate to review the impact of drug trafficking on governance and impunity, have neither the political collateral or human and financial resources to engage in such activities.

5. Strengthening Peacekeeping Responses to Organized Crime

It is clear that if UN peace operations are to fulfill the mandate that is increasingly being given in addressing organized crime in the context of peacebuilding and statebuilding, more focused effort, which brings to bear a broader range of interventions, and greater innovation, will be required. The reflex response of law enforcement operations comes in part because UN staff in peacekeeping operations are unfamiliar with the topic, are slow to recognize its relevance outside of the classic domain of criminal justice, and because the discourse is often dominated by the security side of an integrated mission. Sensitization of political and development actors would assist in responses being more balanced between security and development, and bring a more diverse set of tools to the table.

There are numerous ways to counter organized crime, and responses will have to be tailored to the specific context and situation. However, there are a number of priorities, lessons learned and experiences which are worth highlighting. A first, and universal principle, is the need to start early in the post-conflict process. This is not something that can be left for later. From the outset, it needs to be clear that countering organized crime and its concomitant corruption are priorities, and that resources are being dedicated to this subject.

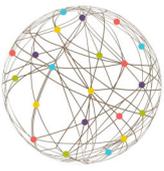
i. Countering impunity

Without external pressures and incentives, there is little to motivate states to confront organized crime or resist the lure of illicit financing. There are a number of technical ways to build this framework of incentives and penalties to induce preferred behavior, including aid conditionality, threat of international prosecution, sanctions and others, and these can be selected according to context. Responses to state criminalization to date have involved a mixture of diplomatic pressure, military responses, law enforcement and economic sanctions.

Punitive action needs to be balanced with incentives, as there is a risk to ostracizing states. In particular, the use of economic sanctions can encourage a closer relationship between elites and criminal networks, with increasing evidence from a number of theatres, including most recently Russia, the Balkans, Iraq and in southern Africa,⁴ showing that: *“By restricting supply and placing a premium on scarce goods, multilateral sanctions reward trafficking networks, and may even encourage states to ally with them, transforming smuggling from a criminal activity to a patriotic duty.”*⁵ Once sanctions are lifted, this symbiotic alliance is well entrenched and difficult then to disentangle.

⁴ Historically this was the case in South Africa, and now also Zimbabwe. See the conference report, “Unholy alliances: organized crime in Southern Africa,” Global Initiative against Transnational Organized Crime, April 2014, <http://www.globalinitiative.net/unholy-alliances-organized-crime-in-southern-africa/>

⁵ James Cockayne, “Transnational Organized Crime: Multilateral responses to a rising threat,” Coping with Crisis Working Paper Series, International Peace Institute, April 2007



THE GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

Aid conditionality is another, potentially more nuanced vehicle by which to deter corruption and criminal engagement and to counter impunity, with the continuation of assistance contingent on government remaining vigilant to criminal spoilers. Examples of this being recently used can be found in Mali, where direct budget support to the IBK regime was suspended by the IMF until the conclusion of an investigation into alleged corrupt procurement practices.

Electoral assistance is often one of the main components of multidimensional peacekeeping in a post-conflict setting. The UN executive mandates in Mali, Afghanistan, Timor-Leste and Kosovo, as well as the complex state-building missions in Sierra Leone and Liberia, all included electoral assistance components. The evidence has demonstrated that elections are a point of great vulnerability for the penetration of criminal groups and illicit flows into the state. At the same time, however, they also present an opportunity to counter this influence, and this should be seized more forcefully. Those standing for office need to make clear their commitment to countering and refusing illicit resources, with implications built in where these pledges are breached.

Oversight mechanisms have been piloted in other contexts to respond to the challenge of impunity, such as the Commission to Counter Corruption and Impunity in Guatemala (CIGIC). While these are often excessively dominated by the international community, with insufficient local ownership, they nonetheless offer potential precedents, models and lessons.

ii. Enhancing regional prosecution capacity

The restoration of the rule of law has become an integral element of UN peacekeeping, including well-accepted initiatives for human rights protection, but also increasingly including elements of police and judicial reform. While these are critical initiatives for building the foundations of a stable state predicated on the rule of law, as the analysis above showed, these general institution building efforts do little to counter organized crime networks or prevent their penetration into the state.

