INTERNATIONAL IDEA
INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE

THE GLOBAL INITIATIVE
AGAINST TRANSNATIONAL
ORGANIZED CRIME

Protecting Politics

Deterring the Influence of Organized Crime
on Public Service Delivery

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Preface

Public service delivery is one of the main tasks citizens expect from their governments. Democracy is a political system that should improve service delivery as it offers the building blocks for equitable resource distribution and sustainable development. Indeed, in the frameworks of the 2030 Agenda for Sustainable Development, the democratic principles of transparency and accountability play a key role in the achievement of the Sustainable Development Goals.

However, in many contexts, public service delivery is fraught with corrupt practices, leading to less accountable and less effective public services that are not adequately reaching those they are intended to serve. Particularly in fragile and conflict affected states, corrupt practices can sometimes be linked to organized crime. These illicit groups and networks increasingly form parallel structures that compete with the state to provide services, either in open conflict with the state, or sometimes working with the explicit or tacit agreement of the authorities. In other cases, however, organized crime does not become a service provider but instead hinders the state's provision of services by leeching off state resources through corruption in public contracts. In all of these cases, organized crime perpetuates poverty and inequality, while threatening economic growth and, by extension, democracy itself. Furthermore, organized crime challenges the state's legitimacy by profiling itself as a viable provider of services to the population, while the state's capacity to provide services is undermined.

Citizens are consequently left with hollow democratic state institutions that are not capable of delivering better lives for them. Growing discontent with politics, as reflected in a number of public perceptions surveys and massive protests around the world, are important wakeup calls to implement serious strategies to prevent and mitigate political corruption linked to organized crime.

The International Institute for Democracy and Electoral Assistance (International IDEA) and the Global Initiative against Transnational

Organized Crime (GI) are therefore committed to supporting countries around the world in addressing the threat that organized crime poses to their democracies. Understanding how organized crime challenges the state's legitimacy as public service provider is therefore one important contribution to these efforts. That is why, in 2011, International IDEA launched the Protecting Politics project, conducting research and providing policy support to tackle the nexus between organized crime and political actors. Most importantly, in 2015 International IDEA joined forces with GI to explore the linkages between organized crime and public service delivery. This report summarizes these findings, drawing on case studies from Afghanistan, Colombia and Somalia to analyse in detail how organized crime has become a viable service provider in some localities in these countries, and how it has captured legitimacy from the state in the process.

This report complements three other papers that examine how organized crime affects political parties, elections and local democracy, respectively. Together, these four reports provide a unique and detailed overview of democratic systems' capacity to deal with complex security threats such as organized crime.

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Acknowledgements

Chapter 1

Introduction

Chapter 1

Introduction

The relationship between organized crime and politics around the world has become akin to symbiotic. The self-interested complicity between political actors and organized criminal networks is undermining the most basic compact between citizens and the state, and in the worst of cases has caused massive human insecurity.

The fundamental compact between citizens and the state is most frequently boiled down to the explicit identification of citizens and duty bearers (those who govern) in exchange for the protection of rights—foremost the protection from fear and from want (OHCHR 2012). Public goods comprise a core element of this social contract (OECD 2008). In turn, service delivery is an integral part of the citizen–state relationship, joining the pillars of 'freedom from fear' (the provision of security) and 'freedom from want' (access to livelihoods and public services).

The impetus to deliver services is not only to meet basic human needs; it is also essential to state-building (OECD 2008). A common measure of state capacity is a government's ability (authority and effectiveness) and willingness (legitimacy) to perform and deliver key government functions (public goods) to the majority or all of its people (British Department for International Development 2005; OECD 2008). A state's legitimacy and effectiveness in turn relies on citizens' expectations of the government and the quality of public service delivery (Baird 2010). When a state fails to meet society's basic needs and expectations, it is perceived as inherently lacking legitimacy (Mcloughlin 2009; OECD 2008).

In weak states, where the government lacks authority and legitimacy—either at the central state level or in specific jurisdictions or among marginalized

populations—competing forms of governance, such as organized crime structures, will emerge to provide those services, entrenching them as alternatives to formal state authority (Brinkerhoff 2007). Organized crime may also deliver services in an effort to undermine the government. Alternatively, in states with greater capacity, organized crime networks and state actors may act in concert. Each of these scenarios contributes to a breakdown in state legitimacy. While organized crime is not necessarily an alternative source of service provision, some features of these networks make them uniquely suited to provide or hijack service delivery, namely their ability to achieve and maintain a monopoly on violence (therefore affecting security), garner resources and engage in corruption.

Organized crime is frequently depicted as infiltrating or penetrating the state (see Box 1.1). However, the relationship is not a one-way street. A closer analysis demonstrates that it tends to be the state—through its absence or complicity—that opens the space for organized crime to gain legitimacy through service provision. Both sides may stand to gain from collaboration: organized crime networks benefit from their association with the state through corruption and by building protection networks to continue their activities, while organized crime offers state actors access to funds and services that allow them to consolidate their influence (Buscaglia and van Dijk 2003). In some cases the relationship is more complex, such as when state actors engage in 'profitable permissiveness'—a coexistence that is purely tacit and based on toleration and a degree of distance between the parties (Briscoe, Perdomo and Uribe Burcher 2014).

These symbiotic and mutually reinforcing relationships increasingly blur the line between government and organized crime, and a growing number of actors engage on both sides simultaneously. The exploitation of natural resources is a prime example, as in some countries it is increasingly difficult to determine where organized crime ends and government begins. In Afghanistan, organized crime networks exploit numerous mining contracts, from which government actors illegally profit (Noorani 2015). In Colombia it is widely alleged that various local law enforcement and local authorities—particularly mayors—are complicit in the illegal gold mining that takes place in their municipalities (Massé and Camargo 2012), which has exponentially increased, in both scale and profitability, in the last decade (Wagner 2016). With criminal–political relationships exhibiting unprecedented levels of complexity and sophistication, criminal groups now enjoy an unparalleled level of legitimacy and political influence in a wide range of countries.

To counter the growing influence and power exercised by organized crime networks in relation to service delivery, it is necessary, both nationally and
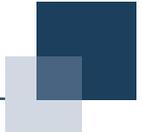
locally, to build viable governance within all pillars of service delivery and to provide the necessary oversight and transparency to prevent these from being subverted by illicit interests. The way in which the international community supports and engages in efforts to counter organized crime and support service delivery must also be rethought, to achieve a better understanding of how authority and legitimacy are earned and retained.

This report explores how and why organized crime becomes involved in service delivery, and how this affects the relationships between organized crime, the state and citizens. It draws on a wide range of examples to illustrate some of the ways in which organized crime has captured service delivery in different parts of the world. It presents the case studies of Afghanistan, Colombia and Somalia, which were selected because they showcase a spectrum of experiences from different regions of the world. They were drafted based predominantly on a literature review and interviews, and informed by authors with extensive experience in these countries. The report concludes by proposing policies that might be deployed to counter organized crime's engagement in service delivery.

Box 1.1. Defining 'organized crime groups'

One of the key challenges of addressing the impacts and challenges of organized crime involves agreeing on a working definition. Given the definitional challenges, the UN Convention on Transnational Organized Crime focuses on the group aspect, defining 'organized crime group' as 'a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit' (UNODC 2004: 5). Compounding the difficulty is that organized crime groups can be divided into two basic typologies: (a) those that function predominantly as networks of suppliers, transporters and vendors; and (b) those that control territory and tax all activities and routes that flow within their domain (UNODC 2012). Both groups function within (and as part of) organized crime networks. The issue of service delivery, however, is primarily relevant to organized crime groups that control territory. Since it is more often the case that organized crime groups, rather than organized crime networks, provide service delivery, this report uses the term 'organized crime group'.

When a group has strong ideological and political foundations, it can be difficult to determine whether it is more accurately labelled a criminal, armed or terrorist group. To differentiate, organized crime groups are defined in part by their funding sources—illicit trade and illegal acts. While some groups, such as the Italian mafia, easily fall within this category, other groups, such as the Taliban or Hezbollah, also qualify upon examination of their funding sources and activities.

Sources: United Nations Office on Drugs and Crime [UNODC], *United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (Vienna: UNODC, 2004); United Nations Office on Drugs and Crime [UNODC], Transnational Organized Crime in Central America and the Caribbean (Vienna: UNODC, 2012).

Chapter 2

Service delivery
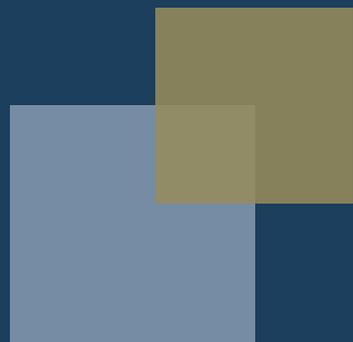
Chapter 2

Service delivery

Service delivery is defined as the implicit or explicit provision of a concrete good or ad hoc service for a particular community (Mejía-Acosta, Joshi and Ramshaw 2013). This definition includes a number of component elements that exist along a spectrum of necessity and sophistication. The twin pillars of security—the freedoms from fear and want—are foundational concepts on which higher aspirations of development rest. Basic economic and social goods such as sanitation services, healthcare and education are critical for the long-term development trajectory of a state and its citizens (Fukuyama 2004).

