
INTERNACIONAL ANTI- TRANSNATIONAL CRIME POLICIES AND CORRUPT PUBLIC-PRIVATE COALITIONS: PERSPECTIVES FROM A CRIMINOLOGY OF THE GLOBAL SOUTH*

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Internacional anti-transnational crime policies and corrupt public-private coalitions: perspectives from a criminology of the global south

Abstract. Criminal structures running international drug trafficking in the Western Hemisphere are mischaracterized and misinterpreted by international anti-drug policies and strategies. Their characterization as *cartels* and the role they allegedly play in the international drug trafficking and value chain is based on misleading ideological premises disseminated by politicians, mass media and law enforcement agencies. Simultaneously, international anti-drug policies reward official law enforcement agencies with ongoing expansion of their powers and budgets to conduct extraterritorial interventions, increasing organized violence, corruption and trampling on fundamental rights and liberties. More fertile guidelines for international anti-drug policies in the future are discussed in the conclusions.

Keywords: Transnational crime; International anti-transnational crime policies; Law enforcement; Corruption; Criminology of the Global South.

Políticas internacionales contra el crimen transnacional y coaliciones corruptas público-privadas: perspectivas desde una criminología del sur global

Resumen. Las estructuras criminales que manejan el tráfico internacional de drogas en el hemisferio occidental están mal caracterizadas e interpretadas en las políticas y estrategias internacionales antidrogas. Su caracterización como *cárteles* y el papel que presuntamente desempeñan en el tráfico internacional de drogas y la cadena de valor se basa en premisas ideológicas engañosas difundidas por políticos, medios de comunicación y organismos de control penal. Al mismo tiempo, las políticas internacionales antidrogas recompensan a los organismos oficiales de control penal con la expansión continua de sus poderes y presupuestos para llevar a cabo intervenciones extraterritoriales, aumentando la violencia organizada, la corrupción y la infracción de los derechos y libertades fundamentales. En las conclusiones se discuten directrices más fértiles para las políticas internacionales antidrogas en el futuro.

Palabras clave: Crimen transnacional; Tráfico internacional de drogas; Cumplimiento de la ley; Corrupción; Criminología del Sur Global.

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Políticas internacionais contra o crime transnacional e coalizões corruptas público-privadas: perspectivas de uma criminologia do sul global

Resumo. As estruturas criminosas que controlam o tráfico internacional de drogas no hemisfério ocidental estão mal caracterizadas e interpretadas nas políticas e estratégias internacionais antidrogas. Sua caracterização como *cartéis* e o papel que supostamente desempenham no tráfico internacional de drogas e na cadeia de valor baseiam-se em premissas ideológicas enganosas difundidas por políticos, meios de comunicação e órgãos de controle penal. Ao mesmo tempo, as políticas internacionais antidrogas recompensam os órgãos oficiais de controle penal com a expansão contínua de seus poderes e orçamentos para realizar intervenções extraterritoriais, aumentando a violência organizada, a corrupção e a violação dos direitos e liberdades fundamentais. Nas conclusões, discutem-se diretrizes mais férteis para as políticas internacionais antidrogas no futuro.

Palavras-chave: Crime transnacional; Tráfico internacional de drogas; Cumprimento da lei; Corrupção; Criminologia do Sul Global.

INTRODUCTION

The criminology of the Global South criticizes narratives predominant in the Global North based on analytical categories that are not necessarily applicable to the realities of criminal offenses and law enforcement in peripheral regions of the globe (Carrington, Dixon, Fonseca, Rodríguez Goyes, Liu, & Zysman, 2019; Dimou, 2021). It also promotes alternate worldviews to address these issues in contexts of the Global South (Silva-García, Irala & Pérez-Salazar, 2020). However, the criminology of the South has been coy to discuss in depth the specific deficiencies of analytical categories used in the predominant narratives of the Global North concerning international criminal offenses, nor has it offered alternatives to replace them with better suited categories.

This piece critically discusses the use of the category of *drug cartels* in policy statements concerning international drug trafficking and other transnational criminal activity, and its role in interpreting and shaping international crime-fighting strategies to combat this resilient and thriving global business. Historically, the United Nations Organization has played a leading role in the negotiation and implementation of international conventions and policy instruments concerning control of manufacturing, trade and use of drugs, approaches with different mixes of economic, moral, health, legal and political considerations have guided and (UNODC, 2009). However, this article focuses mainly on U.S. policies given its decisive role in shaping international policy concerning transnational criminal activities.

Predominant international anti-transnational crime policy narratives are social constructions of reality, fabricated within and for the political arena and are obviously exposed to pressures by major economic interests, in which the U.S. position remains dominant in the world stage. Drug cartel-based narratives are a cornerstone of U.S. government drug control strategies, among them, the *kingpin* anti-drug policy. Such narratives express what can be framed as a Global North worldview about how to deal with transnational crime and specifically with international drug trafficking. It combines military counterinsurgency warfare (Lynch, 2011; Ramsey, 2011; Tyler, 2011) with criminological theories, among them routine activities (Cave, 2012), situational analysis (Johnson & Braithewaite, 2009) and hotspot policing (Draa, 2008). Commonly, it includes standard remedies offered by mainstream criminologists (Wilson, 1975; Weisburd, Kleiman, 2009; 2015; Nagin & Telep, 2017; Braga & Kennedy, 2021), such as increasing the effort and risks that criminals routinely

face and reducing their rewards by implementing measures such as eradication of illicit crops, extraditing and prosecuting ring members, controlling key inputs, interdicting shipments, seizing vessels, destroying laboratories, and capturing *kingpins*, among others.

