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Illicit Transnational Enterprises and the State

ABSTRACT. *This article aims at contributing to the current debate over the effects of illicit transnational activities on states. Recent avenues of conceptualizing transnational organized crime call for defining it as an economic activity with the scope of profit, rather than a criminal activity. Illicit transnational business activities largely follow the trends in development of legal business. The transnational criminal enterprises emerged in parallel to the growth of multinational corporations, making use of the same opportunities as legal business did. The article discusses violence by illicit enterprises and reviews current theoretical debate on the linkages between illicit enterprises and the state. The paper then proceeds with an empirical analysis of the effects of the presence of illicit enterprises on state weakness. We have hypothesized that weak states may have higher presence of criminal businesses. The findings generally confirm significant correlation between the two variables. State fragility is positively correlated with the presence of organized crime. Testing these results against empirical evidence partially confirms the findings. However, this correlation might be weakened by the observation that the presence of illicit enterprises alone does not determine state fragility or strength.*

KEYWORDS: *illicit business, states, transnational crime, violence, non-state actors, weak states*

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В рамках дискуссии

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Незаконный транснациональный бизнес и государство

АННОТАЦИЯ. Настоящая статья вносит вклад в дискуссию о последствиях незаконной транснациональной деятельности для государств. Новейшие направления концептуализации транснациональной организованной преступности позволяют определять последнюю скорее как экономическую деятельность с целью получения прибыли, а не как преступную деятельность. Развитие незаконной транснациональной экономической деятельности в значительной степени соответствует трендам в развитии легального бизнеса. Транснациональные криминальные предприятия возникали одновременно с ростом транснациональных корпораций, используя те же возможности, что и легальный бизнес. В статье обсуждается использование насилия транснациональными преступными группами, дается обзор текущих теоретических дебатов о взаимоотношениях криминальных бизнес-групп с государством. Далее в статье проводится эмпирический анализ влияния присутствия незаконного бизнеса на слабость государства. Автор предполагает, что в слабых государствах присутствие транснационального криминального бизнеса более вероятно. Полученные результаты подтверждают значительную корреляцию

между этими двумя переменными: слабость государства позитивно коррелирует с присутствием организованной преступности. При этом незначительное присутствие незаконного бизнеса не является детерминантом слабости или силы государства

КЛЮЧЕВЫЕ СЛОВА: незаконный бизнес, государства, транснациональная преступность, насилие, негосударственные субъекты, слабые государства

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Introduction

Along with violent rebel groups, insurgents, and militias, closely associated with intrastate conflicts, and international terrorist groups illicit transnational enterprises are widely acknowledged to pose a growing threat to the states. While the former are conceptualized as political actors, the latter are largely perceived as crimi-

nals in pursuit of profits. Although transnational organized crime has been widely recognized as a threat to international security, and despite significant progress in addressing transnational illicit activities in general, there are still numerous gaps in understanding the phenomenon of illicit entrepreneurship and its effects on nation-states and the global economy¹.

For the purpose of this article, we intentionally prefer the terms “criminal enterprises and illicit business” to the widely debated concept of ‘transnational organized crime’. Illicit transnational business activities largely follow the trends in development of legal business. The emergence of transnational crime occurred parallel to the emergence and growth of multinational corporations, making use of the same opportunities as legal business did. As Phil Williams observes, “organized crime is perhaps best understood as the continuation of commerce by illegal means” (Williams, 2001, p.106).

Modern illicit businesses are engaged both in ‘traditional’ cross-border criminal activities, such as drug-trafficking, and in relatively ‘new’ types of organized criminal activity – financial fraud and economic crime, that require high-level professional expertise and technological sophistication. Albanese retains, however, that those ‘new’ forms are just up-to-date versions of the same type of activity: street prostitution has evolved into internet prostitution and trafficking in human beings, extortion of local businesses advanced into extortion of corporations, and loansharking was substituted by money-laundering (Albanese, 2012, p. 5).

This article addresses the question of the relationship between the presence of

illicit business and governing capacity of the state. In particular, we aim at testing the following hypothesis:

Illicit business and governing capacity of the state are positively correlated.

The arguments of the next two sections address the problem of defining transnational organized crime and the more recent approach calling for conceptualizing it as an economic rather than criminal enterprise. The third section addresses the current theoretical debate on the linkages between illicit enterprises and the state. The data and methods are discussed in the fourth section. Finally, we discuss the empirical findings on the dynamics between illicit business and the governing capacity of the state.

Conceptualizing Transnational Organized Crime

Broad definition of organized crime (other definitions – transborder crime, cross-border crime or transit crime) means illicit activities that involve production and distribution of goods and services, either legal or illegal. The United Nations Convention against Transnational Organized Crime (2000), defines an organized criminal group as a structured group of three or more people, 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 (Art. 2 (a)).