A state's ability to deliver services is essential to its authority and legitimacy. State functionality is largely measured in terms of 'fragility'. While there is no internationally agreed definition of 'fragile state', the primary element is insufficient state capacity (Grimm, Lemay-Hébert and Nay 2014). However, as Hendrix (2010: 273) notes, 'state capacity is a quality conspicuous both in its absence and presence, but difficult to define'. The multitude of state functions measured, depending on the institution undertaking the assessment, further complicates efforts to analyse and understand state capacity (Bersch, Praça and Taylor 2013). Fukuyama (2004) puts forth a widely accepted approach that measures state strength by its ability to administer public business with relative efficiency; control graft, corruption and bribery; and maintain high levels of transparency and accountability in governmental institutions. Regardless of the measure adopted, the provision of services is acknowledged as a fundamental measure of state capacity. In turn, state capacity is understood as a government's effectiveness and willingness to perform and deliver key government functions (public goods) to the majority or all of its people (DFID 2005; OECD 2008).

For service delivery to function effectively as an exercise in state-building, the focus must not be simply on delivering downstream public services, but also on ensuring that services are delivered in a way that strengthens state legitimacy (Teskey, Schnell and Poole 2012). This legitimacy and effectiveness is based on citizens' varying expectations of government, the quality of public service delivery, and citizens' experience with the government institutions responsible for delivering services (Baird 2010; OECD 2008).

However, not all service delivery activities are equally conducive to state-building. While the development sector often promotes large-scale reform of the health and education systems as a means of bolstering national service delivery, public perception surveys and needs assessments have instead emphasized the centrality of security and livelihoods as priorities for citizens (Ndaruhutse 2011; GI 2015). Some rights and services also help advance other development goals (OHCHR 2012). For example, education provision depends on basic security, health and livelihoods (OECD 2008). When the state fails to provide the prerequisite basic needs of security and livelihoods, the provision of more sophisticated services will fail to bolster state legitimacy, thus opening a window of opportunity for the capture of service delivery and alternative sources of governance. Groups or individuals that can deliver these fundamental societal needs would likely gain legitimacy with local populations, while the failure to provide them erodes state legitimacy (Brinkerhoff 2007; Rothstein 2009).

Analysing a state using measures of service provision presents a very different understanding of state capacity and fragility compared to solely economic measures. In the wake of successive crises, widening disparities and growing social unrest, narrow models of economic analysis that do not assess the degree to which populations are able to enjoy 'freedom from fear and want' have largely been discredited as an accurate measure of state fragility (OHCHR 2012). In the 2015 *States of Fragility* report, several middle-income countries with disproportionately high levels of crime-related violence, subnational conflict or poor access to justice ranked higher in terms of fragility than other middle-income countries (OECD 2015), thus highlighting the interlinkage between these factors beyond solely economic elements, and the realization of human security and development (World Bank 2011).

Motives for organized crime groups to act as service providers

Criminal groups provide public goods across the service delivery spectrum, from concrete goods to services such as security and justice, to social and

public goods such as health, education and humanitarian relief (Cockayne 2007). Such groups may be motivated to provide social services in order to protect transnational illicit flows; profit from state contracts; or create economies of protection that allow them to tax local flows, operations and communities. Violent groups that provide services can help coerce the local community to accept and conceal their activities (Flanigan 2014). They may also seek to build trust and acquire legitimacy with local populations, which can later be leveraged to win political office or undermine the state. Building legitimacy with local populations might be important where there is an ongoing conflict between the criminal group and the state, or where the criminal economy is labour intensive, thereby requiring the engagement and buy-in of the local population to continue. Where organized crime delivers services in coordination with political actors, this can produce a lack of transparency regarding public procurement procedures, a reduction in the efficiency and quality of public services, and deficient citizen accountability, among other problems.

Although nearly all organized crime groups are profit driven, many are also motivated by ideological goals. Furthermore, these objectives often change over time, which makes it difficult—yet essential—to understand the issue of organized crime as a service provider.

Entry points and invitations

Organized crime groups provide many different types of services around the world in a number of contexts, including when the state cannot (or will not) provide services, when organized crime seeks to push out the state, when it enjoys the tacit permission of the state, or when it acts in partnership with state actors and institutions. In each scenario, such provision needs to be understood both within the framework of the state's capacity to provide services and its legitimacy in the eyes of the population. The specific location of the state weakness or fragmentation tends to determine how the crime group provides the service. When security, economic opportunity, political transition, and state reforms do not reach all regions or sectors, the state vacuum becomes a fertile territory for illicit networks to offer alternative solutions to local populations (Briscoe, Perdomo and Uribe Burcher 2014).

Figure 2.1 approximates where notorious organized crime groups and networks might sit on the service delivery spectrum. In all cases, the role and behaviour of the state strongly influences the type and depth of criminality within a given environment (GI 2015). For example, in Afghanistan, Mali

and Somalia, state capacity (and thus authority over the majority of the population) is negligible. Outside of the capital cities, the central states play a limited role in the everyday lives of ordinary citizens. Thus, alternative service providers—the Taliban, al-Qaeda in the Islamic Maghreb and al-Shabaab, respectively—perform state functions, providing a range of services from security and livelihoods (albeit illicit) to basic social services and justice. This ultimately gives these organized crime groups a substantial degree of legitimacy within the local population.

Figure 2.1. Service delivery by organized crime
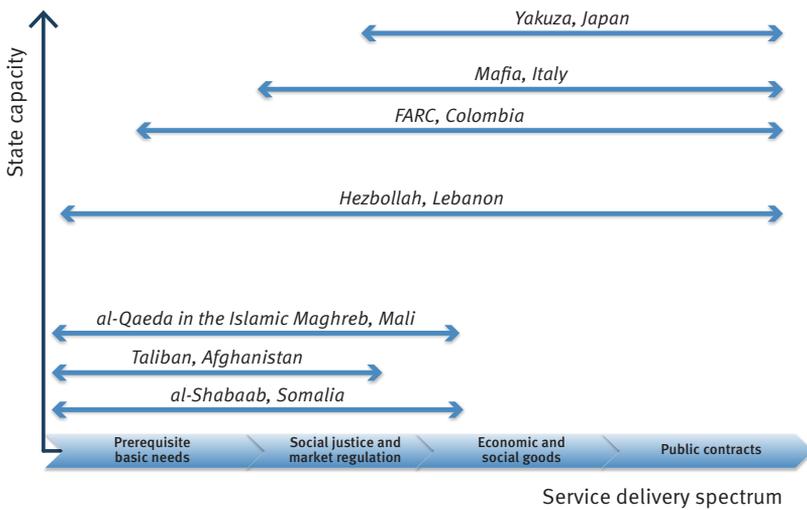
Source: Authors' own calculations.

In higher-capacity states, like Colombia and Lebanon, the state provides a number of public services, yet organized crime groups still provide some basic services in some localities, as well as those that are further along the service delivery spectrum. In Colombia, as described in Chapter 5 of this report, since widespread insecurity has decreased and the government has been able to reassert its authority and provide security to a broader section of the population, criminal groups and networks have increasingly shifted their focus from investing in local protection to rent seeking through public contracts, given the large amounts of national resources transferred to the local level (Gutiérrez-Sanín 2010). The Yakuza crime group in Japan arguably delivers the most sophisticated public services; within a highly functioning state, they style themselves as a *ninkyo dantai* (chivalrous organization) (Rankin 2012).

Yet the relationship between organized crime and the state is not passive or one-directional: while organized crime may exploit state weaknesses, political actors within state institutions may also seek out relationships with organized crime groups to consolidate their influence and power. For example, in 2014 in Mexico, 43 students were abducted in the town of Iguala while en route to hold a protest at a conference led by the wife of the mayor of Iguala, José Luis Abarca. Local police reportedly intercepted the students during the journey and handed them over to a local organized crime group for slaughter. The evidence indicates that Abarca and his wife orchestrated the abduction and mass killing (Stone 2014). In similar cases, political actors have hired organized crime groups to assassinate their political opponents (Centre of Governance and Human Rights 2014). As partnerships between organized crime groups and state actors grow and strengthen, regardless of the instigator, there is increased scope for organized crime groups to capture public service delivery.

State formation and political transition

State formation and political transition, such as that created by revolutions, wars, constitution-building processes and other major political changes, has the potential to create opportunities for organized crime groups to capture service delivery. In these cases, the previous authorities and institutions take time to be replaced, creating time periods in which citizens may face security threats, from basic physical harm to uncertainty in the enforcement of social agreements (Skaperdas 2001: 182). Political transitions can also trigger the relaxation of control in parts of the state that were previously regulated by the central government, permitting free-for-all criminal economies to develop. Moreover, links between criminal groups and local leadership, which in some cases are the result of weak decentralization processes, can be established or increasingly entrenched, with detrimental long-term impacts.

