# **Filling Governance and Development Vacuums: A Role for Development Actors or Criminal Groups?**

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In fragile and conflict-affected states, on the surface, organised crime can have a stabilising influence. While this can be beneficial in the short-term, it can reinforce structures and systems that undermine democracy, good governance and promote structural violence and corruption. The governance and development vacuums that provide opportunities for criminal groups, can also open new entry points to address organised crime. This chapter critically reviews the governance and development roles of criminal groups and assesses the potential of development, and particularly governance programmes to respond.

Key words: development, governance, vacuum, peacebuilding, responses to organised crime

**Introduction**

Particularly in fragile and conflict-affected states, on the surface, organised crime can have a stabilising influence if it provides governance structures, economic opportunities, a form of security and even mediation and justice that the state may not be able to. While this can be beneficial in the short-term, in the longer-term it reinforces structures and systems that can undermine democracy, good governance and promote structural violence and corruption. There is also a danger of reinforcing alternative governance structures and patronage networks that not only compete with traditional structures, but also the formal state.

While generally viewed in a negative light, the governance and development vacuums that allow criminal groups to fill these spaces provide a new entry point to address organised crime. It has already become clear that the standard, law enforcement responses are antiquated and inadequate for addressing increasingly complex drivers of and impacts from organised crime – and that these responses can either push crime elsewhere or, at worst, exacerbate it (Felbab-Brown 2010; 2013a; Jesperson 2016). In response, an increasing role for development actors has been posited, resulting in a comprehensive approach.[[1]](#footnote-2) This is often framed as a multifaceted response that addresses ‘all the complex reasons that populations turn to illegality, including law enforcement deficiencies and physical insecurity, poor rule of law, suppression of human rights, economic poverty and social marginalisation’ (Felbab-Brown, 2013a).

In practice, this frequently becomes a set of tools that can be applied to address criminality. Rarely are responses based on a political economy analysis, which means they do not critically engage with how organised crime manifests. This is a missed opportunity, as a key contribution from development actors is the ability to tackle the factors that make a country conducive to organised crime, rather than just responding to criminal activity once it is present. Yet there is limited evidence of what should be done and no critical review of planned or implemented approaches.

This chapter seeks to rectify this. It outlines the shift in approach from a predominantly law enforcement or security focus to become more comprehensive through the inclusion of development tools. Then focusing in on governance, the chapter unpacks the importance of governance from a peacebuilding of development perspective, how organised crime groups fill governance vacuums by engaging in strategic or political strategies and to what effect, before assessing what this means for the response.

The chapter examines the role of criminal groups in fragile and conflict-affected states, where governance vacuums are the most pronounced. Organised crime is approached from an interventionist perspective, considering the aims of peacebuilding and development actors. While the findings point to entry points to transform criminal agendas, this would require further, more specific and detailed analysis. Theoretically, the chapter draws on a critical peacebuilding perspective; it stems from the assumption that current peacebuilding approaches are inherently flawed and need to be fundamentally rethought. This allows a much more radical consideration of how to respond to organised crime than policymakers and practitioners can engage in. In that vein, the governance potential of criminal groups is discussed, along with the possibility that development actors could work with rather than against them to further peacebuilding and good governance agendas. The chapter begins by reviewing the increasing involvement of development actors in the response to organised crime, followed by a discussion of the impact organised crime has on development, and in particular governance. The chapter then assesses whether there is scope to work ‘with’ criminal groups rather than against them.

**A Shift in Approach**

Traditionally, organised crime has been understood as a security problem, to be addressed through law enforcement strategies. For example, the 1961 Single Convention on Narcotic Drugs emphasised law enforcement strategies ‘at the cost of alternative methods from the medical, educational and development fields’ (Carrier and Klantschnig 2012: 4). The US initiated ‘war on drugs’ added a further security dimension to drug control, and several Latin American countries have adopted legislation allowing planes suspected of drug trafficking to be shot down (Cawley 2014). Rather than eradicating organised crime however, these strategies have merely pushed criminal groups into more sophisticated strategies or alternative methods for moving their products to market.[[2]](#footnote-3)

In response, there has been greater recognition of the need for comprehensive approaches. This began at the 1998 UN General Assembly special session on drug control, which acknowledged that rather than eradicating the drugs trade, ‘illicit cultivation of the opium poppy, the coca bush and the cannabis plant continues at alarming levels’ (UN General Assembly 1998: 17). In response, the meeting advocated for a balanced approach that included alternative development strategies to prevent and eliminate cultivation of illicit crops, rural development measures, economic growth and sustainable development (UN General Assembly 1998).