Transnational character of criminal acts under the Convention implies that “an offence is transnational in nature if:

1 The United National office on Drugs and crime estimated the revenue of the transnational illegal economy to be equal to 1.5 % of the global GDP, amounting to 870 billion U.S. dollars. Further concerns regard the growing number of human trafficking victims (2,4 million), drug related health problems, homicide, damage to the economy, ecology and also the global financial system. See: Transnational organized crime – The Globalized Illegal economy. URL: <http://www.undoc.org/toc> (Accessed: 18.01.2018).

- (a) It is committed in more than one State.
 - (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State.
 - (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State.
- or
- (d) It is committed in one State but has substantial effects in another State.” (Art.3, paragraph 2)².

The term ‘organized’ is now widely agreed to be viewed as rather all-encompassing – without overstating organizational capacities of criminal enterprises or complexity of their institutional structure, rigid hierarchy or well-developed worldwide networks of an organized criminal group – it rather stresses consistency of activity with the principle scope of material profit. ‘Organized’ in fact refers to any planned and consistent criminal activity with minimal prerequisites of the number of people involved and organizational characteristics of the criminal organization (stationary or created on an *ad hoc* basis).

Frank Hagan suggests making an analytical distinction between ‘Organized Crime groups’ and ‘organized crime’, where the first definition refers to criminal organizations with an emphasis on their organizational structure and organizational power, and the latter is to describe criminal activities that are in some way organized (coherent and planned), but may be executed by groups organized only to a certain degree (Hagan, 1983; Hagan 2006).

When speaking about organized crime, we usually refer to several well-known cas-

es that exemplify recent organized crime activities. The cases include the Sicilian Mafia and other Italian organized crime groups, the American Mafia, the Chinese Triads, the Japanese Yakuza, the Colombian drug cartels, the Mexican drug-traffickers, and organized crime groups that emerged at the post-Soviet space and Eastern European countries. The more recent Syrian case also falls into this category illustrating many various types of organizational structure and economic activities (legal and illegal), in which illicit businesses may engage. The complexity of forms illicit enterprises may take, complicates theorizing over structural characteristics, typical activity and even motivations of criminal enterprises. As Louise Shelley observes, “there is no prototypical crime cartel” (Shelley, 1995, p. 464).

Illegal Enterprise Framework

Illicit businesses are involved in many types of activities – from drug-trafficking to environmental crimes and tax evasion. A specific type of illicit business is protection (Gambetta, 1996; Skaperdas, 2001).

The illegal enterprise theory conceptualizes criminal organizations as actors analogous to firms (Paoli, 2014). Legal and illegal businesses can be both examined through theories of markets and firms; they compete in both legal and illegal markets on the basis of effectiveness (Reuter, 1985). Like businesses, illicit enterprises are profit-seeking rational actors, and their behavior is determined by the same rules of the market, where the balance of supply and demand, institutional and fiscal barriers, and the monopoly of state over certain activities or prohibition of some activ-

2 UN General Assembly, United Nations Convention against Transnational Organized Crime : resolution. Adopted by the General Assembly, 8 January 2001, A/RES/55/25. URL: <http://www.refworld.org/docid/3b00f55b0.html> (Accessed: 03.02.2018).

ity creates opportunities to gain profit. Illegal enterprise is defined as 'the sale of illegal goods and services to customers who know that the goods or services are illegal' (Haller, 1990).

The organized criminal enterprises are more akin to firms that arrive on the scene when certain goods and services are legally prohibited, but there is a demand for them independently from the enforcement capacities of the state where they operate. James Cockayne holds that although organized crime (mafia) avoids direct confrontation with the state, it is actively engaged in politics, influences elections, and interferes with decision-making on a wide array of issues including foreign politics (Cockayne, 2016). However, as discussed in the next section, although not aiming at replacing the state or even directly confronting it, illicit businesses accumulate the means of violence indispensable to control and ensure their business activities.

Nikos Passas uses illegal enterprise approach to address the types of legal-illegal relationships with a focus on transnational (cross-border) crime (Passas, 2003). As business is increasingly crossing borders, so is crime. Many types of criminal activities are cross-border by definition, including drug-trafficking, smuggling of aliens (migrants), money-laundering. By suggesting making an analytical distinction between 'enterprise crime' and 'political crime', Passas points to the fact that crime for profit has been definitely the most common type of organized crime (Passas, 2003, p. 22).

The position of the United Nations Office of Drugs and Crime has been progressively updated to shift towards viewing transnational organized crime as ille-

gal business, warning against the demonized and 'fictionalized' image of transnational crime.