The capacities of the state to deliver security and livelihoods often share the same roots. Indeed, 'illicit flows are used to finance parastatal security forces and fuel violence' (Teskey, Schnell and Poole 2012: 14), affecting people's freedom from fear, and consequently reducing livelihood options, affecting people's 'freedom from want' (Shaw 2015). A lack of livelihood options can, in turn, drive individuals to engage in organized crime. For example, organized crime rose in Africa at a time of extensive political and economic change, and perpetuated conflict and insecurity (Ellis and Shaw 2015). Conflicts sometimes arise as a result of disputes over the distribution of resources; illicit flows often play an important role in fuelling these tensions (OECD 2011). That is why, as Teskey, Schnell and Poole explain, 'where possible, transparent and

equitable provisions for resource sharing, which increase the state's capacity to deliver public services, should be introduced in peace agreements' (2012: 14). However, the political dialogue in a post-conflict or transition environment is rarely sophisticated enough to properly account for illicit flows, particularly where reducing violence is the primary objective (Cockayne 2013). Therefore, control over illicit flows has often been left as a tacit benefit among the parties in the dialogue for reaching a politically motivated agreement.

Multi-dimensional social change in the case of 'inflexible', authoritarian or repressive regimes can also create a conducive environment for alternative sources of power, governance and legitimacy, as social change and political system failure create a crisis of confidence and governance (Whaites 2015). The absence of political processes, or the use of state security institutions to prevent public discourse, protest or freedom of expression, can create openings that other actors can exploit. Domestic actors can sometimes transform themselves into complex networks at the local, regional and international level with enough clout to erode democratic politics (Kavanagh 2013).

Libya is an example of a country that transitioned from state-controlled (or at the very least state acquiescence of) criminality to more fragmented and group-controlled forms that have established legitimacy among local populations through service delivery (GI 2015). The international community did not predict how quickly the Libyan illicit markets would fragment and how many different groups would vie for control over these spaces, including through the provision of services to local populations (Shaw and Mangan 2014). Conflict analyses underestimated the entrepreneurial push for various forms of livelihoods that would surround this power vacuum, and did not adequately capture the resultant danger of this happening.

Even positively motivated and inclusive transitions offer the opportunity for competing forms of service delivery to enter the political and governance process. Over the last few decades a large number of industrial and developing countries have pursued decentralization reforms in an attempt to move public decision-making closer to the people, and to increase government accountability and efficiency. However, as discussed above, the decentralization of power and public service delivery can create openings that can be exploited by organized crime groups. State reforms, particularly decentralization processes, often entail adjustment periods that can result in democratic weaknesses that are exploited by illicit actors. The delivery of services by organized crime groups can affect entire public works, thus reducing benefits for communities (Perdomo and Uribe Burcher 2016). Corrupt practices have resulted in roads and bridges to nowhere and ghost schools and hospitals, and denied citizens access to
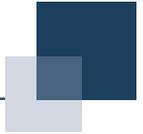
basic services such as clean water and sanitation (Shah 2012). These deficits in service delivery, and state failures to take action against them, undermine state legitimacy in the long term.

Weak regulation

Criminal competition is also made easier where state actors, including political elites, can be corrupted. This phenomenon often sits at the crux of the relationship between organized crime and the state, and criminals often seek to strategically liaise with key state organs in order to achieve the necessary room to manoeuvre (Buscaglia, Gonzalez-Ruiz and Ratliff 2005). Weak authority may become apparent in the political and economic spheres through 'the fusion of private and public roles—with military and government officials becoming "businessmen"—and the strong role of illegal and parallel economic activities' (Peschka 2011: 28, referenced in Teskey, Schnell and Pool 2012: 14). State institutions are often weaker or lack capacity 'in production, distribution and transit zones. Hence, criminal organizations often try to penetrate them to ensure the safe passage of their goods to consumer markets' (Kavanagh 2011: 3).

Criminal coalitions are not necessarily the result of explicit agreements between political actors and criminals, but instead of benefits derived from weak regulation or tacit, arm's length coexistence arrangements, such as relationships of 'profitable permissiveness' between illicit trade and local political figures (Briscoe, Perdomo and Uribe Burcher 2014: 253). The Colombian mining sector described in the Colombia case study below is an example of how weak regulations—in this case, arduous bureaucratic processes reportedly make it 'impossible' for small-scale miners to achieve legal status—have further alienated communities with an already weak state presence and dearth of public service delivery (Jiwani et al. 2013), opening the door for organized criminal groups to build capacity and legitimacy instead. This is relevant both in contexts that have labour-intensive illicit economies as well as where the delivery of key services has become hybridized or privatized. This has considerable implications for many states in Africa, where the majority of economies remain informal, and thus vulnerable to criminal influence (Reitano 2016).

The privatization of public assets and the awarding of government contracts—that is, public procurement processes—are especially prime targets in this regard, due to the high levels of profit to be made. Acquiring a privatized asset implies an expectation of a lasting flow of rents, whereas a procurement

contract usually represents a one-shot rent (Andvig 2012). Both are vulnerable to corruption and organized crime capture. The large amount of influence that certain political actors have over the allocation of funds can lead to the formation of illicit relationships that financially benefit both political actors and organized crime groups. While anti-corruption measures are essential to preventing the unethical awarding of lucrative government contracts to criminal networks, strong accountability and transparency mechanisms are needed to prevent the criminal capture of privatized public services.

The risk of organized crime capture of privatization processes is especially high during periods of weak regulation. Economic crises and political fragmentation provide more illicit economic opportunities for political actors to exploit (Briscoe, Perdomo and Uribe Burcher 2014). Estonia, Latvia and Lithuania serve as useful examples. After their independence from the Soviet Union in 1991, the urgency to privatize assets resulted in the convergence of politicians and organized crime interests and the 'criminalization of the privatization process' (Villaveces-Izquierdo and Uribe Burcher 2013). Furthermore, in times of political transition the ownership of public assets can become unclear and disputable, increasing the risk of political corruption. If the question of which individuals or public institutions have the right to sell public assets arises, some illicit actors may resort to violence to protect their ownership position, and the risk of organized crime capture increases (Andvig 2012; Andvig and Todorov 2011).

State complicity

A portrayal of organized crime and the state as competing entities, with only non-state actors engaged in criminal economies or maintaining a monopoly over illicit flows, is fallacious and fails to take into account the complex relationships between these two actors (Miraglia, Ochoa and Briscoe 2012). Parasitic organized crime groups may rely on connections to existing authority and weak regulation to serve their interests, targeting the state for protection and revenues rather than seeking to supplant or wilfully destroy established authority (Cocakyne 2007). In parallel, state actors may drive the demand for illicit products, provide supply or facilitate the transport of any given flow. Kelman (2015) discusses ways in which the state may get involved in the illicit economy and engage with criminal actors, including direct revenue generation, indirect revenue generation, procurement and territorial control.

States may turn to criminal economies or associations with criminal groups because their position in the global economy gives them few alternatives,

for example where international aid is suspended or where international sanctions are established, and they wish to access contraband goods—such as arms—or services (Kelman 2015). The former has helped rationalize Guinea-Bissau's high-level engagement with the cocaine trade (Shaw and Reitano 2013), and the latter is commonly cited as one of the reasons behind the proliferation of illicit actors involved in the extractives industry in Central Africa (Freeman and Rodriques 2015). By taking rents or procuring goods or services—such as prohibited technologies—or utilizing organized crime groups to secure territorial control—as with the Iguala example in Mexico mentioned above—the state can form a criminal coalition, or 'compact', with organized crime groups. The collusion of the state and crime is not new, or limited to a single geographic region. It has been a component of state formation in various settings throughout history. When corrupt leadership at the national and local levels either colludes with criminal organizations or allows criminal activity to go on unencumbered, the result can be what some label 'organized crime state capture'.

Even where the reach of the formal state is inadequate, perhaps because of justifiable capacity constraints, the state is not necessarily alien to this process. Even states that are too fragile to properly distribute public goods can exhibit considerable control over how organized crime operates within their borders by deciding how these goods are appropriated and the territory yielded—for instance how and where wildlife trafficking can take place, or which groups will receive import or export licenses (GI 2015). The state in these cases acts as a 'mafia bazaar', where the responsibility to govern and deliver services is supplanted by the desire to acquire power in order to issue exceptions to the rule of law as a means of capturing rents (Felbab-Brown 2015).

Chapter 3

Service provision
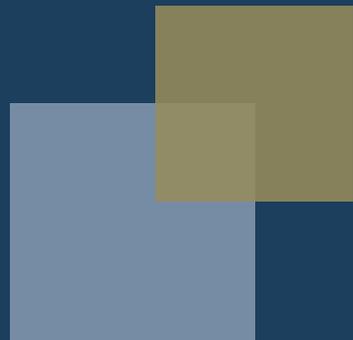
Chapter 3

Service provision

Security

The ability to monopolize the use of force has long been seen as a prerequisite and fundamental tenet of statehood (Weber 1919). Where states cannot secure such a monopoly, organized crime groups may step in. Organized crime groups and other violent actors can challenge state authority and legitimacy by using both the threat of violence and the provision of protection to control territory and populations. The provision of security can be especially effective in building legitimacy among the poor and other vulnerable groups, as they suffer disproportionately from crime, insecurity and fear (Mcloughlin 2009). Within the context of democratic weakness, perhaps the most prominent service provided by organized crime groups is security. This has important implications for state capacity that stretch beyond poor service delivery to include 'conflict, state collapse, loss of territorial control, extreme political instability, clientelistic policies, as well as repression or denial of recourse to subgroups of a population' (OECD 2008: 7).