Alongside the recognition of the need for a balanced approach, the development impact of organised crime has also been acknowledged. On a micro level, many individuals will earn an income from criminal activity, particularly when there are few other opportunities. At the macro level, organised crime also undermines the state economy, as it can ‘undermine competition and investment, hollow out production capacity and fuel inflation, fatally weakening state revenues’ (Cockayne and Lupel 2009: 153). These factors also overlap with the security threat as countries that host criminal networks ‘risk becoming shell-states: sovereign in name but hollowed out from the inside by criminals in collusion with corrupt officials in the government and security services. This not only jeopardises their survival, it poses a serious threat to regional security because of the transnational nature of the crimes’ (UNODC, 2008: 1).

The recognition of both the security and development impact of organised crime has resulted in comprehensive approaches that engage with both security and development aspects. And yet, while the focus on organised crime has expanded beyond the security sector, it continues to confound the development community. While some governments’ development agencies are engaging in debates around the issue, progress consistently flounders when it comes to translating those discussions into actions. As a result, few development actors have actually moved towards adapting their approach, even though organised crime directly touches upon multiple areas where they are concerned and puts the achievement of programming goals at risk.

Some advances have been made. USAID has produced a programming guide on drug trafficking in Africa (USAID 2013). DfID has commissioned research on what development programming can offer initiatives to address organised crime, resulting in the report *Getting Smart and Scaling Up: Responding to the Impact of Organised Crime on Governance in Developing Countries* (Kavanagh 2013). Yet, there has been limited engagement in practice. One development professional noted that it has taken a long time to acknowledge the relationship between security and development, and development actors are still not there, organised crime is another step beyond: ‘we’re where we were 10 years ago with human security’.[[3]](#footnote-4)

More recently, DfID has been working with the Global Initiative against Transnational Organised Crime to produce a toolkit for a multifaceted approach to organised crime that includes a political economy analysis alongside a market and power analysis, followed by prioritisation by measuring harm and identifying entry points and then a response that focuses on isolating criminal markets, addressing impunity, and mitigating harm and building resilience, which is being piloted in several countries (see GI-TOC 2016). This approach begins to engage in the wider factors that facilitate organised crime, but it continues to respond to crime once it occurs – although it does acknowledge that ‘investments in accountable governance that do not explicitly target criminal markets may close the space for criminal markets to operate and gain influence over the long term’ (GI-TOC 2016: 32).

The World Development Report 2011 (World Bank 2011) has been widely cited for recognising that fragile and conflict-affected states can become breeding grounds for organised crime because of the governance vacuums that exist. While current development responses engage with aspects of this, such as providing alternative opportunities for individuals that may be recruited by organised crime networks, criminal activity is not something that can be pulled out and addressed in isolation from other issues, particularly governance, especially as criminal groups increasingly have strategic as well as economic aims (Cockayne 2016). A deeper analysis is required to tackle the nexus between weak governance and organised crime.

As the response and analysis is being led by practitioners, the shift in approach is confined to what is considered appropriate by government agencies, which often lacks imagination and remains limited by institutional barriers. This points to a need for scholarly thinking to challenge assumptions on development approaches to organised crime and consider potentially radical alternatives.

**A Waning Monopoly on Governance and Development**

Although the current populist wave challenges the prominence of democratic governance, Bastian and Luckham (2003: 1) point out that recent history has been ‘an era when political systems based on liberal democracy and economic models promoting global capitalism enjoy almost unchallenged hegemony’. Accordingly, governance has been the priority of peacebuilding missions in conflict-affected states.

The end of the Cold War, and the subsequent withdrawal of US and Soviet Union support from a number of countries resulted in weak or failed states that were prone to conflict and instability because of inadequate state structures, including ‘poorly guarded borders, weak law enforcement, incipient taxation, underdeveloped financial systems’ (Kostovicova and Bojicic-Dzelovic 2009). This period of instability and persistent conflict ushered in a period of intervention mandated by the UN Security Council, which was no longer constrained by Soviet Union and US vetoes. These interventions quickly evolved to focus on state-building - the construction of legitimate and effective state institutions. The aim was to create institutions to manage the political and economic reforms required to transition from conflict to peace (Paris 2004). ‘Rebuilding institutions in collapsed states means organising government departments and public agencies to discharge their functions both efficiently and democratically’ (Ottaway 2002: 1004).