The 2010 report "The Globalization of Crime: A Transnational Organized Crime Threat Assessment" by the UN Office on Drugs and Crime highlights a number of important trends in global crime³. For the purpose of this paper we will summarize several of them.

First, organized crime has reached macro-economic proportions. Crime operates across world regions, with illicit goods produced in one country, trafficked across another (to a different continent), distributed in yet another country, and the money being laundered to then be invested into legal businesses elsewhere. Second, the major consumers of illicit goods are the wealthiest economies of North America and Europe: "What is striking about the global map of trafficking routes is that most illicit flows go to, and/or emanate from major economic powers (that is, the G8, but also informal groups like the BRIC). In other words, the world's biggest trading partners are also the world's biggest markets for illicit goods and services"⁴. Third, the criminal business and global economy are strongly interconnected through mutually beneficial exchange of goods and services. The latter could not have come about without involvement of legal actors through direct participation, corruption, white collar crime, or unconscious participations of legal actors and inefficiency of law enforcement.

The framework, however, is subject to criticism along two main lines. First, it has been broadly applied to research at the micro-level and local markets and less – to study the effects of organized crime on the

3 UN Office on Drugs and Crime (UNODC). The Globalization of Crime: A Transnational Organized Crime Threat Assessment. June 17, 2010. URL: <http://www.refworld.org/docid/4cad7f892.html> (Accessed: 03.02. 2018).

4 UN Office on Drugs and Crime (UNODC). The Globalization of Crime: A Transnational Organized Crime Threat Assessment. June 17, 2010. URL: <http://www.refworld.org/docid/4cad7f892.html> (Accessed: 03.02. 2018).

global economy and international markets. Empirical papers applying the illegal enterprise approach, however, tend to focus on smaller and short-term forms of illegal enterprises, also, individual illegal market entrepreneurs rather than illegal monopolies, huge organizations controlling a large territory or a segment of the global market.

Second, analysis of illegal markets in exclusively economic terms borrowed from economic theory does not account for numerous non-economic effects related to 'the criminal side' of such enterprises. Organized crime may well compete efficiently if protected by the state or in case the state has little incentive or resources to confront that organization directly. To sum-up, a purely economic perspective downplays or totally rejects the importance of the relationship between illegal and legal worlds. Overall, the array of non-market effects may either facilitate or impede efficiency of illegal businesses (Lid-dick, 1999, p. 427).

Having said that, illicit business is aimed at profits, and although distinct from legal enterprises, is also subject to similar market forces. In the next section we will discuss how illegal enterprises relate to states.

Criminal Enterprises and the State

Illegal enterprises do not exist in a vacuum, they operate and use the opportunities provided by the social context they are placed in. The geographical extent of their activity is most often transnational, which means that they operate in-between and across *states*.

One of the central puzzles within literature on organized crime has been the question whether it may affect a state's governing capacity, weaken the state and, at the extreme end, – *de facto* replace it.

Does transnational business destabilize the state? Although many theoretical – and to a lesser extent, empirical studies discussed economic impact of transnational crime, much less is known about the political role of illegal enterprises and the political-criminal relations. The evidence that organized crime frequently emerges and rises on the territories of conflicts, either international or intrastate, is attributed to the power vacuum and limited enforcement capabilities of the states in conflict (Skaperdas, 2001; Shortland, Varese, 2016). However, this does not account for the fact that illicit businesses do not persist exclusively in war-torn societies or failed states with contested sovereignty, but are engaged in illicit (and legal) activities also in the world's strongest and wealthiest states. The illegal enterprise framework discussed in the previous section, attributes endurance of criminal enterprises to their predominantly economic nature – illegal business cannot be eradicated because legal prohibition of goods and services creates opportunities.

Within political science organized crime is analytically positioned among illegal violent non-state actors (VNSA) together with terrorist groups, militias, and insurgents. Nicholas Barnes suggests that while no universal definition of organized crime is possible, it would generally include three main components: organization, use of violence, and profit-seeking (Barnes, 2017, p. 981).

Recent literature has advanced the argument that illicit business activities should be approached from a different theoretical angle, with a focus on violence produced by criminal enterprises (Barnes, 2017; Duran-Martinez, 2015; Skaperdas, 2011; Bueno De Mesquita, Hafer, 2008). The ability to use private violence in order to establish and maintain control over markets or territories comprises of confrontation with the state, either a direct violent collision or by 'cooperative' means,

including corruption of state officials (Passas, 2003; Barnes, 2017). The accumulation and control of the means of private violence explains why organized crime in addition to operating in legal and illegal markets of goods and services would also typically offer protection services.