The security sector is crucial in maintaining (or fragmenting) authority; indeed, its monopoly of force is seriously compromised by the presence of non-state armed actors, particularly rebel and guerrilla groups and militias (Teskey, Schnell and Poole 2012: 13). Where no single group can secure full control over a territory, or where a *pax Mafiosa* cannot be achieved with the local or central government, the result can be protracted conflict and instability. Examples have been seen from Central Africa to the Americas, where the self-reinforcing need to fund conflict, protect trafficking routes, and deliver services or secure corrupt patronage create a vicious cycle of criminal instability. Thus, while organized crime may provide a certain

degree of security, criminal groups also have a vested interest in continued instability, which limits opportunities for development and peace.

The provision of security has a spillover effect that has an impact on other public goods. As noted in one report, people 'who are not physically safe or whose property is at risk cannot improve their livelihoods' (DFID 2005), and other essential services depend on the establishment of at least rudimentary security (OECD 2008). In turn, as discussed above, while an organized criminal group's motivation for providing security may not be purely altruistic—for example, it may be driven by a desire to protect illicit trade flows or criminal markets—due to the importance of security for citizens and its role as a prerequisite for the delivery of many other services, organized crime groups that can protect the population from fear, or at least maintain predictable levels of fear, may jeopardize state capacity and legitimacy.

However, strategies that attempt to curtail those irregular structures that play an important role in enforcing security can often end up doing the opposite and affect state legitimacy (Teskey, Schnell and Poole 2012: 13). Organized crime groups can build and control zones of protection, which in addition create an extra force preventing central state consolidation. Examples of zones of protection can be seen in Somalia, Libya and Afghanistan. In Somalia, al-Shabaab's primary sources of funding are rent seeking, protectionism, and extortion of trade routes and businesses within or transiting across the territory they control. Within this area they provide a form of protection that the central state cannot. Likewise, militia groups in southern Libya have established zones that 'protect' key state infrastructure assets such as oil fields, and in Afghanistan the Taliban provides protection to local populations engaged in opium production.

However, the provision of protection by organized crime groups is not limited to weak or fragile states with governance vacuums. States with the ability to deliver advanced public services can neglect certain groups within a given society. For example, a minority ethnic group, new immigrants in urban hubs or distant hinterland communities can find themselves outside the state's protection. As UNODC described in relation to drug trafficking groups in Latin America, socially excluded people often lack access to security and other amenities provided to better-established residents. In this context, 'neighbourhood watches', which may have started as a mechanism for providing security to new immigrants and other vulnerable people, may over time morph into informal private security operations that impose a tax on local residents, and ultimately become a protection racket (UNODC 2012: 21).

Livelihood options and other public services

'Freedom from want' is a more abstract concept than security but is the basis of economic human rights. Roosevelt (1944) described freedom from want as economic security and independence. This concept continues to be a pillar of the citizen–state relationship. The delivery of basic services and the ability to protect and support the ways in which the poorest people sustain themselves are some of the most important functions of the state (DFID 2005: 7). Organized criminal groups are a significant threat to state legitimacy in this regard, due to their ability to garner resources and thus provide livelihoods and services, albeit illicit.

In some countries, criminal groups provide or protect livelihood options where the state cannot. In Afghanistan the Taliban protects the opium trade, which is 'deeply entrenched in the socio-economic fabric of Afghan society' (Felbab-Brown 2009: 3). The Taliban's capability to provide security as well as income and de facto governance has positioned it to provide other services, such as justice mechanisms, where the Afghan Government cannot, thus undermining the legitimacy of the state while increasing its own legitimacy (see Chapter 4).

As organized crime groups seek to build legitimacy, they may provide more sophisticated forms of service delivery. In Somalia, al-Shabaab has provided welfare and support to inhabitants in the regions under its control (Keatinge 2014), as well as humanitarian relief (Menkhaus 2012) (see Chapter 6). Hezbollah is perhaps the most notorious example. Since its formation in the late 1980s, it has provided schooling and healthcare, as well as a host of other forms of social assistance. Supporters and critics alike have acknowledged that Hezbollah is an effective welfare provider in Lebanon, which is sometimes arguably even more effective than the state (Cammett 2006). In Japan, the Yakuza have also successfully established legitimacy through service delivery and performing charitable acts, such as hosting Halloween parties for local children (McCurry 2015) and donating and delivering supplies following natural disasters (Rankin 2012). The Yakuza have leveraged their image as a 'chivalrous organization' to build relative acceptance within Japanese culture, as well as entrench themselves—until very recently—in the economy and government. While they have built up their own legitimacy, since the turn of the century the government has been affected by supposed corrupt ties between the Yakuza and some government officials (Mandel 2011).

Chapter 4

Case study: Afghanistan
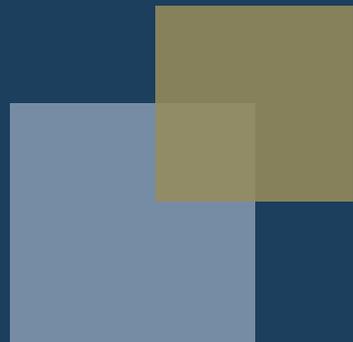
Chapter 4

Case study: Afghanistan

The interaction between organized crime and state delivery in Afghanistan is nuanced and complicated. Decades of warfare and economic turmoil have left a governance vacuum in much of the country. The localized nature of effective governance in Afghanistan, perhaps the single-most important characteristic of Afghan politics, and the lack of capacity of the current Afghan Government, have severely limited the government's ability to project its authority over outlying areas that have traditionally fallen outside its area of influence. Corruption, mismanagement and inefficiency have also left Afghans expecting little from their government.

In tandem, organized crime in Afghanistan, for the most part synonymous with the trafficking of opium and heroin, enriches illicit actors who deliver services. For many Afghans, the only way to earn a living is to participate in the criminal economy, or at the very least not to join the fight against it. Farmers in southern Afghanistan have been growing opium since the 1970s and the time of the communist-led revolution. Since then, armies have come and gone, governments have been created and deposed, but the political and fiscal economy of rural Afghanistan has changed little. Opium 'underlies much of the country's economic and power relations' (Felbab-Brown 2009: 3). Indeed, a wide range of actors are involved in opium trafficking in Afghanistan, including warlords and the Taliban.

In turn, the Afghan state provides limited security and public services, and few attractive alternative livelihoods to rural populations. Instead, the Taliban and other organized criminal actors often fulfil the traditional role of the state. Thus for many Afghans the best way to access public services is to circumvent the formal state altogether, relying instead on local warlords, the Taliban and the international community.

Afghans' expectations of state service delivery

After over 35 years of warfare and political turmoil, Afghan civilians today have limited access to the types of services normally delivered by public entities in other countries. According to a 2014 survey by the Asia Foundation, 33 per cent of Afghans lack any access at all to electricity, and a further 29 per cent only have electricity 'rarely' or 'sometimes'. Over half of Afghans who responded to the survey said that they had access no more than 'sometimes' to water for irrigation (58 per cent), medicine (56 per cent), and clinics or hospitals (55 per cent) (Aikins 2014b).

In addition to decades of insecurity, concentrated authority in Kabul has severely limited state service delivery in rural areas. For example, provincial governors 'have limited fiscal discretion and almost no formal authority to make provincial and district political and administrative appointments' (Mukhopadhyay 2009: 10). Instead, they must submit tax receipts to the central government and go through a time-consuming, paperwork-intensive process to be reimbursed for expenditures (Lamb and Shawn 2012). The process is a major hurdle to the delivery of services by state officials operating in the provinces.

A limited budget also restricts the state's ability to deliver public services. Despite average economic growth of 9 per cent per year between 2001 and 2012, the Afghan Government collects very little revenue—only about USD 2.5 billion in 2013 from a population of over 30 million (Katzman 2015; Rodriques 2016).