As with impunity, explicit efforts need to be made to visibly demonstrate a zero-tolerance approach to criminal networks and activities. High-level prosecutions of key figures have been shown to be highly symbolic. The US indictment of the Chief of the Navy in Guinea-Bissau, for example, sent an important message nationally to those that were engaged in cocaine trafficking. However, a clear criticism of that effort by the United States, which undermined its impact and sustainability, was its lack of local ownership. Unilateral action, legislation via Security Council Resolutions, or other efforts that appear imposed from the outside risk appearing punitive rather than transparent, and may trigger backlash from local interest groups. Moreover, they reduce the benefits of norm-setting around justice and the rule of law more broadly.

The regional prosecutions that were initiated in response to the growth of maritime piracy in the off the coast of Somalia is a better model in this regard, which could be replicated for crimes such as drugs or arms trafficking. The model was applicable for piracy as a crime of universal jurisdiction, which drug trafficking or other crimes are not. However, there are conceivably arrangements that could be made within the framework of the regional organizations if there is sufficient political will – for example in the context of implementing the ECOWAS Ministerial Declaration that accompanied the Praia Plan of Action to counter Drug Trafficking. While the piracy trials did not pursue or convict mid-level or high-level controllers of the piracy



THE GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

operations, they did send important signals about the commitment to the rule of law, and regional capacity was built in parallel to international support.

A kingpin/controller strategy is essential. As the structure of organized crime has evolved, arrests of lower level operatives also have less impact. *'Today, organized crime is less a matter of a group of individuals who are involved in a range of illicit activities, and more a matter of a group of illicit activities in which some individuals are presently involved. If these individuals are arrested and incarcerated, the activities continue, because the market and the incentives it generates remain'*.⁶ As the most visible part of the drug trade, transporters or mules are the easiest targets for arrest, but rarely can they provide a pathway to arresting drug kingpins or stopping the illicit trade. Instead they put immense pressure on fragile criminal justice systems, and without commensurate effort to take down the controllers, they can exacerbate perceptions of impunity and disenfranchisement.

Given the expectation that national capacity (both technically and in terms of integrity or political support) is likely to be weak in the onset of a campaign to delink crime from the state and to target high-level political actors, UN peace operations need to be strengthened to support investigations into organized crime networks. Efforts need to be made to protect both national and international investigators pursuing criminal networks from corruption and violent reprisal. The appointment of dedicated TOC monitors to sit in peacekeeping missions has been proposed, but is unlikely to be sufficient unless reinforced with a broader evidence gathering capacity for prosecutions, which must be done in conjunction with dedicated local units.

Furthermore, as with the point above, there needs to be explicit linkages made to the political process, such that it is clear that there are implications for those political figures who are found to be complicit with figures who are then prosecuted for illicit trafficking or organized crime.

6. Conclusion and Recommendations

In conclusion, for good reason, modern peace operations have become increasingly charged with addressing the damaging effects of illicit flows and criminal networks on peace and security objectives. This will require addressing the interwoven challenges of combatting criminal actors directly and at high level, and taking steps to end corruption and impunity. In order to be successful, however, missions will need to be better enabled and support to achieve their mandates in this area, and four practical recommendations are proposed:

- i. A better alignment of political, economic and judicial incentives and punitive measures to counter criminal engagement must be applied earlier in the peacebuilding process.
- ii. Nationally or regionally led prosecutions are an effective means of building local ownership of efforts to counter organized crime. The piracy response is a model worthy of greater consideration, in which prosecutions are conducted by regional states with higher capacity.
- iii. The mandates and capacity of UN Missions need to be reinforced to support evidence gathering to ensure effective regional or national prosecutions.
- iv. UN Missions require a more nuanced analytical capacity to support mission deployment and on-going operations, that will utilize modern conflict threat assessment, political economy tools and available technologies to underpin proactive and preventive responses to organized crime and its impact on governance, development and the state.

⁶ UNODC, "The Globalization of Crime: A transnational organized crime threat assessment," United Nations: Vienna, 2010