Supply chains of transnational illicit enterprises are fairly complex and geographically extended – drug flows of cocaine and heroin move from the Andean region in South America to North America and Europe (via West Africa), with the money being laundered predominantly in the Caribbean offshore zones, and supposedly invested into legal businesses in the Americas and Western Europe⁵. The market of sport doping is likewise a distinctive case, with many actors (legal and illegal) involved – national sports governing bodies (ministries of sport, sport federations), illegal or semi-legal producers and distributors, and athletes themselves. The prohibition goes hand in hand with high demand for such goods and services. With both illicit entrepreneurs and professionals in the field inevitably involved, and given the multilayered structure of supply and demand, enforcement on both national and international levels is seriously challenged (Barker, 2014).

Such multicomponent supply chains are to be regulated transnationally without a government. In order to control at least part of the risks, enforcement instruments are necessary to guarantee security of the production and distribution chains, and further laundering of the proceeds. The aforementioned behaviour of illegal enterprises goes beyond the common understanding of their activities as uniquely economic in nature (Skaperdas, 2001, p. 182). Such cross-regional protection and en-

forcement capabilities reveal an increasing interference of transnational crime within the monopoly for the use of force by the nation-states.

The growing body of scholarship on the linkages between states and illegal actors has illuminated at least two broadly defined types of relationships between them – opposition or cooperation. States are famously making use of every opportunity to increase security and competitiveness in order to cope with the various challenges they face. Seeking alliances with illicit actors may be one of the options that states may prefer. In part this phenomenon may be attributed to the fact that in most cases illicit non-state actors have their ‘legal side’; they are involved in a range of activities, part of them being illegal (at least within some jurisdictions), part of them being legal. The mechanism of interaction is not exclusively through corruption as it may appear. Passas provides an extensive and detailed classification of legal-illegal relationships, either antithetical or symbiotic. The adverse forms – antagonistic, injurious, predatory, and parasitical relationships, while the symbiotic forms have many variations and include outsourcing, collaboration, cooption, reciprocity, systemic synergy, funding, and legal interactions (Passas 2003, p. 23–27).

In rare cases illicit enterprises may engage in direct military confrontation with a state. ‘Criminal insurgency’ may occur when illicit enterprises are particularly profitable and controlling resources or territory necessary to ensure the sustainability of the production cycle. The Mexico criminal war demanded more victims than any other recent civil war, which poses the question of how drugs cartel violence may be different from other types of wars, civ-

5 U.N. Office on Drugs and Crime (2010). *Crime and instability Case studies of transnational threats*. Vienna, Austria. URL: http://www.unodc.org/documents/frontpage/Crime_and_instability_2010_final_low_res.pdf (Accessed: 03.02. 2018).

il wars in particular (Lessing, 2015). Protracted violent confrontations with violent entrepreneurs – drug cartels and city gangs – in the states of Mexico, El Salvador and Brazil has challenged the argument that criminal violence should be conceptualized as non-political. Barnes holds that because of their accumulation of violence, illicit enterprises should be rather conceptualized as political actors (Barnes, 2017, p. 981). While historically violent competition of extortionary actors brought about the success of the modern form of state-building (Tilly, 1985), more recent empirical research has offered illuminating insights into the governing capacities of illicit criminal enterprises, which makes the order they establish a variant of an extra-legal form of governance (Shortland, Varese, 2016).

Data and Findings

We hold that research on the political effects of illicit enterprises has not yet been appropriately incorporated into the literature on the economic consequences of illegal business activities. Previous research has shown that the accumulation of the means of violence by criminal enterprises challenges states – either directly or through corruption and intimidation (Skaperdas, 2001; Passas, 2003; Kugler, Verdier, Zenou, 2005; Lessing, 2015; Barnes, 2017). Yet, the relationship between state weakness and organized crime has been less studied empirically.

Empirical cross-country evidence has been less ample due to the limitations of comparable data available. Van Dijk explores correlations between organized crime, corruption and the rule of law across countries and their impact on national wealth. The study confirms that the presence of organized crime negatively impacts both market efficiency and regulatory functions of the state (Dijk, 2007).

Hung-En Sung revises the effects of organized crime on democracy using the data on organized crime perceptions from 59 countries; the paper confirms strong correlations between the state capacity to provide public security and economic goods with the presence of illicit enterprises that intervene to perform as a substitute to the state (Sung, 2004). Pinotti measures correlation between organized crime, corruption and economic development in 147 countries to find statistically significant associations between the variables (Pinotti, 2015). Other avenues of research that investigate effects of destabilizing factors examine causal links between states fragility and terrorism. The results obtained from cross-national evaluations vary significantly – from finding no significant correlation between failed states and transnational terrorism to confirming strong causal linkages (Hehir, 2007; Newman, 2007; Piazza, 2008).