In turn, despite nearly 15 years of intense international investment and aid, the Afghan Government today provides few (if any) services to large expanses of the country's territory. Even where it does maintain a visible presence, that presence is often used to enrich local officials or facilitate criminal activity rather than to provide public services; 62 per cent of the Asia Foundation survey respondents listed corruption as a 'major problem' in their daily lives (Aikins 2014b). Indeed, municipal- and district-level officials were reported to be in the most corrupt levels of government: 55 per cent of respondents reported having a problem with corruption some, most, or all of the time when they dealt with their municipal or district government. In this context, many Afghans have begun to look beyond the state for service provision, which often means turning to illicit providers.
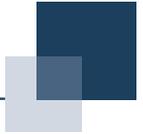
Public service delivery in Afghanistan

The central government's struggles to consolidate a monopoly on the use of force in much of rural Afghanistan have meant that it often provides few, if any, of the services normally expected of a sovereign state. As such, a range of other actors has stepped in to fill the void. The longest-tenured providers of de facto governance are warlords, many of whom have been providing services on a local level since well before the Taliban took power in the mid-1990s. Following the Soviet invasion of Afghanistan in 1979, the Pakistani Government worked with international donors, most notably the United States and Saudi Arabia, to channel humanitarian as well as military aid to the anti-Soviet mujahidin. As the International Crisis Group noted:

> mujahidin commanders channelled weapons across the Durand Line, and also humanitarian assistance—mainly food—to areas under their control. Access to aid thus legitimized warlordism and contributed to [Afghanistan's] fragmentation by allowing mujahidin commanders to expand and strengthen patronage networks, and therefore control over the areas they commanded (ICG 2011: 3).

Warlords continue to play an important role in filling the service delivery void left by the weakness of the central government. Since the Bonn Agreement of December 2001, which codified the structure of Afghanistan's post-Taliban transitional government, many warlords have been given official state positions. Unfortunately, the attempt to assimilate warlords into the central state largely failed to produce the desired results, as the state's lack of resources and manpower have made it unable to stop warlords from using their newfound authority and resources for personal, rather than public, enrichment (Mukhopadhyay 2009).

For example, Matiullah Khan, the most powerful man in Uruzgan Province, is often referred to as the 'King of Uruzgan'. Before his appointment as provincial chief of police, he was the chief of the local highway police. This position made him responsible for security on the critically important road linking Uruzgan to Kandahar, a responsibility he reportedly leveraged into significant wealth by charging military convoys exorbitant tolls. In addition to policing the roadway, Khan provided a range of services to the local population. He was known for his generosity towards widows and families who had lost wage earners, regularly distributing food for free at his palatial house. He also claimed to have supported Uruzgani students attending university in Kabul (Schmeidl 2011). While he was reportedly assassinated in March 2015, local sources have indicated that he may still be alive.

The Taliban also deliver services. The most familiar manifestation of this is the 'security' that many Afghans say the Taliban provided when they were in power in the 1990s, in exchange for acceptance of a stifled public sphere and repressive treatment of women and moderate Muslims (Dorronsoro 2009). Today, the Taliban provide security—by keeping police away from opium fields—in exchange for a 10 per cent tax and acquiescence to their presence (*Al Jazeera* 2016). The Taliban have a complex relationship with Afghanistan's opium economy. In 2000, during their reign over the country, they banned the cultivation of opium, citing Islamic prohibitions on the use of drugs (Jelsma 2005). However, both before the ban and in the years since they were overthrown, the Taliban have encouraged the cultivation and trafficking of the drug, taxing all steps of the process in order to fund its military operations against the Afghan Government and foreign military forces (Aikins 2014a). Estimates of the scale of the Taliban's drug-related income vary widely, but according to the United Nations Security Council's Taliban Sanctions Monitoring Team, they earn USD 100–155 million annually by smuggling drugs, representing over one-fourth of their funding (Rosen and Katzman 2014).

The Taliban's control of force, capability to provide de facto governance and income from illicit activities have positioned them to deliver services where the Afghan Government cannot. The courts and other dispute resolution mechanisms run by the Taliban are infamous for their speed, decisiveness and lack of equivocation, characteristics appreciated by many in a country where the formal judiciary is often ineffective or corrupt, or both (Dorronsoro 2009; Ahmed 2015). Low salaries for judges and prosecutors, lack of training, and a shortage of the staff and equipment needed to properly manage a caseload contribute to the justice sector's susceptibility to corruption (ICG 2010; Transparency International 2007). The high levels of corruption have caused the cancellation of some international aid programmes aimed at supporting the justice sector (Latifi 2012).

In the south of the country, drug traffickers have invested some of their profits in importing mobile phones, vehicles and other goods (Mankin 2010). The opium harvest is also a major source of seasonal employment: it takes 15 workers about a week to harvest a single hectare of opium poppy, and there are at least 100,000 hectares under cultivation in Helmand Province alone (Aikins 2014a). In 2014, the average per hectare net income for opium farmers was USD 2,800, or roughly 1.5 times Afghanistan's per capita GDP (UNODC 2015). Beyond securing the loyalty of the local population, for many Afghans these services provided by the Taliban, and the wages from employment in the opium industry, represent a significant improvement from what they could reasonably expect from legal channels.
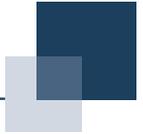
In addition to warlords and the Taliban, the international community plays an important role in delivering services not provided by the Afghan Government. Corruption, mismanagement and simple infrastructural insufficiency mean that even essential security personnel, such as the Afghan National Police and Afghan National Army, often lack reliable mechanisms to pay basic salaries, let alone provide the kinds of incentives necessary to get local elites to prioritize fealty to the central government over local power (Special Inspector General for Afghanistan Reconstruction 2015). With the government unable to cover the costs of maintaining its own security forces—it costs about USD 6 billion per year to fund all of Afghanistan's security forces, or two to three times the government's entire revenue base—many local police and private security providers, including warlords, are reportedly paid by international development assistance, directly or indirectly (Katzman 2015). While this in some cases leads to increased security provision, it also has the unintended consequence of undermining state legitimacy, rather than raising the profile and authority of the central government, and contributes to the Afghan populace's low expectations of service delivery by the state. There have been some calls to change the underlying structures of the delivery of aid and other services by donors and state institutions, but to this point none have gained any momentum (Brown 2012, 2014).

Conclusion

Many Afghans have ceased to expect reliable service delivery from the Afghan state. Corruption, a lack of resources and structural characteristics of the government have left the central state unwilling or unable to provide for the needs of its citizens. A wide range of actors has stepped in to fill this void. Ranging from international military forces to the Taliban, these actors have become solidly entrenched in the daily lives of Afghans across the country and from all social strata.

The longer local actors remain important service providers, the harder it will be for the Afghan Government to dislodge them. There is a self-fulfilling prophesy at work: the lack of a reliable tax base deprives the central government of the resources it needs to assert itself in outlying areas, but without asserting itself, it cannot develop the revenue base it needs (Sunnak 2014; Byrd 2015). The lack of a central state presence helps organized criminal actors and other transnational networks flourish, as described above. The influence of such groups will most likely further harm the government's ability to take decisive action to restore its position as the primary provider of services throughout its territory.

Chapter 5

Case study: Colombia
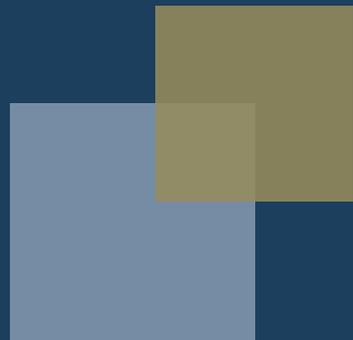
Chapter 5

Case study: Colombia

According to the World Bank (2016), the homicide rate in Colombia is 32 deaths per 100,000 inhabitants. Honduras and Venezuela have higher rates, of 84 and 54 per 100,000, respectively. By comparison, Afghanistan and Mexico, despite their many security challenges, feature homicide rates of 6 and 19 deaths per 100,000 inhabitants, respectively.

Colombia has experienced several periods of extended violence, the latest of which began in the mid-1960s with a number of leftist guerrilla groups fighting the government. Landowners and drug lords—with some support from local politicians and members of the armed forces—created private and far-right armed groups 15 years later (UCDP 2014). Colombia and Mexico are the only countries in Latin America currently undergoing an armed conflict, according to the Uppsala Conflict Data Program (2014).

Organized crime has benefited from war in Colombia (Collier 2006). Armed actors—particularly the guerrilla and illegal paramilitary forces—have in turn benefited from organized crime activities. These dynamics are typical in asymmetric conflicts, in which one group has a significant military or financial advantage. Indeed, in Colombia, underfinanced illegal armed groups often used revenues from illicit businesses (e.g. cocaine production, illegal mining, profitable kidnapping, irregular expropriation of land, extortion of income and illicit taxation) to finance their political struggle against the state's forces (Williams and Felbab-Brown 2012; Acemoglu, Robinson and Santos 2013). Organized crime has also taken advantage of institutional weaknesses, ensuring complicity from state actors (Briscoe, Perdomo and Uribe Burcher 2014: 39), with devastating effects on public service delivery and accountability to the constituents.

This case study examines the nexus between organized crime and politics and its impact on service delivery and accountability processes in the health, education and sanitation sectors in Colombia. It focuses on the local level, since the decentralization process initiated in the 1991 Constitution transferred responsibility for service delivery and accountability to local governments.

The impact of organized crime on service delivery

The decentralization process encouraged patronage networks to change their focus to rent seeking through public contracts, given the large amounts of national resources transferred to the local level (Gutiérrez-Sanín 2010: 26). In the context of the armed conflict, a new type of corruption emerged at the local level: so-called armed clientelism—that is, the private capture of public services, contracts and resources through armed threats (UNDP 2003: 324). As a result, illegal armed groups and organized crime networks further fuelled public corruption and inefficiency in many local governments across the country (Rodríguez-Takeuchi 2009: 102).