In contrast, this article argues that drug-cartel based narratives about international drug trafficking organizations and how to control them are socially constructed categories, subjectively devised with scant supporting evidence. Instead, these narratives erect imaginary misrepresentations of reality grounded on pseudo-academic and political definitions that easily garner widespread acceptance and are installed in the media and the public discourse as fail-safe “recipes” to describe and fight drug-trafficking and other transnational criminal outfits (Silva-García, 2022a, 2022b; González-Monguí & Carvajal, 2023). Alternatively, this piece contends that *drug cartels* are a fiction that it is inappropriate to interpret and understand hybrid, criminal networks and hierarchies linked to the transnational businesses. It asserts that strategies that aim to fight international drug trafficking and other transnational crime should focus on checking the infiltration and penetration of law enforcement agencies by corrupt public-private coalition, resisting their relentless push to increase their share of public budgets and executive and judicial powers, and to uncover their role in protecting and strengthening transnational illicit businesses, among them, international drug trafficking. Operational indicators of outcomes in matters concerning these latter issues should override conventional law enforcement indicators, such as captured *kingpins*, destroyed laboratories, interdicted shipments and seized vessels, among others.

International drug trafficking and transnational crime in general are major issues in the global public agenda and as such is considered a crime of the powerful (Barack, 2015). It is a dynamic phenomenon shaped and transformed by definitions coined in international anti-drug and transnational crime policies. In the latter part of the 20th century, institutional, academic, and international addresses concerning this matter considered production, trafficking, and distribution of drugs and other transnational criminal activities as value chain governed by *cartels*, and international policies designed to fight them held at their core the long-prescribed remedy of internationally coordinating law enforcement efforts to dismantle these alleged *cartels*.

Since the 90s, several authors questioned the presence of criminal structures resembling *cartels* in the international drug trafficking and other transnational criminal business. Coming from different places, their conclusions converged. Astorga (1995; 1996) and Thoumi

(1994), on the one hand, based their discussions on a common use of the notion of *cartel*, understood as a pre-agreement between several economic units to avoid mutual competition by colluding to regulate the production, sale, and prices in a certain business. Silva-García (1997), based his challenge on the definition of a *cartel* referred to as an organization that holds monopolistic control over the processes of production, distribution and sales of a product or service. This article adopts the use of this term in the latter sense for three reasons. First, it clearly coincides with the meaning attributed to the term in early official U.S policy documents that coined the term to describe and frame the problem of international drug trafficking. Second, both in Colombia and Mexico, competing so-called drug *cartels* during the 1980's and 1990's were not prone to agreeing pacts to regulate competition among themselves, and instead were engaged in fierce internecine fights to annihilate each other. Third, because government and law enforcement agencies permanently presented these *cartels* as monolithic hierarchical structures with a cadre of managers under the command of a boss, and not as business units working in collusive networks.

The mere existence of two rival *cartels* (Medellín and Cali) in Colombia during the 1980's and 1990's refuted any characterization of these competing criminal structures as *cartels* (Thoumi, 1994). Besides, illicit businesses under permanent pressure by law enforcement agencies are hardly able to acquire the formal, stable, and permanent structure of a rigid organizational hierarchy of *cartels* as portrayed by political and law enforcement leaders as well as by the media (Krauthausen & Sarmiento, 1991). Likewise, the continuity of the drug trafficking business even after killing Pablo Escobar and taking down the Rodríguez Orejuela brothers' ring in the early and mid-1990's, evidently shows that there was no monopolistic control of international drug trafficking in their time (Silva-García, 1997). Cocaine prices remained stable in the U. S. after these two groups were taken down, as shown in a report about cocaine street prices between 1981 and 2003 in major U.S. cities providing evidence that there were no *cartels* centrally controlling international cocaine traffic, nor were there any shortages of supplies in terminal markets run by tens of hundreds of operators (Walsh, 2008).

Critics agree that the *cartel* characterization is a political fiction reinforced by the media, created to inspire fear among the public of these tough structures with awesome economic power and no scruples. They also highlight that this narrative conveniently endorses the need for law enforcement agencies endowed with overwhelming

powers and material capabilities to subdue this formidable threat. Other scholars have reached similar conclusions based on different empirical investigations related to drug traffickers operating in Latin American countries (Zaitch, 2002; Labrousse, 2003; Astorga, 2007; Pérez-Salazar, 2007; Dudley, 2008; Ávila & Pérez-Salazar, 2011; Durán-Martínez, 2017; Zavala, 2018).

Yet even though control of international drug trafficking has been traced to high-ranking decision-making levels of government agencies of geopolitically dominant states (Brisman, 2006), in the U.S., México, Colombia and the rest of the Western Hemisphere, governments and law enforcement agencies persist in using the term *drug cartels* to refer the criminal structures that successfully continue to expand this illicit activity around the globe. Despite the general dissatisfaction with the term, it continues to be pervasive in policy statements as if there were a widely agreed upon nuanced understanding of the limitations of its scope and meaning. Still, words are a source of power, and their use can lead to significantly different outcomes when justifying policy strategies or assessing the legitimacy of a political system. Therefore, it seems timely to review both the institutional and academic discourses that inform national and international anti-drug and transnational crime policies.

DRUG CARTELS

Among the first published references to drug trafficking structures that used the term *cartel* is an article titled “Declaring War on Organized Crime”, published in *The New York Times Magazine* in January 1986, signed by then U.S. President Ronald Reagan. The article describes numerous felonies committed by criminal structures in the U.S., including money laundering, bribery and corruption of law enforcement officials, extortion, and international drug trafficking, among others. To refer to the criminal structures involved with these crimes, Reagan used multiple terms such as gangs, mobs, mafias *Cosa Nostra*, and crime syndicates. However, he only once used the term *cartel* and reserved it specifically to refer to foreign drug trafficking structures (Reagan, 1986).