Although the international community has become far less interventionist since this early post-Cold War period, the establishment of democratic states remains the goal of many international actors, particularly development agencies. Governance programmes have become the core focus of many development agencies. Commitment to governance was reaffirmed at the 2005 World Summit and again by Heads of State and Government in 2010 (UN Task Team 2012). Since then governance has been included in the Sustainable Development Goals through Goal 16 – peace, justice and strong institutions – as ‘without peace, stability, human rights and effective governance, based on the rule of law - we cannot hope for sustainable development’ (UNDP 2015). The World Development Report 2011 emphasised that ‘strengthening legitimate institutions and governance to provide citizen security, justice and jobs is crucial to break cycles of violence’ (World Bank 2011: 2).

Traditionally, a state has been understood as a hierarchical, centralised organisation that holds a monopoly on legitimate force over a defined territory.[[4]](#footnote-5) However, it has come to refer to much more than that – states are expected to act in the public interest, and a range of international laws have been developed to entrench that, extending to economic, social and cultural rights. States must ensure rule of law and accountability, being responsive to the needs of society. This is the basis of the social contract as defined by Rousseau whereby individuals surrender some of their freedoms to the state in order for their interests and rights to be protected. In reality, this often becomes procedural – ‘that is periodic free and fair multiparty elections that allow citizens to choose and discipline their rulers’ (Fukuyama 2014: 24). But good procedures do not automatically equate to substantive results.

In many ‘democratic’ countries, leaders have sought, sometimes successfully to extend term limits to maintain power. In recent years, Presidents in Burkina Faso, Burundi, Benin, Democratic Republic of Congo and Rwanda have all aimed to ‘dispense with or circumvent’ term limits (Dulani 2015). Fukuyama (2014) sets up Denmark as the goal of state accountability – prosperous, democratic, secure, well-governed, with low levels of corruption. He then acknowledges that state-building seeks to turn the likes of Afghanistan, Somalia, Libya and Haiti into this, with no idea how (Fukuyama 2014).

The process of instituting good governance has been fraught with difficulties, and many states, including those buoyed by the promise of the Arab Spring, have gone backwards rather than forwards. In part, this arises because political institutions take a long time to consolidate, and this approach assumes that international actors can take a shortcut to a Weberian state, even though most states have taken decades to develop effective and legitimate institutions (Ottaway 2002; Paris and Sisk 2007).

The challenge however, is that in the interim, and particularly when governance reforms make things worse, a governance vacuum is created. This creates the ideal conditions for conflict, as there is no monopoly on legitimate use of violence. However, it also creates the ideal conditions for criminal groups to gain traction. The added danger of criminal groups active in fragile and conflict-affected states is that the priority of international actors seeking to reinstate stability is reducing violence and creating the conditions for governance reforms rather than addressing crime. But by not engaging with criminal agendas immediately, the grip of criminal groups is only strengthened.

**A Legitimate Actor?**

There is an assumption that because criminal groups are primarily driven by economic motives, they are not focused on rule of law or accountability – particularly as their business model is premised on subverting rule of law. However, conventional governance structures and institutions may be equally averse to rule of law and accountability. As Bastian and Luckham (2003: 2-3) point out ‘even democratic institutions and elected governments… may or may not open spaces for democratic politics; they may or may not be responsive to the political demands of the poor, women and minorities; they may or may not facilitate the management of conflict’. In many instances criminal networks have played a more effective role than states.

The OECD (2010) argues that legitimacy arises out of the distinction between rule by consent and rule by coercion. As the dominance of criminal groups is based on factors other than democratic elections, such as economic power and the threat of violence, this suggests that their rule is by coercion. While they may work in the interests of communities where they are based, this is to the extent that it serves their own criminal interests. However, the OECD (2010: 7) also concedes that ‘a political order, institution or actor is legitimate to the extent that people regard it as satisfactory and believe that no available alternative would be vastly superior’.

In many instances, criminal networks need legitimacy to maintain their operations. They need the complicity, or at least the acquiescence of the communities where they base their operations to minimise disruption by law enforcement. This can be achieved in many ways including through violence. But it is much more effective if it is not forced. After the war in Bosnia, criminal actors that had defended Sarajevo were viewed as heroes, which gave them a level of legitimacy and untouchability (Andreas 2010). A Bosnian NGO said this arose as ‘the only real defence in the first six months [of the war], it was organised crime groups… we had people who were like, still criminals, but half heroes, and local political circles wouldn’t dare to touch them’.[[5]](#footnote-6) By protecting civilians, organised crime groups are viewed positively. This legitimacy allows criminal networks to fill the governance vacuum outlined above.

In the Western Balkans more broadly, criminal groups also filled the vacuum created by the transition from the Communist former Yugoslavia to open markets. ‘Suddenly people who have been guaranteed security from the cradle to the grave are forced to negotiate an unfamiliar jungle of inflation, unemployment, loss of pension rights and the like. At such junctures, those personal networks from the Communist period become very important’ (Glenny 2008: 74). In this context, organised crime networks were able to take over the patronage networks of the Communist era, providing support that the state was no longer able to provide.