To measure the presence of organized crime across states we use the Organized Crime indicator of the World Economic Forum Competitiveness Index. The measure of organized crime is obtained through the survey conducted among business and political leaders worldwide. The survey question has been asked since 2006 and has the following wording: ‘In your country, to what extent does organized crime (mafia-oriented racketeering, extortion) imposes costs on businesses? [1 = to a great extent—imposes huge costs; 7 = not at all—imposes no costs]’.

Since this index is composed on the survey basis and provides subjective assessments, the research design was initially to include a more objective measurement of crime-related data. The UNODC murder rates dataset contains data on homicide rates across countries per 100,000 inhabitants per year. The time series related to organized crime are available from the separate dataset on the percentage of intentional homicide victims killed by

gangs or organized criminal groups as percentage of total homicide victims by country/territory (2005-2012). We have measured rates of homicide from organized crime by the average of the score over all the measurement years (2005-2012). Respectively, the measures for state weakness and expert evaluation of organized crime provided by the World Economic Forum Competitiveness Index have been retrieved accordingly for the year 2012. However, due to a lot of gaps in the data series, the data series were obtained only for 51 countries against the data series for 177 countries of the Fragile States Index and 137 measurements of the index of organized crime obtained from the Competitiveness index⁶.

At this point we were able to do an exploratory data analysis to examine the data series and summarize their main characteristics (see Table 1). Averaged scores were calculated for 51 countries for the period of 7 years (2005-2012), for convenience the indicators were rearranged per 1 mln population. The group of states with the highest homicide rates associated with organized crime is composed of the Caribbean and Central American states, with one Central American and one South Asian State (for the total of 13 states with the homicide rates ranging from 229.24 to 15.15 per 1 million population). The group of states with the lowest rates includes 10 countries from the European sub regions – Northern, Southern and Western, with three states outside Europe.

While many scholars have drawn attention to the problem of weak and failed/

collapsed states and despite the progress in assessment methodology and conceptualization, there is still lack of agreement on how to define and measure state weakness. Commonly, the phenomenon of weak states refers to poor government capacity, problems with maintaining law and order and controlling the borders, and delivering basic services to the population. In the last decade a more comprehensive term – ‘fragile state’ – has been broadly used by governments and international development agencies. Analytical models usually combine various dimensions of fragility – from incapacities of institutions and predatory elites to civil wars and transnational terrorism (Rotberg, 2002; Ikpe, 2007; Patrick, 2007; Newman, 2009; Zoellick, 2008).

To measure states’ weakness we use the Fund for Peace Fragile States Index (FSI), which ranks states in order to their vulnerability to pressures⁷. State fragility is measured with multiple categories, and captures a much broader range of weakening factors than destabilizing factors from organized crime.

The FSI appears to be most appropriate for the analysis of correlation with transnational criminal enterprises since it comprises diverse indicators without limiting itself to only a few criteria. The FSI includes an array of 12 economic, social and political indicators, all of them given an even weight. Social indicators comprise 4 sub-indicators – demographic pressures, refugees and internally displaced people, group grievance, human rights and brain drain), economic indicators are 2 – uneven

6 The limitation of the cross-national statistics on organized crime violence may be in part compensated by collecting estimate on the homicide rated worldwide by collecting estimate of professional and experts worldwide. In 2011 the World Homicide Survey was initiated the International Centre for Comparative Criminology (Canada). The initial data that is to be collected will address the European countries. URL: <https://inhesj.fr/ondrp/world-homicide-survey> (Accessed: 03.02. 2018).

7 The FSI is based on the Conflict Assessment System Tool analytical platform to collect and separate the relevant data by using content analysis, pre-existing quantitative data-sets, and expert analysis to then convert the data obtained into scores for each country based on the scale 0-10 (best-worst). The total maximum score value for a country is 120. See Methodology. *Fragile States Index – The Fund for Peace*. URL: <http://fundforpeace.org/fsi/methodology> (Accessed: 03.02. 2018).

Table 1. Intentional Homicide Rates (total and killed by gangs or organized criminal groups)