For example, royalties from commodities such as oil, coal, gold and emeralds have been mismanaged (Massé and Camargo 2012). Before 2012, 80 per cent of royalties were distributed to regions that produce these commodities or that have exporting harbours—known as the 'royalties' distribution system. While according to Law 1283 of 2009 these royalties are to be invested in priority projects, such as education, health, electricity and drinking water (Julio-Arango 2012: 37), in many regions politicians pocketed these resources with the support of organized crime. An example of this scheme took place in La Guajira region, where the Cerrejón mine produces 53 per cent of the country's coal, making Colombia the fifth-largest coal producer in the world (Ávila 2012: 472). Despite receiving large transfers from coal production, the National Comptroller's Office warned in 2012 of the poor delivery of state services to this region. For example, 50 per cent of the region's population had no access to the sewage system (Manzur-Jattin 2012). It was no surprise that in late 2013 the governor of La Guajira, Francisco Gómez, was arrested for his alleged connections with drug dealer Marcos Figueroa and his apparent involvement in the homicide of a local mayor—along with her husband and bodyguard—who previously criticized his corrupt deeds (*Semana* 2013, 2014b). Other investigations connected the governor and the drug dealer, including one conducted by the Office of the Attorney General on a massacre in the municipality of Fonseca (*El Heraldo* 2015; *Semana* 2014a). The governor's connections with the underworld apparently facilitated the misappropriation of coal royalties. Prior to becoming
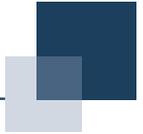
governor, he was mayor of the Barrancas municipality, which has a large stake in the coal royalties: Barrancas received approximately COP 30,000 million, or USD 12 million, between 2013 and 2014 (Azuero 2014). Several drinking water and sewage contracts, paid with money from coal royalties, were allocated to Asoaguas, a company founded and run by Gómez himself. Asoaguas was later investigated for irregularities in the allocation of those contracts and deficient services delivery (Azuero 2014).

In other regions, guerrilla and paramilitary forces provided 'recommendation' letters on behalf of contractors to bolster their relationship with public officials in exchange for commissions of 5 to 10 per cent of the total value of each contract. In addition, these illegal groups apparently influenced the appointment of public employees as well as public expenditure priorities (UNDP 2003: 292). The conviction of Miguel Ángel Pérez Suárez, former governor of the Casanare region—one of the country's main oil producing regions—is a case in point. The paramilitary group Casanare Self-defence Forces (Autodefensas Unidas de Casanare, ACC) led by Héctor Germán Buitrago, alias Martín Llanos, paid COP 500 million (approximately USD 200,000) for his political campaign to become governor (MOE 2008; Verdad Abierta 2015). In turn, the candidate supposedly offered to allocate 50 per cent of public contracts—mainly financed by oil revenues—and grant civil servants positions to the ACC (MOE 2008: 81–82).

In an attempt to curb these challenges, in 2012 the Colombian Government reformed the National Royalties Law and Congress enacted the Efficiency and Justice Law (Law 418 of 1997). The reform to the royalties system requires that a specialized technical committee—which includes representatives from the national and local governments—evaluates the allocation of these funds in efforts to diminish the influence of organized crime networks at the local level (Montero 2012). It is telling that before the reform, the Direct Allocation Fund—which finances social development projects in regions that produce non-renewable minerals or have important harbours—allocated up to 80 per cent of the royalties' resources; the rest went to other funds. After the reform, this allocation dropped to 35 per cent. Similarly, the Efficiency and Justice Law introduced measures to prevent illegal armed groups from using public contracting to finance their activities, particularly at the local level. It established monitoring mechanisms to oversee budgetary processes and local government spending. Ministries, the Comptroller's Office and other national-level authorities coordinate this supra-auditing service, which investigates local public contracts and has the mandate to suspend the implementation of contracts that allegedly divert public resources to organized crime networks.

The impact of organized crime on accountability processes

Democratic accountability should lead to inclusive, equal and effective public service delivery (Mejía-Acosta, Joshi and Ramshaw 2013: 4). In Colombia, however, accountability mechanisms—and, in particular, anti-corruption measures—have not always been effective, partly because of the influence of illegal armed groups, drug gangs and corrupt politicians. Organized crime has targeted civil society organizations (CSOs), journalists and academics—especially women—fighting to hold corrupt politicians accountable. The situation for human rights defenders, for example, was particularly challenging, especially for those overseeing the process of land restitution for internally displaced people, who faced numerous threats by organized crime groups, among others (OHCHR 2013). Journalists have faced similar challenges. For example, members of paramilitary forces kidnapped, tortured and raped Jineth Bedoya when she was writing about a massacre of 42 inmates in one of the main prisons in Bogota (Vulliamy 2013).

State institutions in charge of exercising accountability over service delivery have been affected as well. Local councils and the justice sector have been accused of maintaining symbiotic relations with illegal groups involved in organized crime. An estimated 34 per cent of the House of Representatives and 25 per cent of the Senate were elected in 2002 with support from paramilitary groups involved in drug trafficking and other illegal activities; almost all of them were re-elected in 2006 (López 2010). The 'Process 8,000' (Proceso 8,000) is another telling example. In 1995 the media revealed that illegal drug cartels financed the campaign of then-President Ernesto Samper Pizarro with COP 4,000 million (USD 1.2 million). While approximately 50 people were convicted—including members of Congress, the national comptroller and the general prosecutor—the House of Representatives found President Samper Pizarro not guilty as he was 'unaware of these intricacies' (KAS 2015: 6). Similarly, senior government officials during President Álvaro Uribe-Vélez's tenure (1998–2002 and 2002–2006) were investigated, and some convicted, for illegal taping of phones and persecution against judges, members of the opposition and CSOs (*Semana* 2015).

In an attempt to better protect human rights defenders, the National Protection Unit (Unidad Nacional de Protección, UNP) was created in 2011 under the umbrella of Law 418 of 1997. The unit is based at the Ministry of Interior and protects people facing extreme or unusual risks as a direct consequence of their political, public, social or humanitarian work. After receiving a protection request, the unit decides within 30 working days whether (and how) to protect the person by providing equipment, communications or reallocation, or other
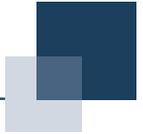
necessary assistance (UNP n.d.). While human rights activists consider this to be one of the most advanced programmes of its kind in the region (HRW 2013), the unit has faced numerous challenges, including infiltration by illicit networks. In 2011 the intelligence agency DAS—in charge of providing some of these protection measures—was dismantled after a series of scandals. According to the reports, DAS leaked confidential information about the people they were supposed to be protecting to illegal drug traffickers and paramilitary forces (Semana 2011). The UNP was reformed afterwards in an attempt to make it more transparent.

Conclusion

Colombia has long struggled against the corrosive effects of organized crime in politics, a problem that has fundamentally affected service delivery at the local level. High homicide rates, protracted conflict, and the involvement of guerrilla and illegal paramilitary forces in organized crime activities have colluded to weaken the state. This process has involved patronage networks deploying a strategy of armed clientelism, using armed threats to generate profit from public contracts and natural resources. Under this scheme, public officials have offered criminals privileged information, access to public contracts and money laundering opportunities, while criminal groups have reciprocated with voter suppression, bribes or protection. Citizens have suffered from the resulting increasing inefficiency of their local governments in the delivery of basic state services. Moreover, a number of people and organizations trying to promote accountability against those corrupt politicians have faced threats, intimidation and violence, further entrenching corruption and poor service delivery.

However, the government and CSOs have deployed important strategies to address this problem. For instance, the national royalties system—one of the avenues through which organized crime siphoned resources in collusion with local authorities—was reformed. As part of the reform, national authorities received increased monitoring capacity and an augmented mandate, which ultimately reduced corruption. A special unit (the UNP) was also created to protect human rights defenders and strengthen accountability mechanisms for service delivery. These and other reforms have helped increase transparency and reduce corruption in the political process, and should continue.

Chapter 6

Case study: Somalia
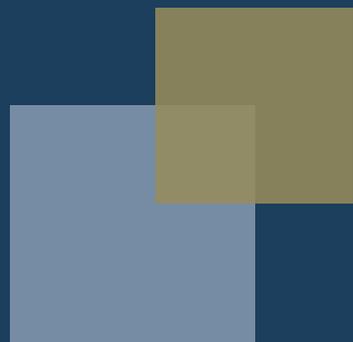
Chapter 6

Case study: Somalia

Conflict, poverty and inequality have marked the lives of the Somali population since 1991 given the absence of governmental structures and Somalia's instability. Indeed, 'state institutions, where they exist, are a patchwork of colonial legacies that were never fit for the purpose of governing a sovereign state and delivering services to its people' (Reitano 2013). Into this maelstrom of violence and chaos, an Islamic extremist group, resourced by extortion and illicit trade, has used terror and a highly nationalistic rhetoric to gain local legitimacy and undermine the central state.