A careful reading of the presidential article reveals that the attribution of responsibility for the harm caused by organized crime structures in the U.S. was not solely directed against domestic criminal organizations, but mainly against foreign criminal structures based in other countries and continents, including South America and East Asia. In closing his article, Reagan urged the American public to

surround and hold their authorities accountable for actions to prosecute these criminal organizations in their attempt to corrupt both the financial system through money laundering and law enforcement agencies by means of bribery.

Regan's article inaugurated the demonization of drugs and foreign criminal structures in the U.S. The effort to recruit international cooperation to help control and eradicate this *evil threat* became a U.S. foreign policy priority. Taking aim at the international drug trafficking *cartels*, the U.S. aggressively exported the main tenets of its counterinsurgency strategies and criminal policy to the rest world, including universal legalization of wiretapping, the use of informants and undercover agents to obtain evidence, as well as extradition of drug trafficking bosses to prosecute them and seize their assets to finance U.S. law enforcement and judicial capacity building (Andreas and Nadelmann, 2006; Andreas, 2011).

Colombian international drug trafficking structures became the paradigmatic definition of a *cartel* in the international anti-drug policy discourse. Academic circles followed suit, disproportionately exaggerating the monopolistic powers of the so-called Colombian drug *cartels*. In the late 1990's, the Helsinki-based European Institute for Crime Prevention and Control (Adamoli, Di Nicola, Savona, and Zoffi, 1998) reported that Colombian drug *cartels* had forged relationships with armed groups in the Andean countries of South America, including the *Revolutionary Armed Forces of Colombia* (FARC) and *Sendero Luminoso* in Peru, which allegedly became their regional subsidiaries to expand cropping areas and provide raw materials for processing cocaine and heroin in sufficient quantities to satisfy global markets in North America, Europe and the Far East. Likewise, the European crime prevention and control experts warned that the Colombian *cartels* allegedly sponsored the transformation of Mexican criminal gangs into consolidated *cartels* to enable them to operate drug trafficking routes into the U. S. Furthermore, they assured that Colombian *cartels* had allegedly revolutionized the cocaine markets in the U.S. by introducing new products such as *crack* (a cooked mixture of cocaine laced with sodium bicarbonate that cheapened the drug's street price in depressed economic neighborhoods in large U.S. cities) and, simultaneously had developed new markets for cocaine in European cities in hand with Italian mafias and other European criminal organizations. Numerous criminologists and experts expressed cursory acceptance of policies based on the premise that monopolistic *cartels* dominated the global drug trafficking trade (Sullivan & Bunker, 2002; Langton, 2012; Flanigan, 2012; Alasmari, 2012; Medina-Gallego,

2012; Cordero, 2013; Hesterman, 2013; Pontón, 2013; Gutiérrez-Romero & Oviedo León, 2014; Rosen & Zepeda Martínez, 2015; Niño, 2016; Bergman, 2016).

Analysts with more nuanced understanding of Latin American drug trafficking outfits offer a different outlook. Research based on insider informants show that in the case of Colombia, the relationships between the drug trafficking structures controlled by Pablo Escobar and Gonzalo Rodríguez-Gacha entered violent conflict with the FARC insurgency from the second half of the 1980s, which led to in the extermination of the Patriotic Union, a legal political party pursuing part of FARC's programmatic agenda (Dudley, 2008). Concerning Mexico, Astorga (1995) has documented in detail the operation of Mexican structures devoted to the production and trafficking of marijuana to the U.S. since the 1940s, long before any Colombian criminal structure had contact with them. Angelica Durán-Martínez (2018) discusses the use of violence by criminals to regulate transactions in illicit drug markets among rivals and shows that the amount of violence exhibited in these contexts depends on the cohesion of enforcement agencies in their response towards trafficking. Criminal violence becomes less visible when consistent protection is ensured by cohesive enforcement agencies or when retaliation is feared by criminal rings. In contrast, fragmented responses by law enforcement agencies that do not guarantee predictable protection, weakens their incentives to avoid exposing their use of violence.

Similarly, there are countless U.S. court documents that show that drug trafficking from Colombia to the U.S. was an openly competitive business, managed by microentrepreneurs and freelancers some of whom were prosecuted by U.S. law enforcement in the 1970s (Sáenz, 2014). Thus, the idea that corner drug hustlers in the U.S. were directly controlled by Colombian or Mexican *cartel* bosses is just as ludicrous as claims that attribute the *crack* crises to the ingenuity of Colombian drug trafficking *cartels*, which are plainly naïve. Lacing cocaine with assorted substances to make it cheaper on the streets in large cities has been a universal practice of the trade for decades (Caulkins and Reuter, 2010).

In Colombia, the term *cartel* was easily accepted and disseminated to refer, among others, the hitmen gangs on Pablo Escobar's payroll that became known as the *Medellín Cartel*, which were instrumental to unleash terror and violence in Colombia against extradition of drug traffickers to the U.S. The following journalistic account portrays how the term became a generic denomination used by contending drug trafficking outfits to refer to themselves and their rivals. Natu-

rally, mass media outlets also used the term to label these criminal concerns, whose bloody terrorist acts made them infamously visible protagonists in the news cycle during these years:

As a result of Saturday's attack, an unidentified source self-described as linked to the Medellín Cartel, asked the Attorney General to accept Pablo Escobar's requests in a recent letter addressed to him. In a telephone dialogue with *El Tiempo*, this person signaled the end of this week as the deadline for the Attorney General to accept Escobar's conditions, or else there will be new attacks with explosive devices in Bogotá. The envoy warned that a prompt response is expected. Otherwise, the intensity of the attacks will increase daily. There are three main requests: 1. Internees currently detained in the maximum-security prison in Itagüí are to be transferred to the prison where the Ochoa brothers are held; 2. The Attorney General's investigation into who are the true owners of the América de Cali soccer club must be publicly released. 3. Broadcasting search and reward information with mug shots of the Cali cartel bosses shall be aired on TV-spots in the same fashion as those that are currently aired with the mugshots of our bosses. Additionally, measures must be taken immediately against bosses of the Cali cartel" (*ElTiempo.com*, 1993, February 1, authors' translation).