| Num | Region | Country | Intentional homicide rates per 100,000 population | Share of intentional homicide victims killed by gangs or organized criminal groups | Intentional homicide victims killed by gangs or organized criminal groups per 1 mln population |
|-----|----------|----------------------------------|---|--|--|
| 1 | Americas | Jamaica | 53.2 | 0.431 | 229.24 |
| 2 | Americas | Honduras | 67.9 | 0.317 | 214.97 |
| 3 | Americas | Bahamas | 24.1 | 0.497 | 119.78 |
| 4 | Americas | Trinidad and Tobago | 32.3 | 0.363 | 117.11 |
| 5 | Americas | Saint Vincent and the Grenadines | 20.8 | 0.376 | 78.46 |
| 6 | Americas | Belize | 38.6 | 0.199 | 76.87 |
| 7 | Americas | Panama | 16.9 | 0.387 | 65.52 |
| 8 | Americas | Mexico | 15.1 | 0.397 | 60.04 |
| 9 | Americas | El Salvador | 61.8 | 0.087 | 53.87 |
| 10 | Americas | Costa Rica | 9.8 | 0.342 | 33.50 |
| 11 | Asia | Sri Lanka | 6.4 | 0.393 | 25.17 |
| 12 | Americas | Colombia | 34.5 | 0.070 | 24.03 |
| 13 | Americas | Barbados | 9.7 | 0.157 | 15.15 |
| 14 | Americas | Grenada | 10.2 | 0.092 | 9.34 |
| 15 | Americas | Uruguay | 6.3 | 0.131 | 8.30 |
| 16 | Americas | Canada | 1.8 | 0.397 | 7.10 |
| 17 | Americas | Nicaragua | 13.1 | 0.043 | 5.64 |
| 18 | Americas | Dominican Republic | 24.1 | 0.019 | 4.57 |
| 19 | Asia | Mongolia | 10.2 | 0.035 | 3.59 |
| 20 | Americas | United States of America | 5.2 | 0.052 | 2.72 |
| 21 | Asia | Timor-Leste | 4.3 | 0.051 | 2.19 |
| 22 | Europe | Luxembourg | 1.4 | 0.134 | 1.86 |
| 23 | Africa | Zambia | 5.7 | 0.031 | 1.74 |
| 24 | Europe | Italy | 1.0 | 0.156 | 1.54 |
| 25 | Europe | France | 1.4 | 0.105 | 1.49 |

Table 1. *Continue*

| Num | Region | Country | Intentional homicide rates per 100,000 population | Share of intentional homicide victims killed by gangs or organized criminal groups | Intentional homicide victims killed by gangs or organized criminal groups per 1 mln population |
|-----|---------|---|---|--|--|
| 26 | Europe | Sweden | 0.9 | 0.132 | 1.25 |
| 27 | Europe | Netherlands | 0.9 | 0.118 | 1.05 |
| 28 | Asia | Japan | 0.4 | 0.226 | 0.97 |
| 29 | Europe | The former Yugoslav Republic of Macedonia | 1.8 | 0.026 | 0.47 |
| 30 | Europe | Bulgaria | 2.2 | 0.019 | 0.41 |
| 31 | Asia | Armenia | 2.5 | 0.016 | 0.39 |
| 32 | Oceania | Australia | 1.2 | 0.030 | 0.36 |
| 33 | Europe | Poland | 1.2 | 0.026 | 0.32 |
| 34 | Asia | Azerbaijan | 2.1 | 0.015 | 0.31 |
| 35 | Europe | Finland | 2.2 | 0.010 | 0.22 |
| 36 | Europe | Spain | 0.9 | 0.013 | 0.12 |
| 37 | Asia | Singapore | 0.4 | 0.027 | 0.10 |
| 38 | Europe | Hungary | 1.5 | 0.004 | 0.06 |
| 39 | Europe | Slovenia | 0.8 | 0.008 | 0.06 |
| 40 | Asia | Vietnam | 1.4 | 0.004 | 0.05 |
| 41 | Asia | China. Hong Kong SAR | 0.4 | 0.009 | 0.04 |
| 42 | Africa | Sao Tome and Principe | 3.9 | 0.000 | 0.00 |
| 43 | Asia | Cyprus | 1.3 | 0.000 | 0.00 |
| 44 | Asia | Georgia | 6.5 | 0.000 | 0.00 |
| 45 | Europe | Czech Republic | 1.0 | 0.000 | 0.00 |
| 46 | Europe | Iceland | 0.6 | 0.000 | 0.00 |
| 47 | Europe | Albania | 4.0 | 0.000 | 0.00 |
| 48 | Europe | Andorra | 1.2 | 0.000 | 0.00 |
| 49 | Europe | Montenegro | 2.9 | 0.000 | 0.00 |
| 50 | Europe | Liechtenstein | 2.8 | 0.000 | 0.00 |
| 51 | Europe | Switzerland | 0.7 | 0.000 | 0.00 |

economic development and poverty and economic decline; political/military indicators are 6 – state legitimacy, public services, human rights and rule of law, security apparatus, factionalized elites and external intervention.

