

At domestic product
of countries such as
paraguay,



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At the height of its operations, Pablo Escobar's cartel brought in more than 26 billion dollars a year – more than the domestic product of countries such as Paraguay, Uganda and Iceland. The drug lord commanded armies of sicarios, funded extensive development projects in his home town of Medellin and had thousands of policemen and soldiers on his payroll: an imperium in imperio. Colombia's "king of cocaine" was able to use his power to bend the government to his will, and when that stopped working, he launched a bombing and assassination campaign that brought the country to its knees. Thanks to countless books, articles and even a television series, he represents, in the popular imagination, the corrosive power that criminals can wield over the state.

Like the Italian mafia or the Japanese Yakuza, it was not Escobar's willingness to use extreme violence that made him a fundamental danger to the state but rather his ability to use bribery and corruption to subvert the system: "plata" rather than "plomo". It is this objective of global criminal organisations, argues John Kerry in *The New War: The Web of Crime That Threatens America's Security*, that is "robbing us of our way of life". Our antiquated legal systems, he explains, are losing the fight against these international criminal enterprises whose aim is to gain control of the institutions that are the core of civil society – the courts, legislatures, banks, and media – in their own countries as well as in the nations where they operate. Transnational organized crime, in the words of Phil Williams, is increasingly seen by politicians and scholars as "the HIV virus of the modern state, circumventing and breaking down the natural defenses of the body politic" 1. If one looks at the raw figures, this statement seems to be

generally supported: according to the United Nations Office on Drugs and Crime (UNODC), the threat of transnational crime has grown alarmingly since the end of the Cold War, now generating over “\$870 billion a year – more than six times the amount of official development assistance and close to 7 percent of the world’s exports of merchandise”². Unsurprisingly, drug trafficking represents a majority of this illicit trade, with an “estimated annual value of \$320 billion”, with the cocaine and opiate markets alone worth “\$85 billion and \$68 billion, respectively”. Human trafficking, the second largest sector, generates \$32 billion a year according to the International Labour Organisation (ILO), with the “number of victims of trafficking at any given time estimated to be around 2.

4 million”. The consequences of this unchecked spread of cross-border crime are legion, warns the UNODC: not only does transnational crime threaten “peace and human security”, but it also “undermines the economic, social, cultural, political and civil development of societies around the world”. More specifically, transnational crime both subverts government power and takes advantage of any perceived weaknesses of a state: “the vast sums of money involved can compromise legitimate economies and have a direct impact on governance, such as through corruption and the “buying” of elections”³. Yet as Feingold points out in “Trafficking in Numbers: The Social Construction of Human Trafficking Data”, whilst these figures are indicative of serious and damaging criminal activity, the research behind them should be subjected to closer scrutiny: in the case of human trafficking, no one really knows the true value of the trade. The trafficking field is best characterized as one of numerical certainty and statistical doubt. Trafficking numbers provide the

false precision of quantification, while lacking any of the supports of statistical rigor⁴. In other words, headline grabbing figures such as those compiled by the UNODC, the ILO or the alphabet soup of non-governmental organisations (NGOs) are often nothing more than educated guesses at best and self-serving shock devices at worst.

As Cooley and Ron argue in “The NGO Scramble”, non-governmental organisations are, after all, private entities that are subject to market pressures. It is very much in their interest to inflate the scale of a problem in order to draw more attention to it – NGOs, they argue, need to compete for a limited pool of publicity and money. This is not aided by the often sensationalist coverage of certain forms of transnational crimes by the media, which gives disproportionate amounts of attention to the violent and the shocking – providing the public with a distinctly pessimistic view of both the growth of cross-border crime and the government’s inability to stop it. Certainly, there have been many attempts to portray the country as a wash in trafficked women. Rarely is there as much excitement about exploited migrant farm workers. The frisson of sex slaves down the street in suburbia is too good to pass up⁵ Moreover, the lack of clarity regarding what exactly constitutes a certain type of crime, and what separates one crime from another lends itself both to confusion and to a lack of uniformity.