The international diffusion of the conception of demonic *cartels* satisfied several accompanying social functions: 1. To reassure the public that *War on Drugs* was about mollifying a handful of large criminal organizations whose main cadres were all identified by law enforcement agencies. 2. To obscure the successive tidal waves of hundreds of small, decentralized, mainly and unknown criminal gangs that were spreading around the world; 3. To hold Latin American countries, especially Colombia and Mexico, responsible for the international drug trafficking problem; 4. To overlook the co-responsibility of consumer countries in dealing with international drug trafficking; 5. To magnify victories of law enforcement agencies in the fight against drugs, highlighting seizures and captures allegedly associated with *cartels* (Silva-García, 1997). The widespread conception of the demonic *cartels* also served to shroud that the lion's share of profits coming from this global illicit trade was amassed in consumer countries to their economic benefit (Vélez-Gutiérrez, 2018).

This conception of *cartels* facilitated their insertion in the dominant worldview that was shaped towards the end of the Cold War, in which these criminal juggernauts replaced the former Soviet Union as the main existential threat to Western capitalist values and way of life. This narrative eventually permeated anti-drug and transnational

crime policy making circles, which accepted it in perfunctory fashion to ground successive flawed strategies to control transnational crime. Not surprisingly, in Nigeria drug trafficking criminal groups that are reported to be closely linked to the summit of power through “elite involvement and protection networks” are now reckoned to be their own drug *cartels* (Uzuegbu-Wilson, 2019, 1). Nor is it startling that scholars regularly report in their academic work about the permanent influence of Mexican *drug cartels* in Colombia’s transnational criminal world (Cortés-Castillo, 2020).

INTERNATIONAL ANTI-DRUG AND TRANSNATIONAL CRIME POLICIES AND LAW ENFORCEMENT STRATEGIES

Colombia’s National Police killed Pablo Escobar in Medellín in December 1993. The following year the U.S. Drug Enforcement Agency leaked to mass media outlets that presidential candidate Ernesto Samper was suspect of receiving a USD \$ 6 million contribution allegedly delivered by the *Cali Cartel*. In 1997, towards the end of Samper’s administration and under severe threats of trade sanctions by the U.S., the Colombian Congress approved a constitutional reform empowering the government to extradite Colombians required by foreign governments (Semana, 1996). A few years later, in 2004, Miguel and Gilberto Rodríguez Orejuela, the rivals that Pablo Escobar referred as the *Cali Cartel* bosses, were arrested, and extradited to the U.S. During their prosecution they bargained an anticipated 30-year sentence in prison, after turning over to the U.S. Department of Justice assets worth USD \$ 2.1 billion (U.S. Department of Justice, 2006).

This outcome illustrates the thrust of the U.S. international law enforcement strategy based on “mutual legal assistance agreements” to dismantle drug trafficking structures that are based in foreign countries. This strategy relies on international undercover operations involving the DEA and the U.S. Internal Revenue Service (IRS) to track the money laundering operations associated with these gangs, as well as complex electronic interceptions targeting bosses and their closest henchmen in Colombia and Mexico. The U.S. endorsed United Nations Convention against Transnational Organized Crime of Palermo (UNTOC) came into force in early 2000’s, committing party countries to incorporate into their legislation analogous definitions of transnational crimes and duration of respective penalties to smooth and expedite extraditions of criminals to the U.S. Prominent bosses of drug trafficking gangs in Mexico and Colombia were hunted down and extradited to the U.S., among them, Osiel Cárdenas-

Guillén, Francisco Javier Arellano-Félix, Fabio Ochoa, and Miguel and Gilberto Rodríguez-Orejuela, with the help of law enforcement agencies in those countries. However, after these high-profile 2006 convictions of Colombian and Mexican drug trafficking bosses, there were no further major prosecutions until 2019 when Joaquín Guzmán (a.k.a. *El Chapo*), the head of a criminal structure known as the Sinaloa *Cartel*, was convicted by a U.S. Federal Court. (Drug Enforcement Administration, 2021).

Despite the high-profile captures and demise of many of these gangs, the overall results of the international anti-drug policy endorsed by the U.S. government and law enforcement agencies are mixed. A mid-term review during the Special Session of the United Nations General Assembly (UNGASS) in 2003, showed that between 1998 and 2003, there was no evidence of a declining global trend in coca and poppy cropping areas nor in international supply of cocaine and heroin. Moreover, a growing global demand for marijuana and synthetic drugs was observed to being responsively met by the supply side (Transnational Institute, 2003).

Almost fifteen years later, the World Drug Report published annually by the United Nations Office on Drugs and Crime (UNODC) indicated that the estimated number of people in the world who use drugs in 2020 (345 million) had increased by 39 percent in relation to 2009 (210 million). In that period, the prevalence of marijuana use remained stable, but there was a visible increase in the use of opioids, especially in Africa, Asia, Europe, and North America. A similar trend was observed regarding cocaine use, with visible increases in Central and Western Europe, Australia, and some countries in South America. Amphetamines and opioids use was also on the rise, especially in the U.S. where related overdose deaths increased by threefold between 2010 and 2020. Finally, around 500 new synthetic psychoactive substances were reported circulating in global markets in 2017 (UNODC, 2022).