The post-conflict period in particular provides a governance and development vacuum that criminal actors can fill. ‘Organised crime can offer survival strategies or even sustainable livelihoods, creating a ladder of opportunity and upward mobility for communities with few other economic prospects’ (Cockayne and Lupel 2009:153). There are many examples of criminal networks providing services and opportunities including livelihoods, social mobility, social services, security and protection that undermine the legitimacy of the state. The Yakuza provided humanitarian assistance after the Kobe earthquake; criminal groups in Colombia that control the cocaine trade provide minimum wage and social security services; Haitian gangs provide medical services (Cockayne and Lupel 2009; Cockayne 2016).

The services provided by organised crime groups are not limited to economic opportunities. In Pakistan, even though violent crime and terrorism was on the rise, a perception study found that people felt safer than they had previously, but at the same time police were perceived as corrupt and predatory, indicating that security was being provided by alternative actors (GI-TOC 2016). In Brazil’s favelas and Jamaica’s garrison towns the security void was filled by criminal groups (Kavanagh 2013). These factors ensure that criminal groups have legitimacy and support from the communities in which they operate, challenging the dominance of the state.

While these examples point to criminal networks taking on state-like functions, increasingly the state and criminal groups are not so distinct. Moses Naim (see for example Naim 2012) has written extensively on the aims of criminal groups to ‘capture’ states, where they ultimately end up controlling state bodies, politicians, judges, police forces or territory in order to fulfil their objectives. Miklaucic and Naim (2013) propose that state capture exists as a spectrum depending on the degree of criminalisation. This is well articulated by Cockayne and Lupel (2009) who distinguish between predatory, parasitic and symbiotic groups, referring to ever increasing linkages. Miklaucic and Naim’s (2013) own spectrum covers criminal penetration, where agents within the state are advancing criminal interests; criminal capture, where agents become so powerful they can’t be challenged; and criminal sovereignty, where criminality becomes institutionalised. Liberia under Charles Taylor’s rule is considered to fit within this category. Grzymala-Busse (2008) argues that strategies differ depending on the level of distribution – whether supporters are rewarded or not, and compatibility with competition, particularly democratic competition.

Ultimately, with state capture, the legitimacy of criminal groups becomes less important. By exercising control over elements of the state, the disruption of criminal activity through official channels becomes impossible, which means the group no longer requires the support of the communities within which it operates. Groups may continue to support these communities, particularly if they have other strategic objectives, however their rule is likely to become more coercive and violent. Although some level of popular support would dissuade social movements formed in opposition to criminal groups.

In some instances, rather than criminal actors filling governance vacuums, they are becoming a resource for politicians and officials. This is often evident in state procurement processes and allows large sums to be diverted away from legitimate channels and into the hands of corrupt public officials and criminal groups (Briscoe and Kalkman 2016). For example, in Afghanistan, organised crime groups exploit mining contracts, allowing government actors to profit, while in Colombia law enforcement and public authorities are complicit in illegal gold mining (Noorani2015, Masse and Camargo 2012, Reitano and Hunter 2016). In using criminal groups to divert resources however, the state effectively hands power over to criminal groups. This predatory behaviour has often been met with discontent. For example, many civilians protested about defective governance after the complicity (and subsequent lack of response) to the disappearance of 43 trainee teachers in Mexico; and in several Latin American countries, including Brazil, protestors have called for military rule over corrupt democracy (Briscoe and Kalkman 2016). Corrupt states only deepen the vacuum in governance, providing an opening for criminal groups to strengthen their legitimacy by playing all sides.

**To what effect?**

Particularly in fragile and conflict-affected states organised crime can be a stabilising factor when it provides governance, services, opportunities and security that the state in unable or unwilling to provide. It meets the needs of communities in those places in which its operations are based. While beneficial in the short term, the long term impact may be destabilising, further endangering state-building.

***Crime undermines Governance***

In conflict-affected states, governments are only beginning to regain control over the economy, security forces and rule of law when conflict ends. With incomes that dwarf official revenues, criminal groups have the potential to undermine state capacity to control security threats by leveraging government officials. The OECD estimates that drug trafficking profits alone are around 125 billion US dollars, giving organised crime groups significant economic power in contrast to governments emerging from conflict (van Veen 2013).