The ambiguity of commonly used terms and the crossover between criminal acts such as “trafficking”, “people-smuggling” and “modern slavery” makes data gathering and analysis all the more difficult. As Feingold points out, many of these crimes are not limited to a single short act but rather are long, muddled processes where a victim’s legal state is rarely clear. People

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can go from being displaced persons, to illegal migrants, to trafficking victims and “ for most, trafficking is linked to a migration event gone awry”

6. It is in this respect that the power of the state can be seen to be unchanged.

Though they cannot entirely control the players, states still very much decide the rules of the game. What makes one sphere of human activity a crime and another sphere legitimate is nothing more than a state's say so. If the scale of transnational crime has grown then it is at least partly due to

states deciding to criminalise or redefine certain human activities: “

illicit globalisation is thus not only about more-expansive transnational crime,

but also about more-ambitious global prohibitions” 7. As Andreas points out,

sectors which were historically seen as legitimate – legally if not morally –

such as Britain's opium trade with China in the 19th century have since been

criminalised. The reverse is also true: activities which were once considered

to be illicit have been either legalised or simply made redundant: the end of

Prohibition in 1933 decimated the illegal smuggling of alcohol into the US and

the general adoption of free trade policies from the 19th century onwards

similarly made many forms of smuggling redundant. The term “ transnational

crime” is thus a murky and fluid label, and as such its development is

extremely difficult to accurately measure.

Nonetheless, those who

see the rise of cross-border crime as an example of the failing control of

states would argue that, while it is true that we cannot properly measure

the growth of a sector whose very definition is shifting all the time, we

must acknowledge that the rules of the game are fundamentally changing.

The emergence of globalisation alongside new technology that allows for the anonymous transfer of messages (WhatsApp), of drugs (the now defunct Silk Road), and of funds (Bitcoin), has meant that states are hopelessly outmatched— using archaic techniques to fight a modern enemy. Yet the historical record has shown that it is usually states who have the upper hand, and although they cannot entirely eradicate large criminal networks, they can at least keep them under a semblance of control. If anything, the relationship between states and criminal organisations is similar to the “ Red Queen Effect” of evolutionary biology: if one side gains a temporary advantage, it is quickly nullified by a new development by the other side. Both states and criminal networks continue to match each other stride for stride, neither able to gain a decisive advantage over the other. The need to gain a decisive advantage over transnational criminal organisations is not however the goal of all states: rather “ illicit globalisation” is often harnessed by states for their own ends⁸. This is not limited to the usual suspects, such as North Korea, which is well known to engage in international criminal activity ranging from the counterfeiting of US dollars, to the illicit sale of arms, and even the production of fake Viagra. A host of seemingly law-abiding states have either employed criminal networks or encouraged/engaged in criminal activity, whether for gain in the short term or the long term. In many ways, the rise of certain forms of cross-border crime has been facilitated by states.

Take Switzerland, which for decades has fiercely defended its secretive banks against outside interference— thus promoting the country as a secure and stable tax haven. Despite cooperation with the US’ Internal Revenue Service

(IRS), the CIA World Factbook still describes the country as a major international financial center vulnerable to the layering and integration stages of money laundering; despite significant legislation and reporting requirements, secrecy rules persist and nonresidents are permitted to conduct business through offshore entities and various intermediaries⁹ The US itself is no saint however: as Andreas points out, America made good use of illicit networks during the Cold War to fund and supply insurgent groups across the globe. Worse, this is by no means a recent phenomenon: as an article in Foreign Policy entitled “ We Were Pirates Too” highlights, while America regularly castigates China for its encouragement and participation in intellectual piracy, the fledgling United States was equally unscrupulous in its attempts to catch up and develop its economy¹⁰. Like the Chinese in the 21st century, 19th century “ Americans had no respect for British intellectual property protections” ¹¹and actively encouraged its citizens to smuggle technological knowledge out of Britain. The “ rise of cross-border crime” is a contentious statement in itself. Whether transnational crime has grown at a faster relative pace than the world economy is in doubt: not only are the figures and statistics presented to support this assertion often vague “ guesstimates”, but there is a tempting incentive for organisations to exaggerate their claims – whether to elicit additional funding or to further a political agenda¹².

That criminal organisations with a global reach represent an existential threat to “ our way of life” seems like an exaggeration. States, after all, remain the creators of the rules of the game: it is states that define what a criminal organisation is and what activities are illegal. Whilst they often

cannot control the players, they retain the trump card: like Britain with smuggling and America with the prohibition of alcohol, they can eliminate an entire black-market sector at the stroke of a pen. They monopolise the ability to criminalise and decriminalise. If transnational crime has grown significantly in recent years, it is almost certainly due more to prohibitive policies put in place by states - such as Reagan's notorious "War on Drugs" - than to any decline in state power.