These disappointing results can hardly be dismissed as an unfortunate contingency. After two decades, this is the predictable outcome of an international anti-drug policy endorsed by the U.S. based on the flawed premise that a few highly centralized and hierarchical drug *cartels* dominated the international drug trafficking trade, and that by means of swift and forceful actions their criminal trade could be ended by knocking out their bosses and dismantling the hierarchical structures controlled by them. Since the 1990s, analysts and researchers observed that after the demise of the large drug trafficking outfits of the 80s and 90s they were speedily replaced by more fluid structures,

with great adaptation capacity. Generally based on specific “spot agreements” and simple operating procedures, these new flexible crews were highly responsive to changing market conditions. In addition to being careful to minimize their vulnerability to undercover and sting operations by U.S. law enforcement agencies, they were keen to maximize profits by exploiting new opportunities in licit or illicit markets. (Astorga, 1995; 1996; Silva-García, 1997; NIC, 2000; Zaitch, 2002; Labrousse, 2003; Transnational Institute, 2003).

In Colombia, government officials, law enforcement agencies and mass media continued to use term *cartel* to refer to smaller, decentralized, boutique-like, specialized outfits that replaced the dismantled larger gangs in running international drug trafficking. Consequently, any newsworthy drug trafficking gang was called a *cartel* as was the case with the so-called *cartels* of Norte del Valle, Bogotá, La Costa, Los Llanos, Cauca, in Colombia. The same happened in Mexico with the emergence of the *cartels* of Acapulco, Beltrán-Leyva, Caballeros Templarios, del Golfo, Jalisco Nueva Generación, Juárez, Milenio, Santa Rosa de Lima, Sinaloa, and Tijuana, among others. The sheer number and uninterrupted bloody rivalry among these gangs is clearly at odds with the any definition of a *cartel*.

In the meantime, drug use continues to increase and diversify globally. Illicit synthetic drugs are the fastest growing markets as they are easily supplied by local clandestine labs operating in any city in the world. Newly synthesized psychoactive compounds enter markets at accelerated rates, with law enforcement agencies lagging to detect and outlaw them. Once a compound formula is outlawed, labs innovate by slightly modifying it and continue supplying their online markets, with delivery anywhere, anytime (Global Initiative Against Transnational Organized Crime, 2020).

Myriads of similar possibilities are within the reach of flexible criminal crews, whose cybercriminal portfolios are managed in different markets based on a diverse offer of illicit goods and services. Increases in global Internet penetration rates, which rose from 17 percent in 2005 to more than 63 percent at the end of 2021 (International Telecommunications Union, 2022), enable criminal crews to network with well-connected and knowledgeable professionals and specialists willing to enter dynamic coalitions to fleece quick, licit or illicit, profit opportunities. The existence of unstable or contradictory bodies of norms and rules that are prone to the discretionary influence of unscrupulous officials in favor of “special interests”, certainly offers favorable environments for this sort of business model. Straddling the line between licit and illicit business opportunities, these flexible

profit-driven networks use cyberspace to access and have instant communication around the globe to detect and exploit extraordinary profit opportunities, maintaining anonymity and evading prosecution by law enforcement agencies (Bagley and Rosen, 2015; Arias, 2018; Brown & Hermann, 2020).

Despite the development of these criminal strategies over the past three decades, criminologists shaping policy recommendations concerning international anti-drug policy continue to characterize their main targets as basically the same drug trafficking outfits labelled as *cartels* in the 1980's. This is the case of the Congressional Research Service (CRS), a non-partisan agency that serves commissions of the US Congress, which recently updated (December 20, 2019) a report on organized crime and drug trafficking organizations in Mexico. The report insists on characterizing them as:

organizations [that] work across the Western Hemisphere and globally (...) involved in extensive money laundering, bribery, gun trafficking, and corruption (...) They produce and traffic illicit drugs into the United States, including heroin, methamphetamine, marijuana, and powerful synthetic opioids such as fentanyl, and they traffic South American cocaine (...) [A]lso referred to as transnational criminal organizations (TCOs), [they] have continued to diversify into such crimes as human smuggling and oil theft while increasing their lucrative business in opioid supply (Congressional Research Service, 2019: 1).

The CRS report echoes the use of the *kingpin strategy*, focused on capturing and prosecuting high-profile bosses like Osiel Cárdenas-Guillén and Francisco Javier Arellano-Félix in 2006. However, aside from the recent conviction of Joaquín Guzmán, the main outcomes of this strategy have been the fragmentation criminal structures and increase murders in Mexico, as well as the expansion, diversification and strengthening of overall criminal activity in Mexico, the U. S. and in the rest of the world (Bagley, 2013; Gutiérrez-Romero & Oviedo León, 2014; Loewenstein, 2019; Vorobyov, 2020).

A brief review of the main consequences of the *kingpin strategy* is due here. In Mexico, between 2006 and 2019, the homicide rate rose from 9 to 27 murders per 100,000 inhabitants (UNODC, 2022; Secretaría de Seguridad y Protección Ciudadana; 2020; Worldometer, 2021; calculations by authors). Much of this violence was related to internecine turf wars between former allies and newcomers challenging their control of local consumer markets and lucrative legs of international drug trafficking routes. The following section will discuss how transnational networks (encompassing licit/illicit public and private

parties, including persons and institutions, public and private, natural and legal), thrive transgressing jurisdictional boundaries by means of tailored, formal and informal functional regulatory frameworks that respond to their needs and enable them to maneuver around the rule-imposing power of States, to continually expand their operations and financial bottom-lines (Halliday and Schaffer, 2015; Backer, 2016).

INTERNATIONAL ANTI-DRUG POLICY IN THE ERA OF CORRUPT PUBLIC-PRIVATE COALITIONS

The capture and subsequent forced release of Joaquín Guzmán's son, Ovidio Guzmán López, pressured by gunmen linked to the so-called *Sinaloa Cartel* firing on a National Guard unit during a search and capture operation in October 2019 in Culiacán, México, was framed in media reports as evidence of the extent to which the rule of law was failing in Mexico. Critics of the *kingpin* anti-drug and transnational crime policy continue to double down on their insistence that reform should be focused on fighting the pervasive culture of illicitness and corruption, and to uphold the rule of law especially in countries with a troubled international drug trafficking past (Congressional Research Service, 2019; Felbab-Brown, 2020). Interestingly, this criticism goes back to the basic argument that President Reagan defended in his 1986 *New York Times Magazine* article. It contends that *cartel*-like criminal structures and corrupt law enforcement officials are external elements that threaten a generally law-abiding society and its upright institutions. However, this narrative overlooks its own role in concealing the overwhelming reality of local political orders where basic stability depends on fluid and shifting coalitions between politicians, businessmen, law enforcement agencies and criminals sharing income streams coming from a mixture of licit and illicit activities.