In Guinea Bissau, drug trafficking organisations offered government officials US$700,000 - $1 million to protect drugs brought into the country and facilitate onward transportation (Shaw, Kemp and Boutellis 2013). This is difficult to resist and it gives criminal groups significant political and military power. As a result, Government policies are going to be formulated to protect the interests of criminal groups rather than the needs of citizens. This undermines the state’s capability to deliver public goods. The influence of criminal groups in Guinea Bissau was so powerful that it became widely known as a narco-state (see for example Shaw and Reitano 2013).

***Undermines International Assistance***

Once criminal activity takes hold, it becomes difficult for international actors to achieve their goals in conflict-affected countries. In Iraq criminal groups and their ties with political leaders undermined the international intervention and post-conflict reconstruction by supporting insurgency, terrorism and sectarianism, weakening governance and heightening economic problems (Williams 2011).The potential for international assistance to be undermined is particularly pertinent when organised crime is supported through corruption, as state institutions will participate in criminal activity directly or not stop criminal groups from doing so.

Corrupt institutions can also serve as a conduit to siphon off international assistance. It is estimated that 30% of aid is siphoned off by corrupt and criminal actors, the majority of which happens in post-conflict states (ICAR 2011). For instance, the US military estimates that US$360 million of US government spending has ended up in the hands of the Taliban and criminal groups (Riechmann and Lardner 2011).

***Crime Trap[[6]](#footnote-7)***

Once crime becomes entrenched in a post-conflict state, there is a risk of becoming locked in a crime trap. Criminal activity creates ‘shell states’, hollowed out by criminals that corrupt officials and security services (UNODC 2008). The criminal economy becomes the primary revenue source, which perverts local economies. The underside of this is that people are discouraged from finding legitimate jobs or starting up new businesses – criminal activity provides more lucrative opportunities and will seek to undermine new enterprises.

Criminal activity also affects official revenue streams by undermining competition and investment; it hollows out production capacity and fuels inflation, further weakening state revenues (Cockayne and Lupel 2009). This limits the rebuilding of a functioning state and economy, making it even more difficult to address criminal activity.

The development challenges posed by organised crime are also more pronounced in post-conflict states. The World Bank estimates that organised crime has a similar impact on development as violent conflict – both result in 20% less development performance (GI-TOC 2013). These factors ensure that states become reliant on criminal revenue and lose the capacity to respond to and address criminal activity. For citizens the result is a reduction in social spending as fewer resources are available. With the risk that criminal activity poses to governance, it also limits the beginnings of democracy.

The risk of a crime trap was particularly pertinent to the UK’s involvement in Afghanistan. When the UK government prepared to drawdown, the cross-party report documented that ‘poppy cultivation is soaring to record levels and there is no sign that the Government of Afghanistan has the will or the means to tackle the problem’ (UK HoC 2014). The report also recorded concern ‘that this will continue to fund organised crime and undermine the development of democratic government and governance’ (UK HoC 2014). With few other revenue sources, this poses the risk of dependence on the illicit drug trade.

***Return to Conflict***

The destabilising effect of the criminalised peace on governance and the risk of becoming locked in a crime trap can result in a return to or creation of violent conflict. This was highlighted by Mali’s transition from what was considered a development success to violent conflict. During a visit to the country in 2010, UNDP director Helen Clark commended the country on its progress towards the Millennium Development Goals and democratic governance (UNDP 2010). While the transition from fragile state to democracy was considered a success, external actors did not acknowledge the role of drug trafficking in supporting the government. This created an environment of impunity where traffickers became bolder, increasing their activities and area of operation (Shaw 2012).

Links between the state and criminal actors contributed to the destabilisation of the country and violent conflict. The state’s reluctance to curb revenues from drug trafficking and deal with the groups involved was a key factor in the growth of Al Qaeda in the Mahgreb (AQIM) and the conflict in northern Mali (Lacher 2012). Even when discussions have turned to rebuilding Mali’s institutions and democratic elections, the involvement of organised crime remained a blind spot for all actors (Reitano and Shaw 2013).

Even without a return to conflict, criminal activity can result in high levels of violence. Clashes between criminals and authorities in Latin America have the intensity of urban conflict (Felbab-Brown, 2013b). Similarly, in Karachi criminal violence has been compared to low-intensity warfare, with some regarding it as a microcosm of civil war as thousands are killed each year (Felbab-Brown 2013b). For citizens in countries affected by criminalised violence, the impact is similar to armed conflict. This indicates that responses to organised crime need to be built into post-conflict programming much earlier.

**An Entry Point for Responses?**

The impact of organised crime groups in fragile and conflict-affected states paints a bleak picture of a cycle that continues to undermine governance with destabilising effects. Although the dynamics between criminals and the state differ in all of these examples, Reitano and Hunter (2016: 7) argue that in all cases ‘organised crime perpetuates poverty and inequality, while threatening economic growth, and by extension, democracy itself’. However, a deeper analysis of how organised crime manifests itself suggests that the situation is more nuanced, and it actually provides entry points for more constructive responses.