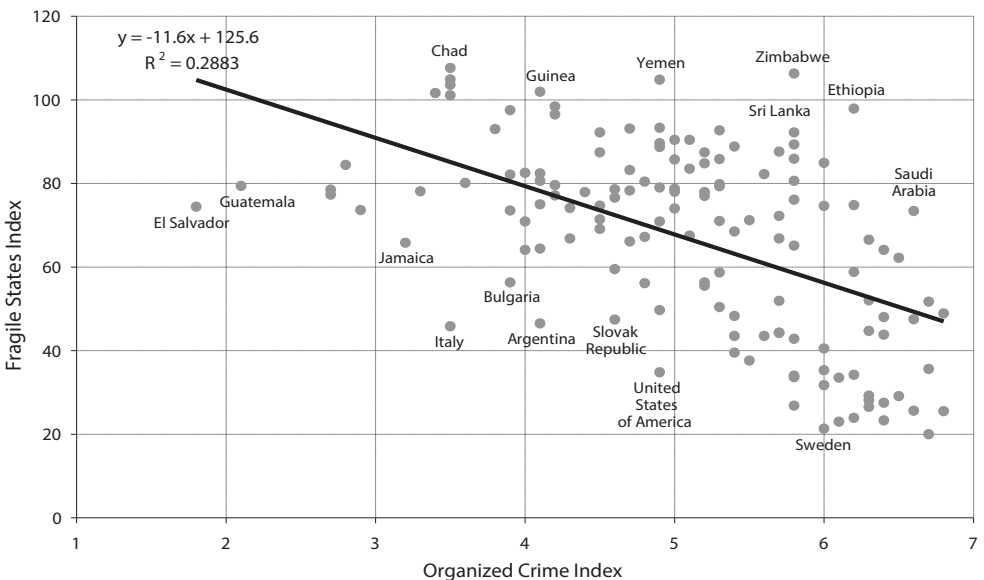
However, the FSI as other indexes do, focuses on internal characteristics of states and fails to address pressures that arise from transnational activities – transnational criminal networks included. Transnational illicit enterprises are part of global exchanges that have an impact on the strength of state institutions. State-centric approach to evaluation of pressures to states confines the study of fragility to internal characteristics and downplays the influence of transnational structures that may be associated with states’ fragility. Another major drawback of the FSI as a composite indicator where all single indicators are assigned equal

weights is the failure to disclose the relative importance of single indicators. Recent studies applying partial order methodology have shown that social indicator ‘human rights and brain drain’ results to be the most important out of 12 (Carlsen, Bruggemann, 2012).

We build a linear regression to model the relationship between the two variables, where Y is the dependent variable (Failed States Index) and X (Organized Crime Index) is the independent variable. The equation is the following: $Y = -11.6X + 125.6$. The trend line has a negative slope. The coefficient of determination of the regression is sufficiently high: $R^2 = 0.2883$.

The results demonstrate that state fragility is positively correlated with the presence of organized crime. With the organized crime level estimated as low (index score of around 7), the range for the corresponding scores for state stability is wide,

Figure 1. Organized Crime and State Weakness across Countries, 2012.



Comment: Fragile States Index is the dependent variable plotted on the Y axis, and Organized crime Index is the independent plotted on the X axis.

varying from the highest to relatively law fragility measurements. If organized crime is strongly present (index scores between 1 and 3), the state would with high probability be weak. Testing these results against empirical evidence partially confirms the findings.

Statistical differences among groups of states have been observed based on the ANOVA test. Figure 2 shows mean values of the FSI for 4 groups of states clustered by the scores of the organized crime index. The four relatively homogeneous groups consist of 23, 42, 48 and 28 states respectively. The variance in the FSI variable observed between the groups is statistically significant ($p < 0.000$): the groups with the high organized crime presence (index scores of 1.8-4.0) have higher FSI mean values (about 81.6 points), while the group with the lowest estimations of organized crime (index scores of 6.1-7.0) are placed in-between the least vulnerable states (about 43.5 points).