The withdrawal of the state

Former military dictator and President Said Barre's corruption and favouritism to his family's clans triggered his downfall. Without obvious natural resources and a predominantly subsistence-level population, Barre played Cold War politics to his advantage while oppressing the majority of the Somali population. He offered access to Somalia's strategically positioned ports and airfields first to the Russians and then the USA in return for military assets and development assistance, which quickly became the country's primary commodity. During the 1980s, the USA provided USD 800 million worth of aid, which regrettably was not distributed among the population. Instead, Barre and his supporters made small fortunes appropriating aid and selling it on the black market (Meredith 2011), while using violence, assassinations and human rights abuses—such as forced detentions and disappearances—to maintain control. Over time the regime's control and influence increasingly contracted in towards Mogadishu, the Somali capital, enabling local warlords and militia groups to gain prominence in the provinces (iDMC 2007).

In January 1991, a collection of unorganized armed factions drove Barre out of power, but no single group or coalition was able to secure control of the country afterwards. Instead, Somalia became characterized by intense pockets of localized violence over vested interests by independent militia groups. The instability locked the country in a downward spiral of protracted conflict, and its political economy convened along clan lines (McLure 2009).

In 2004 the Transitional Federal Government (TFG) of Somalia was put in place through a brokered agreement to manage an eight-year transition period. However, the TFG never managed to control territory beyond Mogadishu, and was characterized by Barre-style corruption, graft and self-enrichment. A 2012 UN Monitoring Group report on Somalia noted that 'Since the collapse of the Somali government in 1991, successive generations of Somali leaders have engaged in corrosive political and economic practices that have aggravated the conflict and helped thwart the restoration of peace and security in the country' (UN Security Council 2012). It also noted that 'systematic misappropriation, embezzlement and outright theft of public resources have essentially become a system of governance' (UN Security Council 2012). Real power on the ground outside Mogadishu was wielded by a group of predatory warlords, whose rapaciousness hobbled efforts to create a functional economy and provide for the many Somalis in need (iDMC 2007).

Al-Shabaab: stability and governance reinforced by fear

The Islamic Courts Union (ICU)—a disparate alliance of Islamist, private sector and clan interests—emerged into this governance vacuum. The ICU fielded a potent militia, including a little-known group called al-Shabaab, formed from a small group of fighters who had previously been associated with a short-lived Salafist group. Many of al-Shabaab's founding members had trained or spent time in Afghanistan. Over time, al-Shabaab's role and influence within the ICU grew, commensurate with its increasingly potent military strength, including the novel utilization of improvised explosive devices and suicide attacks (Hansen 2013). By 2006, using al-Shabaab, the ICU had taken control of Mogadishu, as well as most of south and central Somalia, while the TFG was confined to the south-central city of Baidoa, protected by Ethiopian military forces (ICG 2007).

The ICU attacked the Ethiopian forces in December 2006, prompting a full-scale offensive, with the superior firepower of the Ethiopian forces overwhelming the ICU. By the end of December, Ethiopian forces had
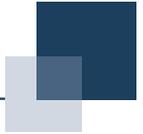
advanced on Mogadishu and continued south, destroying much of the ICU's military strength. Al-Shabaab retreated into the countryside of southern Somalia, menaced by Ethiopian military forces and US airstrikes (HRW 2007). By the beginning of 2007 al-Shabaab was at the nadir of its power, far more profoundly defeated and vulnerable than at any other time in its history. Nonetheless, it was able to rebound rapidly. Between 2007 and 2008 a vigorous insurgency developed in the countryside, while urban areas were menaced by bombings and other terrorist attacks. Many Somalis, including a large section of the diaspora, viewed Ethiopia as an occupying power, which rallied support for al-Shabaab and increased its legitimacy (Masters and Sergie 2015).

The group's popularity was buttressed by the serious failures of the TFG, which had been reinstalled in Mogadishu. The TFG largely failed to successfully enact any policies, much less gain legitimacy, due to widespread corruption, embezzlement and fraud. Successive governments had proved themselves feckless and often venal, spending staggering sums of money without achieving any visible benefits for average Somalis. A 2012 World Bank assessment of TFG finances found that only USD 131 million in government revenues was accounted for in 2009–10, which represented 68 per cent of total income for the period (UN Security Council 2012). By contrast, al-Shabaab projected a strong post-clan vision for a stable and peaceful Somalia, while actively using fear to deter cooperation with the TFG via targeted assassinations, bombings and other attacks (ICG 2007). As such, the group's power was based on both military might and the ability to manipulate local grievances to its benefit (Hansen 2013).

Throughout 2009 and 2010 al-Shabaab ably and effectively governed the south and centre of the country. It used threats of violence to impose its will and maintain its laws, a strong and conservative version of Islam, including sharia law. Consequently, security improved as al-Shabaab suppressed inter-clan violence and banditry (Harper 2012). It also provided local justice, steering between Somalia's combination of traditional law and the patchwork of externally imposed (and often inconsistent) legal frameworks of the country's various historical colonial rulers (Reitano 2013). Al-Shabaab also provided welfare and support to inhabitants in the regions under its control, including the construction of health clinics, schools and mosques (Keatinge 2014), as well as humanitarian relief during the frequent cycles of drought and extreme food insecurity (Menkhaus 2012).

While some of al-Shabaab's policies—including a ban on music, movies and the popular stimulant *khat*—led to a deterioration in their popularity, the

group's non-clan-based ideology proved attractive to a population exhausted by decades of internecine conflict. Many Somalis supported al-Shabaab for the law and order it brought to their regions for the first time in decades, allowing them some semblance of a normal life (Harper 2012). The group developed a structured set of parallel governance and administrative structures in the areas under its control, meting out justice and social welfare and maximizing revenue in a model that has proved far more effective and transparent than equivalent efforts made by the various iterations of the central state (Keatinge 2014). These measures, coupled with the stipend payments offered to its foot soldiers, enabled al-Shabaab to attract new recruits and expand its territorial control, local legitimacy and influence (Hansen 2013).

But is it organized crime?

With such a strong ideological and political foundation, it is worth questioning whether it is accurate to label al-Shabaab an organized crime group. Such groups are defined in part by their funding sources—illicit trade and illegal acts—as well as by their activities: the use of violence, corruption and criminal protection. In both of these categories, al-Shabaab meets the requirements.

One of its primary funding sources has consistently been local taxation of various sorts. Walking a fine line between taxation and extortion, according to the UN Security Council (2011: 28), al-Shabaab collects detailed information on the businesses and livelihoods in the areas under its control, including subsistence pastoralism, and levies a variety of taxes including sales tax, corporate taxes, taxes in kind, and special collections for humanitarian relief or infrastructure development, all of which are reinforced by the threat of violent reprisal. This taxation model requires al-Shabaab to continue providing services to the communities it is taxing in order to maintain satisfaction (Keatinge 2014).

For most of the period from 2008 to 2011, the Kismayo port and Bakara market were particularly strategic in al-Shabaab's revenue collection strategy: both are significant hubs for Somalia's import–export trade. Al-Shabaab made significant efforts to mobilize Kismayo as a more efficient and competitive port than the government-controlled Mogadishu port, thereby attracting legitimate trade, all of which was taxed by al-Shabaab as it entered the port. Kismayo also became the gateway for the country's illicit trade, including an estimated 90 per cent of the illicit trade in charcoal (Shaw 2011). In 2009, the UN estimated that al-Shabaab could generate USD 35–50 million per
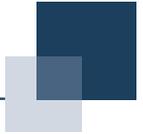
year from the Kismayo port, USD 25 million of which was from charcoal alone (Keatinge 2014). Al-Shabaab also reportedly gained financially from other illicit trades such as wildlife trafficking, maritime piracy, people smuggling and the smuggling of various commodities with neighbouring countries (Hansen 2013).

A shifting balance

In August 2011 al-Shabaab initiated an offensive in Mogadishu aimed at conquering the city, and lost decisively to the African Union Mission in Somalia (AMISOM) and TFG forces. The defeat signalled the beginning of al-Shabaab's decline. In October 2011 Kenya invaded southern Somalia, eventually seizing control of the southern city of Kismayo and its lucrative port. By late 2012, the group had withdrawn from Mogadishu and other major towns in the south and centre of Somalia, although it continued to hold a few urban areas. It should be noted that while al-Shabaab was forced out of these urban areas under military pressure, it was not militarily defeated. Rather, the withdrawals seem to have been part of a calibrated strategy aimed at force protection (UN Security Council 2014).

Somalia's first internationally recognized government since 1991, the Federal Government of Somalia (FGS), was established in the summer of 2012. President Hassan Sheikh Mohamud was elected in September of that year amid great international and national optimism about his ability to navigate the multiple challenges that face modern-day Somalia (UN Security Council 2014). While some service delivery programmes, such as the 'Go-To-School' initiative, have experienced moderate success, with thousands of students in school for the first time since the civil war, overall public service remains poor. For example, the private sector monopolizes water and electricity services at a prohibitive cost (Ali 2014). Progress has been stymied by continued underlying corruption. The UN Security Council Monitoring Group's (2014) most recent report on Somalia discussed the prevalence of misappropriation (with diversion rates of between 70 and 80 per cent) and contracts involving national public assets being signed by government officials but kept secret from the Somali population, parliament and international donors.