Countless cases in different countries in the Western Hemisphere offer evidence of how this sort of corrupt public-private coalitions work. In Mexico, in contrast with the media narratives that frame the *narco* as isolated criminal structures completely separated from the rest of society and government, Oswaldo Zavala (2018) describes how businesses, government authorities and law enforcement agencies come together to provide the support and protection for local illicit markets, generically labelled *plazas*, dealing in drugs, fire arms, smuggled goods and money laundering schemes, among other, in exchange for a share of the profits. The following passage describes how violent outbreaks that are mainly attributed to drug traffickers, are in fact overseen by other parties to these corrupt public-private coalitions:

Usually, law enforcement protects their man from his rivals; other times they don't, preferring a sort of natural selection to determine who should oversee the *plaza*. If law enforcement arrest or kill the boss of the *plaza*, it is because he has usually stopped making his payments or because his name has started to appear in the press too often and the trafficker has become a drag. Sometimes international pressure is so strong that the government is forced to act against a specific individual, regardless of how much money he is sending their way (Zavala, 2018: 43; authors' translation).

At a national level, the links between drug traffickers, law enforcement and the main political establishment in Mexico have been widely accredited, and U.S. intelligence reports point to top level officials at the Federal Security Directorate (DFS in Spanish), in charge of prosecuting drug traffickers, closely involved with these gangs (Morales-Oyarbide, 2011, Pansters, 2013). This is not a peculiar trait of an idiosyncratic relationship between organized criminal outfits and law enforcement bodies in Mexico. Latin American scholars have reported documented many similar patterns, the case of Perú among them. (Sierra-Zamora & Bermúdez-Tapia, 2021).

The case of Colombia is also relevant in this discussion. Drug trafficking was a main source of funding for activities of paramilitary groups aiding the country's official armed forces to fight insurgent groups. In this context, paramilitary groups forged significant alliances with large landowners and agribusinesses as well as electoral barons. In the mid-2000, former paramilitary commander Salvatore Mancuso publicly declared that 35% of the parliamentarians were "friends" of his outlaw organization (Europapress, 2008, abril 23). Evidence of these relations was later revealed in public trials that ended in the conviction of nearly 60 parliamentarians for their links with these outlaw right wing armed groups. Likewise, a former Colombian president, high ranking military, law enforcement, secret service officials as well as governors, mayors, among others, are presently under investigation for such connections (Perez-Salazar, 2011; Human Rights Watch, 2021).

To avoid an endless list of instances involving corrupt public-private coalitions, one final mention of a recent case in the U.S. is appropriate here. It involves *dark money* that was legally funneled by 501(c) (4) groups to fund the rally that stormed the Capitol Hill in Washington D.C. on January 6, 2021, in which white supremacist with a background in law enforcement played prominent roles. The intent of the mob was to overturn the legitimate results of the 2020 presidential election lost by incumbent President Donald Trump, a

real estate businessman accused of giving access to money laundering schemes using his businesses (Hirsh, 2018; Schwartz, 2021).

Therefore, the present-day criticism of the international anti-drug and transnational crime policies misleadingly reinforces the notion that the law and law enforcement agencies will eventually extirpate and eliminate some formidable alien criminal entities and bring things back to normal. Predictably, many who advocate for this sort of policy horizon tend to promote heavy-handed measures such the use of aerial spraying of herbicides to eradicate tiny plots of illicit crops, whose main outcome lies in merely in the relocation these crops (Ocampo-Cuartas, 2022). Simultaneously, it plays into the idea that U.S. governments must continue to enable law enforcement agencies to pursue extraterritorial actions against recently relabeled as Drug Trafficking Organizations (OTD) to deny harbor and impunity to these hemispheric and global *cartel*-like criminal structures (US. Office of National Drug Control Policy, 2005; US Department of Justice, 2007; Grillo, 2012; Halliday and Schaffer, 2015; US Congress, 2015-2016; Perez-Salazar, 2018; Zavala, 2018; Flom, 2019).

As mentioned above, these actions include common counterinsurgent tactics such as extensive use of wiretapping as well as covert sting operations to identify targets allegedly involved in transnational crimes and to frame them for indictable charges that will justify their extradition to the U. S. It is worth noting that that since their original inception under the Richard Nixon administration, versatile anti-drug squads with these tools under their belts were deployed by the U.S. government, both domestically and internationally, against targets *other than* drug traffickers and users. This was the case, for example, of the team that later was infamously known as the “Watergate burglars”, which was run by a former CIA anti-drug drug agents under orders of President Nixon’s White House to break in and wiretap the Democratic National Committee in Washington D.C. in 1972 (Levine, 2002).

In this way, under the pretense of urgent need to fight the impunity of *cartel*-like international criminal organizations, U.S. law enforcement agencies have normalized the uninterrupted expansion of the scope of their faculties and actions to translate them into positive performance indicators and larger budget shares for their agencies. The prospect of confiscating assets during these extraterritorial actions, is an additional incentive for law enforcement to lobby for increasing their legal, administrative, judicial faculties and powers beyond U.S. borders. Each new cycle of legally approved powers for law enforcement agencies to engage in extraterritorial incursions enables them

to feed their addiction to increasing doses of public budget and crime fighting powers, and simultaneously pushes to legalize and normalize trampling fundamental rights and liberties across the globe (Silva-García, Rinaldi & Pérez-Salazar, 2018; Pérez-Salazar, 2018).