The discussion above refers to organised crime networks as though they are a monolithic entity. However, much analysis of organised crime acknowledges their flexibility and adaptability, using entrepreneurial tools to remain agile, dynamic and ahead of law enforcement (Goodman 2011). Rather than traditional, hierarchical mafia-type organised crime groups, organised crime has become much more fluid and networked, with individuals moving in and out as required. For many groups, minimising risk has also become a priority, resulting in a shift from large shipments of high risk commodities, such as cocaine, to smaller, more frequent shipments of less risky, even licit commodities, such as alcohol or cigarettes, with much less specialisation than previously (Edwards and Jeffray 2015). This suggests a linear shift however, from traditional mafia to modern, business like criminals, which is not the case. This is the case for many, profit driven networks, but a diversity of organisational types exist.

In the context of fragile and conflict-affected states, a spectrum can be identified from strategic and highly organised groups to those that are maximising opportunities. The strategic and highly organised end of the spectrum has been dominated by foreign cartels taking advantage of fragile states. For example, after international law enforcement intercepted vessels transporting cocaine across the Atlantic in the early 2000s, Colombian cartels sought to identify transit hubs on the West African coast, identifying Guinea Bissau as a weak spot ripe for state capture (Jesperson 2017). But it is not only foreign organised crime groups that occupy this end of the spectrum.

In West Africa, and indeed globally, Nigerian organised crime has become notorious for its sophistication, organisation and ruthlessness. As with Colombian cartels in Guinea Bissau, which managed to get President Vieira onside during his 2005-2009 term, as well as senior military officers, Nigerian organised crime has also been linked to the political system, which is renowned for fraud, embezzlement and illicit violence (O’Regan and Thompson 2013, Ellis 2016). Because the groups are closely linked to the state apparatus, they already have a level of impunity, so tend to avoid the cover of conflict for the transit of illicit goods. Instead they tend to maintain their dominance through coercion and violence as they are hostile to any effort to control their behaviour (Williams 2001). Stedman (1997: 183) considers them ‘greedy spoilers’ as their ‘goals expand or contract based on calculations of costs and risks’.

Responding to these groups through anything other than similarly coercive approaches such as law enforcement is likely to be ineffectual. Although a range of development strategies can be applied to prevent individuals from being recruited into their activities. While these groups take advantage of state structures, they are rarely in competition with the state and do not fill governance vacuums. Rather they rely on a strong, corruptible state to facilitate their activities, resulting in a symbiotic relationship.

For the purposes of this analysis, the other end of the spectrum is more interesting. These are groups that do take advantage of governance vacuums. Rather than the strategic or coercive approach of the Colombian or Nigerian organised crime networks, these groups tend to be opportunistic, often responding to the lack of services, opportunities and security provided by the state as a result of conflict or fragility. Many of these groups are not particularly sophisticated or business-like.

Based on her research in Nepal, Felbab-Brown found that:

"The criminal groups tend to be mostly small, territorially limited organisations, and their operations are not highly complex. They have nowhere near the level of sophistication and organisational complexity of the criminal groups operating in India’s or Pakistan’s slums, for example. The level of violence the Nepali criminal groups perpetrate in support of their profit-seeking activities is also fairly limited when compared with criminal organisations in other parts of the world, such as Colombia or Mexico. Nor do they yet systematically deliver “public” goods to local populations to cultivate support independent of the state, as other criminal groups – from India to Japan, Italy, and Colombia – have learned to do" (Felbab-Brown 2013c: 57-8).

As these groups develop to take on service delivery functions, there is an opportunity and a danger. Cockayne (2016: 25) argues that strategic criminal organisations compete with the state ‘not just to be the individual’s protector, but to be the source of the rules and discretion by which that individual is ultimately governed’. This is usually done through violence and corruption resulting in either state capture as witnessed with the Colombian and Nigerian cartels or a war-like situation with high levels of violence as witnessed in Mexico, where the 2011 death toll was higher than battle deaths in Afghanistan, Iraq and Sudan (HSRP 2013).

This shift is outlined in the figure below. Although there is not a clear distinction between the two categories, there is a consistent shift from the opportunistic, ad hoc side of the spectrum towards the strategic, sophisticated end. This is rarely reversed. The shift begins as groups become more organised, usually marked by their engagement in service provision, as they start to fill governance vacuums rather than just taking advantage of them. This then places the group in competition with the state, and depending on the state’s strength and openness to capture, will result in an increased amount of violence and coercion on the part of the criminal group.