In turn, since its establishment, and despite efforts to increase its capacity, the FGS remains cloistered in Mogadishu and a few urban areas in the south and centre, and is highly dependent on AMISOM for military protection. Despite a consistent drive by AMISOM to roll back the group's strong holdings in the south, al-Shabaab remains in control of large swathes of the

countryside in south and central Somalia. At least 1.5 million Somalis live in al-Shabaab-controlled areas, while another 1.8 million live in districts with an al-Shabaab presence (author calculation based on UNDP 2005). Since withdrawing from the urban areas, al-Shabaab has systematically sought to avoid direct combat, instead relying on guerrilla and terrorist attacks to wear down its enemies, actively using fear to dissuade citizens from cooperating with the FGS or AMISOM. As one analyst noted, the group is biding its time and waiting (anonymous interview with independent researcher in Somalia, July 2015).

Even when Somali forces and AMISOM troops drive al-Shabaab militants out of a territory, these 'newly liberated areas' are not subsumed into the government's sphere of influence. Indeed, the term 'newly liberated areas' remains somewhat of a misnomer, as they are not secure from al-Shabaab, which carries out repeated raids on territories they used to hold. For financial resources, the group has established blockades outside of key towns, and attacks convoys and leverages taxes. For example, in 2014 al-Shabaab implemented a vetting and registration system that involves them charging up to USD 10,000 for aid agencies to be allowed to operate and distribute aid. After such payments have been made, the al-Shabaab humanitarian coordination officer may add further taxes. Aid is stolen and misappropriated, and aid agencies are often forced to remove their logos and pay security fees to al-Shabaab (UNSC 2014: 37). In this way, revenues are gained while reminding vulnerable communities that their most basic and urgent needs are dependent on the goodwill of al-Shabaab. Attacks by al-Shabaab also compel civilians to conform to its rules—including dressing conservatively, banning smart phones and observing its designated public holidays—even in so-called liberated areas.

For inhabitants, relief from al-Shabaab control means little when they are afforded neither security nor basic services. This illustrates the permeability of state security in the country as well as a view held by many Somalis: that al-Shabaab will outlive the FGS.

Conclusion

Against the backdrop of conflict, poverty and instability in Somalia, al-Shabaab has used organized crime activities to finance its terror and nationalistic agenda. Its strategy is largely based on a two-pronged approach: positioning itself as a legitimate authority by providing essential services to the population, while channelling fear among local residents.

State corruption has been both a contributing factor as well as a by-product of these dynamics. Indeed, various important state officials have been accused over the years of misappropriating state resources and international aid, while using oppressing measures to maintain their territorial control. Therefore, ineffective state institutions, particularly in the countryside, have created space for al-Shabaab to form a relatively well-functioning administrative structure in these areas.

Currently facing military pressure, al-Shabaab is maintaining its focus on the countryside while the central state is struggling to reposition itself as a legitimate structure in the eyes of the population, with moderate success. But optimism is elusive. Public sector corruption remains the main obstacle to the state regaining legitimacy, while al-Shabaab is arguably biding time to expand its reach, maintaining the capacity to provide basic services in areas under its control.

Chapter 7

Conclusions and recommendations
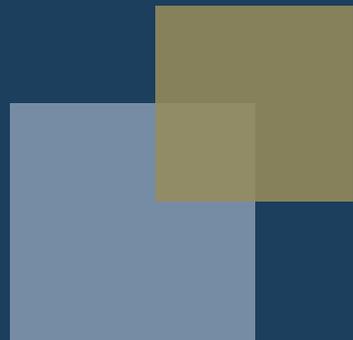
Chapter 7

Conclusions and recommendations

This report has described some of the ways that organized crime groups compete with (or are complicit with) the state in providing services to the population, identifying how this process occurs and the types of functions that an organized crime group is most likely to assume. These include, but are not limited to, providing security, justice, health, education and humanitarian relief. Organized crime groups engage in service delivery for various reasons. In some instances, service provision helps them protect transnational illicit flows. In other cases, organized crime can generate additional profit, either from state contracts or by taxing local flows, operations and communities. It can also be a way to coerce or gain legitimacy with local communities.

A key observation of this analysis is that organized crime groups exploit entry points generated by absences, weaknesses of, or invitations presented by the state. In providing services to the population, such groups can gain legitimacy while eroding the legitimacy of the state. As criminal groups increasingly take on state functions, particularly where service delivery is significant, the inevitable conclusion appears to be that they become legitimized into society and politics. The Afghanistan case study provides a striking overview of this phenomenon. Where states are largely incapable of providing adequate services to the population, particularly in rural areas, due to scarce resources and rampant corruption, organized crime networks—among other non-state actors—have filled the void. Most critically, criminal networks provide security, welfare, justice, infrastructure and employment for local communities. In Somalia, the central government has been accused of widespread corruption, embezzlement and fraud. This, together with limited resources and a protracted war, has left people dependent on alternative illegal governing structures. Like the Taliban in Afghanistan, in Somalia al-Shabaab has focused on delivering services (including security, justice, welfare, health

and education), which are largely financed by extortion, taxation of illicit flows and the illicit trade in wildlife, people and commodities. It has also pursued a programme of intimidation in the rural areas it controls.

The implications and long-term consequences of the increasing engagement of criminal groups in the state, and state complicity in permitting, facilitating (or indeed engaging in) the criminal economy, are almost exclusively negative. Criminal involvement undermines the fundamental social compact between citizens and the state, in which public goods—including service delivery—are provided to the electorate in exchange for political support and the ability to generate rents through taxation. Instead, both crime and the state are focused on garnering criminal rents for private interests. The 'armed-clientelism' phenomenon in Colombia described in this report, for example, allowed organized crime to access local public contracts for national resource extraction and public service provision.

There is an important distinction between those who protect illicit activities (often high-level political actors) and those who directly engage in them; responses that do not recognize this distinction and the different underlying incentive structures will ultimately be ineffective at disrupting the activities themselves. Strategies that respond to organized crime groups must look to increase exposure, for example through increased transparency and anti-corruption initiatives, and reduce impunity. Various reforms implemented in Colombia have achieved important results in this regard. Most notably, improving national oversight of local revenue extraction and distribution has arguably changed the incentive structure that facilitated corruption within the royalty transfer system. The implementation of similar anti-corruption and accountability mechanisms that improve national (governmental and non-governmental) oversight of local public contracts have also been effective in Colombia.

In parallel, depending on the political capital that organized crime groups are able to acquire, policy responses that seek to destroy the illicit economy, especially without replacing it with viable alternatives, risk considerable public backlash (GI 2015). Bolivia successfully introduced policies that had positive results in providing alternative livelihoods to the illicit economy. Its 'cooperative coca reduction' policies are credited with the decline in Bolivian coca cultivation—the lowest in over a decade. Government action focuses on providing economic alternatives to coca growers and permits small amounts of cultivation for traditional use. In sharp contrast, Bolivia's neighbour Colombia, which has employed a forced eradication campaign, is seeing cultivation rates rise (Youngers and Ledebur 2015).
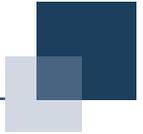
International actors need to be cognizant of the fact that there are points of particular vulnerability to the encroachment of criminal interests into the state, whether external or internal. Post-conflict scenarios, unconstitutional changes in government, public protests and political transitions are all points at which monitoring will be required; failing to address these issues directly and explicitly during these periods will have serious implications.

At the local level, experience suggests that simply putting visible signs of 'government' or straightforward provision of services into communities will not be effective at addressing governance deficits unless the approach serves to increase state legitimacy. Instead, in seeking to counter the growth of criminal provision of service delivery, a new framework of responses is required. There is a need to shift away from either accommodating criminal interests wherever they manifest or focusing efforts on trying to outgun them. Rather, the challenge will be to find ways to realistically engage in supporting communities and citizens both nationally and locally to build viable and trustworthy propositions of governance (Whaites 2015), and to provide the necessary oversight and transparency to prevent these from being subverted by illicit interests. International community support to service delivery, development and governance, and engagement in efforts to counter organized crime, should therefore focus on genuine governance and a better understanding of how legitimacy is earned and retained.

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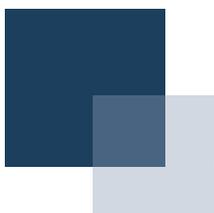
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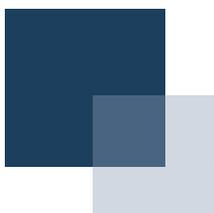
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The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization that supports sustainable democracy worldwide. International IDEA's mission is to support sustainable democratic change by providing comparative knowledge, assisting in democratic reform, and influencing policies and politics.

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In the fields of elections, constitution-building, political parties, gender in democracy and women's political empowerment, democracy self-assessments, and democracy and development, we undertake our work in three activity areas:

1. providing comparative knowledge derived from practical experience on democracy building processes from diverse contexts around the world;
2. assisting political actors in reforming democratic institutions and processes, and engaging in political processes when invited to do so; and
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