Perversely, upkeeping this law enforcement dynamic requires the presence and permanent activity of formidable criminal structures and businesses around the globe. Along this path, law enforcement agencies and criminal businesses outfits come to integrate *functionally differentiated communities* that form autonomous governing systems that self-regulate complex supply and value chains and autonomously enforce contracts and self-defined binding policies. Thus, they can substitute or supplement state authority with closed, self-contained, and self-referential private governance organs, in which States may play an incidental role (Halliday and Schaffer, 2015; Backer, 2016; Lessing, 2018). Some of these self-regulating governance communities may be illicit but others may combine licit and illicit agents and activities that have aligned interests and mutually benefit from tacitly coalescing to reap extraordinary rents from mixtures of licit and illicit, public and private, income streams.

Corrupt public-private coalitions that operate in this fashion differ from what the literature refers to as *mafia states* (Naim, 2012) or kleptocracies (Silva-García, 2019). *Mafia states* exhibit an inextricable amalgamation of interests of the state and of corrupt, kleptocratic groups. In this context, state and law are subordinated and instrumentalized to further the business plans and goals that constitute the licit / illicit portfolio of kleptocratic, oligarchic groups. Commonly, *mafia states* are singled out as small, institutionally fragile, or fractured countries and overseas territories, such as Kosovo, Montenegro, Malta, and Aruba, among others. However, the term is also applied to larger, richer countries such as Giulio Andreotti's Italy, Carlos Salinas de Gortari's Mexico, Vladimir Putin's Russia, and Nicolás Maduro's Venezuela, among others. Though used loosely when referring to these highly diverse institutional and political arrangements, the *mafia state* label is problematic for the kleptocratic, oligarchic groups that run them. It exposes them to undesirable bad press as well as international trade and other harmful sanctions such as those currently in place against Russia or Venezuela, for example.

Self-regulating governance communities that coalesce around corrupt public-private agendas are aware of the need to prevent this kind of exposure, and therefore try to avoid completely merging their specific objectives and income streams with those of the States that allow them to thrive. As in Mexico's case, these communities may

co-exist and survive the purging of the *mafia state* or may eventually transform themselves into full blown kleptocratic groups to survive competition and sanctions from foreign governments, as currently happens in Venezuela.

Corruption emerging from alliances involving state agents and business bosses engaged in drug trafficking, is merely one of multiple activities in which public sector actors seek to capture illegal rents as payment for the services in exchange for supporting or facilitating private interests. This has three implications. First, these are not temporary or random corrupt activities. These are widespread and socially accepted patterns of transaction that solidify in response to how politics and the state are organized. Second, because it is a structural problem, there are innumerable activities and transactions operating under the same model, which leads to the diffusion of corrupt public-private partnerships. Third, if policy measures directed at controlling transnational crime and international drug-trafficking are to succeed, these measures must be focused on fighting and transforming the political-cultural-institutional model, and not merely on drug trafficking and other transnational criminal activities.

In other words, what needs to be dealt with is the political and institutional model shaped on a *patronalism*. In the old *hacienda*, a large, landed estate inherited from the colonial era, labor was theoretically compensated with monetary wages. But in practice the landowner judged that it was his privilege to access unpaid labor in exchange for favors he offered his workers, such as the loan of small plots of land, housing and tools. Similarly, in the context of *patronal* model of politics and state, political and economic pursuits are individually organized mainly based on personalized exchanges of concrete rewards and punishments, which are enforced and reinforced by chains of social acquaintance. In this model of political transaction, state agents feel entitled to receive income in compensation for the legal or illegal services they provide (Silva-García, 2019). Therefore, breaking public-private coalitions will require remodeling the political-cultural-institutional that reproduces these perverse coalitions and their negative impact on the legitimacy of the rule of law and public interests.

Breaking corrupt public-private coalitions will not end international drug trafficking nor transnational crime. Well-connected gangs with major stakes in the business will find ways to thrive while ensuring their impunity by means of these coalitions, regardless of the devastating the social and political effects of their illicit activities. Therefore, it is relevant to rethink the purpose of anti-drug and

transnational crime policy today. Authoritarian objectives such expanding the scope, powers and resources of law enforcement agencies to combat demonic *cartels* simply incentivizes them to integrate with these corrupt public-private coalitions that thrive on narratives about allegedly formidable criminal structures and businesses that justify the uninterrupted expansion of their powers and share of public budget. Besides, it is necessary to explicitly uphold the principle that the law and law enforcement constitute means, not ends in themselves.

Consequently, the purpose of international anti-drug and transnational crime policies should be to concentrate on controlling the most harmful effects of their activities, among them, the spiraling violence associated with them (Durán-Martínez, 2018) and the growing empowerment of self-regulating governance communities that include law enforcement agencies. These corrupt public-private coalitions represent a major threat to democratic systems around the world, undermining their legitimacy and credibility by weakening their ability to protect fundamental rights and liberties against what amount to legally sanctioned abuses committed by these hybrid communities. The purpose of international anti-drug and transnational crime policies should therefore prioritize strengthening democratic oversight and control mechanisms of law enforcement agencies, as well as the use of resources and powers granted to them to fight transnational crime outfits.

CONCLUSIONS

Cartels have been the cornerstone of policy research frameworks behind international anti-drug and transnational crime policies and strategies for decades. Yet, transnational crime is burgeoning around the globe. The failure to disrupt or even to weaken illicit transnational supply and value chain merits a review of international policies presently in use to fight them. However, many researchers in the fields of sociology and criminology, in both the global North and South, continue to follow, repeat, and disseminate in perfunctory fashion narratives held by law enforcement and international agencies that point to *cartels* as the main target of efforts to combat transnational crime. *Cartels* are fictional mainstays for expanding law enforcement budgets and discretionary powers to legally perform extraterritorial raids in search of opportunities for forfeiture of allegedly criminal foreign assets and to score positive performance indicators to justify their agency's outsized budgets. The widespread use of this distorted narrative anchored to the notion of *cartels* has accomplished various

political functions, among them, updating mechanisms of neocolonial power by undermining the legitimacy and credibility of democratic institutions around the world, weakening their ability to protect fundamental rights and liberties against the legally sanctioned raids and entrapments by foreign law enforcement bodies (American Enterprise Institute, 2017).