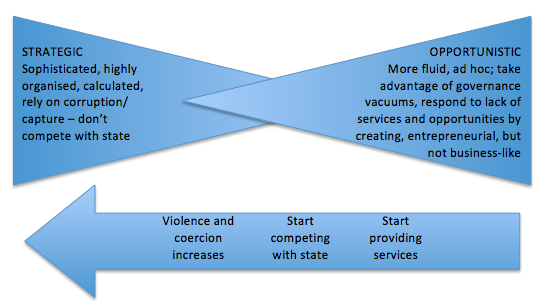


Figure 1Shifting models of organised crime groups

This paints a bleak picture – a pathway to increased sophistication and coercion. However, a nuanced analysis of groups like those outlined by Felbab-Brown may identify potential avenues for transformation before they slide down the spectrum to become more violent and organised.

A growing body of literature is beginning to engage with the need to embrace alternative, and perhaps at times, less palatable forms of governance. Based on their research on state formation in the territory of Somalia, Leonard and Samantar (2011: 559) call for a rethink of state-building approaches, arguing that ‘it frequently is better to allow for bottom-up, organic, disjointed negotiation of indigenous governance solutions (even though they probably will not conform to Western ideas of liberal democracy) than for the international system to impose top-down answers’. For criminal groups that begin to engage in service provision and have a legitimate governance function, there is scope to ‘catch’ them before they become extremely violent and coercive.

In many contexts criminality is not a malicious attempt to subvert law and order, but arises because legitimate opportunities do not exist or the way business operates generally is not in line with the law. This is particularly the case where the line between the formal and informal economy is not clear cut. Andreas (2004) and Pugh, Cooper and Goodhand (2004) have all warned against a firm distinction between legal and illegal and call instead for a deeper and more complex understanding. This discussion is drawn out in more detail elsewhere in this volume (see introduction, also Hall 2013; Hudson 2014).

Greed may be a key driver, but that is not so different from early state formation. Fukuyama (2016: 25) highlights that ‘at one stage in human history all governments could be described as patrimonial, limited access or extractive’. However, they have evolved towards legitimate, accountable and democratic institutions. Writing about mafia-type organisations, Skaperdas (2001: 164) points out that they are ‘more similar in their structure and economic impact to pre-modern forms of predatory states’. This suggests that they could evolve in a similar way to states, becoming legitimate economic actors.

There are of course risks in boosting the legitimacy of criminal groups, as it may entrench traditional structures, such as patronage networks, and without inbuilt accountability mechanisms, they may be open to manipulation by the powerful. However, many formally recognised states are not immune to this either. In their examination of Somalian piracy, Shortland and Varese (2015: 2,15) outline the role of criminal groups in providing ‘protection against extortion, protection against theft and police harassment, protection in relation to informally obtained credit and the retrieval of loans, and the settlement of a variety of social disputes’, which establishes ‘a general framework of legal and extra-legal governance that puts gangs, mafias, insurgencies and states on the same continuum’. This framework disregards systems of accountability that have been developed over time to keep the state in check.

While this may not be the most palatable governance system, Easton (1965: 21) considers a political system to be ‘those institutions through which values are authoritatively allocated for a society’. If these groups are seen as legitimate and thus empowered to govern by communities in which they are based, is there a basis to challenge it?

This question is particularly pertinent when the activities that groups engage in are legal. A 2015 report by Transcrime established that many organised crime groups in Europe are diversifying their portfolio to include legitimate businesses in order to minimize risk. However, commodities that are considered illicit are defined as such by powerful states. Hobbs and Antonopoulos (2013: 27) have outlined how the US in particular has played a key role in establishing the context of organised crime and using it to ‘stereotype both heroes and villains’. Similarly, the US government was the driver behind the criminalisation of drugs, initiating the various international drug-related treaties that opened the space for the large profits that encouraged organised criminal involvement in trafficking. However, in many countries debates are now raging to make a number of drugs from cannabis to cocaine legal, or at least decriminalised.

While often attributed to personal greed, the aims of some criminal groups may be more benevolent than the state. Sociologists and anthropologists, such as Berry (1993) and Marie (1997) have identified that wealth generation in some African countries is often driven by a desire to meet social obligations and purchase status. In some cases of course, greed will be the overarching driver, but these examples suggest that there are entry points to transform these groups into more legitimate governance actors.

Any attempt to transform criminal actors would need to draw on a rigorous political economy analysis of how the groups functions, its relationships with the state, communities and other stakeholders, and the broader context within which they are operating in order to identify any factors that may inhibit or strengthen transformation. This kind of approach is not new. Although difficult, mediation between groups with criminal agendas has taken place, as well as negotiation between these groups and the state (Cockayne 2013). Gang truces initially in El Salvador, and subsequently replicated in Mexico and Honduras, resulted in gangs agreeing to reduce crime and violence in exchange for promises of jobs, rehabilitation and other support (Cockayne 2013). In Brazil and Haiti, community violence reduction programmes have aimed to bring gang members into civic life through community programmes (Cockayne 2013). These processes have all had their difficulties, including ensuring mediators are respected on all sides and sustaining economic transformation, but they highlight that it is possible to transform criminal activity, even that which is overtly violent.

Alongside existing strategies that seek to counter organised crime once it is already entrenched, this approach is more preventative, engaging with groups before they become too violent or coercive. Although it would be resource intensive initially in order to undertake analysis and programming, it would have a long-term benefit.

**A Role for Development Actors**

As discussed earlier, law enforcement responses to organised crime are inadequate and the need for a comprehensive approach has been widely acknowledged. Although development actors have become increasingly involved, their reluctance to engage with organised crime has resulted in a pragmatic response that often takes a lead from law enforcement. Even the toolbox being developed by DfID and the Global Initiative against Transnational Organised Crime is primarily reactive, responding to organised crime once criminal activity is underway.

Development actors have a much deeper experience that can contribute to this response (see Jesperson 2015 for a comprehensive review on the role of development actors). Programming that engages with governance vacuums and provides services and opportunities to the population can be important. However, care needs to be taken in applying development tools to organised crime. Midgely et al. (2014) have highlighted how development doesn’t necessarily eradicate organised crime, but just like law enforcement strategies can change its nature. Similarly, critical development literature has identified how improved development can actually create opportunities for organised crime, particularly through enhanced infrastructure, transport etc. (see for example Hastings 2009).

Even with these challenges, development actors have an advantage in responding to organised crime. There is an emphasis on understanding the context and nuance of a given situation and tailoring a response appropriately. This is what is needed for organised crime. Engaging with non-state actors has been one of the challenges of liberal peacebuilding models that has underpinned the involvement of development actors in fragile and conflict-affected states. However, in many areas of post-conflict reconstruction, such as security and justice sectors, donors have had to engage with plural orders (see Denney 2013 and 2014 on security sector reform in Sierra Leone for example). Rather than just learning from law enforcement to develop their approach, these are the lessons with which development actors should be engaging, considering how their governance programmes can transform crime rather than eradicate it once it is already entrenched.

**Conclusion**

This chapter has only scratched the surface of what is a complex issue. Although the focus here has been on fragile and conflict-affected states, the challenges and the differences between criminal groups exist in other contexts also. Cockayne (2016: 16) argues that ‘the reduction of state social services and trade and financial market liberalisation has reduced the role of the state in meeting the needs of citizens, potentially generating an unmet demand for government, creating space for alternative providers’. Particularly as the informal economy grows in the developed world, there is increased scope for actors that straddle the blurred division between licit and illicit economies to provide services to their communities and to become seen as more legitimate than the state. These groups are not necessarily ‘bad’, as they are merely maximising opportunities. These groups, in contrast to much more organised crime networks, provide an opportunity to bring their activities more fully into the licit, formal economy, and establishing a formal governance role that works in tandem with the state, not in opposition to it. However, this would require renewed faith in formal governance structures, something that is waning everywhere.

Much research on organised crime has emerged from disciplinary silos that focus on different elements of the problem, whether criminology, political science or others. By focusing on fragile and conflict-affected states, this chapter has aimed to bring a state-building lens to the problem of addressing organised crime. With an overwhelming focus on governance, it opens alternative avenues to respond, which although not palatable, may be more sustainable and cost-effective in the long-term.

**References**

1. A number of agencies, such as the UK’s Department for International Development (DfID), US Agency for International Development (USAID) and the German Gesellschaft für Internationale Zusammenarbeit (GIZ) have taken this on board and designed initiatives that respond to organised crime. [↑](#footnote-ref-2)
2. This has been most comprehensively documented in relation to the ‘balloon effect’ and the cocaine trade, where law enforcement strategies have resulted in new transit routes (see for example Villar and Cottle 2011) [↑](#footnote-ref-3)
3. Interview, USAID, New York, 27 March 2013. [↑](#footnote-ref-4)
4. This is the foundation of public international law, based on the theories of Thomas Hobbes and Max Weber. [↑](#footnote-ref-5)
5. Interview with representative of an international NGO, Sarajevo, 7 October 2011. [↑](#footnote-ref-6)
6. The Crime Trap concept has been developed by James Cockayne, see for example Cockayne (2014). [↑](#footnote-ref-7)