Criminological studies in the global South have advanced efforts to critically review concepts and narratives such as the *war on drugs* that have been predominant in the global North (Arias & Grisaffi, 2021; Carvajal, 2019; Dávila, 2016; 2020; Durán Martínez, 2017; 2018; González-Monguí, 2018; 2019; 2020; Lessing, 2018; Silva-García & Pérez-Salazar, 2019; Trejo & Ley, 2020; Velandia-Montes & Gómez-Jaramillo, 2019; Velandia-Montes, 2020; Alfonso & Santaella-Quintero, 2022). Some of this work has had impact in local and international research agendas (Pérez-Salazar, Rinaldi & Vizcaíno-Solano, 2020), but there is still much to do.

International anti-drug and transnational crime policies must redefine their present priorities and targets by removing incentives for law enforcement agencies to play an active role in corrupt public-private self-regulating governance communities to justify their existence and uninterrupted expansion of power and resources. Antidrug policy must come to terms with the premise that drug trafficking and other transnational criminal activities cannot be expunged, but that corruption among its most harmful effects should be substantially reduced. This means that reducing the cooptation of state agents by criminal public-private coalitions should be the primary focus of penal policy. Consequently, conventional measures designed to combat transnational crime, which include extraditing and prosecuting ring members, detecting export routes and tactics, controlling inputs, eradication of illicit crops, interdicting shipments, seizing vessels, destroying laboratories, and sometimes capturing *kingpins*, should take a back seat in terms of priority and resource allocation for penal control agencies. Instead, it should focus on checking the relentless growth of law enforcement resources and powers, and simultaneously reinforce uncovering corrupt public-private criminal coalitions, their money laundering operations and confiscating their illicit assets and incomes. Indicators of outcomes in matters concerning these latter issues should override conventional enforcement indicators about the former.

Currently in Colombia, Gustavo Petro's government *Total Peace* policy, which includes negotiations with the visible heads of major transnational criminal rings that have economic means and firepower

to potentially cause serious damage to Colombia's democracy and institutions, should explicitly embrace a realistic policy framework. Ensuring that transnational criminal ring leaders surrender and are prosecuted is not enough. This outcome would merely repeat the failure of the *kingpin* strategy to combat the so-called drug *cartels*. It will not seriously disturb the corruption and violence-based regulation structures that operate and control illicit markets and will allow an upcoming lieutenant to assume the decision-making process and continue with the trafficking business as usual.

To be effective, anti-transnational crime policies and resources should aim to obtain from negotiations with the visible heads of corrupt public-private criminal coalitions detailed information about the following issues.

1. Political allies in the legislative and executive branches of the State, as well as in state penal control agencies.
2. Investors that finance their operations.
3. National and international banking accounts in national and international bank used for depositing, circulating, and laundering their assets, with express authorizations to verify information in the international financial system and to lift banking secrecy.
4. Organizational charts and links with the identification of its members and description of their roles.
5. Means, routes, techniques, and tactics used for the smuggling inputs, shipments, firearms, and money.
6. Strategies, procedures and intermediaries engaged in laundering their assets.
7. Laboratories, weapons, equipment, transport, input, and real estate used, which must also be surrendered.
8. Information about all assets, registered as personal or under front businesses.
9. Information about the crimes committed and their co-perpetrators and accomplices.
10. In addition, ancillary penalties prohibiting public office and financing political campaigns for several decades should be imposed.

Within the framework of a realistic policy against the cooption of state agents by criminal public-private coalitions, trade-offs should include incentives in the legal and economic spheres. In the legal arena, these could include house arrest penalties for up to eight years, provided that the information and judicial collaboration requirement are met. In the economic orbit, incentives would require a greater dosage of political realism. Defendants willing to negotiate should be allowed to keep up to 50 percent of their personal assets and money.

At present, proposals have mentioned the possibility of allowing them to keep 4 or 5 percent of their wealth. Given that these assets are well concealed and that the possibilities of detecting are remote and extremely costly, it may be highly tempting for defendants in this situation to keep this information from authorities if they consider the incentive to be unattractive. The more conservative political factions will undoubtedly express opposition to this proposal. But during their many years and decades in power these parties have proved unable to uncover and confiscate the money and assets of these corrupt public-private coalitions.

Granting 50 percent of their personal wealth to defendants that agree and comply with the above terms and conditions of their submission to justice may well pose economic policy problems. Most of these assets are abroad, so confiscation would require their monetization in foreign currencies. Bringing these proceeds into Colombia would demand caution to avoid negatively impacting the economy with an excess of foreign currency. A share of these resources could be directly destined to payment of the public foreign debt, while another part could be brought to the country, with the probable beneficial effect of lowering the current price of the US dollar and earmarked for infrastructure works and social investment programs.

However realistic, this policy framework will not be the silver bullet that will end the corrupt and violent regulation structures that run illicit transnational markets. Turning in corrupt political and law enforcement allies, private investors, bank accounts, organizational charts, among other, as substantial assistance in exchange for legal and economic benefits can have exacerbating effects on the fragmentation of law enforcement agencies, as well as on the widespread use of retaliatory violence in illicit markets (Durán-Martínez, 2018). And well-intentioned efforts to direct resources to change illicit markets can lead to unintended consequences, as “illicit economies can be as productive of order as they can be of disorder” (Arias, 2021: 328).

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