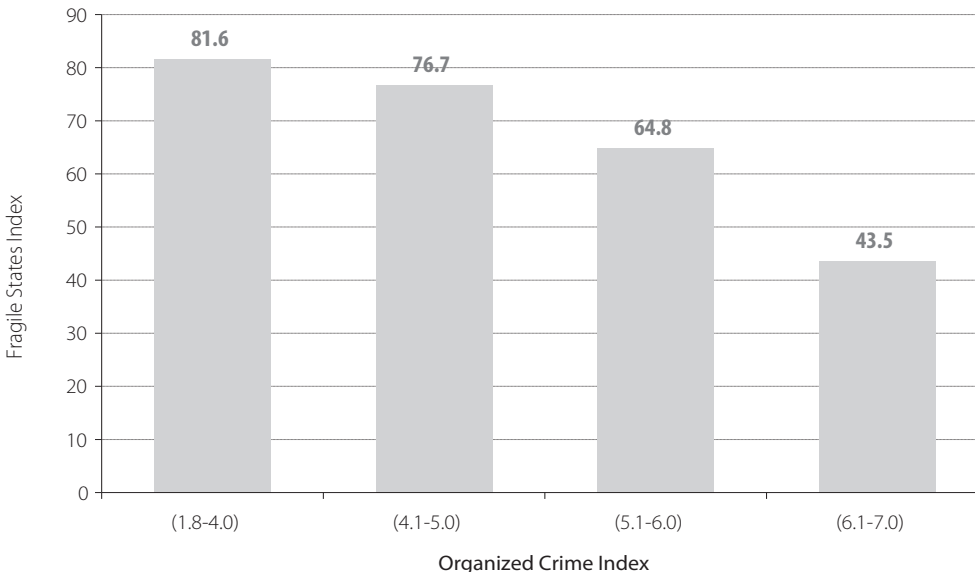
Conclusion

Profit-making is generally a major motivation of organized crime, and the illegal enterprise paradigm offers important insights into the economic determinants driving illegal businesses. The enterprise framework remains promising, bringing together the ‘legal world’ with the ‘underworld’, and making a step forward to understanding the similarity and difference between legal and illegal businesses, and most importantly, types of relationships through which they are linked.

Transnational illegal enterprises are distinct from a firm that may recur to violating legal norms in order to increase profits. Organized crime provides security (protection services), by possessing the means of using force, which makes them functionally more similar to states.

The relationship between the state and illegal non-state actors has always been somewhat obscure. Obviously every ac-

Figure 2. Mean Values of Fragile States Index for Different Organized Crime Index Scores, 2012



tivity that does not fit the legal framework of national and international contexts is presumed to be challenging *per se*. A litmus test of governing capabilities of a modern nation-state is its capacity to establish monopoly on use of means of violence within its jurisdiction; also, the ability of exclusive regulation and enforcement within its territory is characteristic of a strong state.

States are undoubtedly crucial actors in transnational processes, and the points of reference to any type of transnational non-state actors, legal and illegal businesses included. As discussed in this article, the modes of interaction between illicit enterprises and the state are remarkably more abundant than the obvious relationship of a regulator, a prosecutor and a criminal. At times the state adopts a rigid anti-criminal policy line, literally starting a war on crime; in other cases states may be unwilling to take action against illicit activities and prefer to close a blind eye to it. Still, the relationship between states' governing capacity, and a measure of illicit enterprises that penetrate economic and political realms remains rather limited needs to be further theoretically and empirically distilled.

The existent key line of the argument in the literature is that the lack of state enforcement facilitates emergence and growth of organized crime (Skaperdas, 2001). The focus on legal prosecution and law enforcement has been the dominant policy to combat illicit business activities at the state level both in fragile and stable settings. The challenges from transnational organized crimes have been likewise addressed at the international level: the United Nations Convention against Transnational Organized Crime (the Palermo Convention) adopted in 2000 is the main intergovernmental agreement to combat transnational crime. The Convention criminalizes participation in an organized criminal group, but fails to address

economic, social and political aspects of transnational crime and lacks efficient enforcement instruments to address rapidly evolving dynamics of illicit enterprises. On the whole, 17 years after adoption, the Palermo Convention has been a benchmark to criminalize transnational organized crime, foster international cooperation and adoption of new cooperation frameworks, but has been until recently at best a very weak collective enforcement mechanism to combat organized crime.

Criminalization of transnational crime is undoubtedly the primary step towards combatting it. However, the premises, on which the regulative approach is based, tend to discard economic, social and political aspects of the phenomenon of illicit enterprises. As Nikos Passas argues, illicit enterprises are making use of the opportunities provided by 'criminogenic asymmetries' in the spheres of politics, economy and law (Passas, 2003, p. 27). Alternative jurisdictions may present an opportunity in this sense, and criminal entrepreneurs may practice moving in-between states for conducting certain types of illicit activities. Sometimes heavy-handed approach by governments or international organizations may cause a 'squeezed balloon effect', making illicit businesses move elsewhere or adjust by changing strategy and organizational structure. However, since criminal enterprises seek profits, they constantly respond to demand for goods and services, which make them equally adaptable for operating both in relatively hostile or friendlier environments.

Overall, by reducing the strategy of combatting transnational crime only to criminalization and prosecution, we risk to make very limited progress or even involuntarily create new 'asymmetries'. The Latin American experience of fighting drug cartels with national and international efforts through law enforcement revealed the possibility of collateral effects of illicit enterprises' displacement. The Co-

lombian organized criminal groups, previously the main producers of cocaine, consequently transferred their activities to the neighboring states – Venezuela and Guatemala, while a large share of the market was captured by the rivaling organizations in Mexico, making the country the key player in global drug supply (Acemoglu, Robinson, Santos, 2013). Conversely, in China the expansion of local drugs markets and markets of counterfeit goods targeted at local consumption was one of the outcomes of the rapid growth of the Chinese domestic market and increase in the local population wealth. These developments were accompanied by the transformation of rigid hierarchical structure of the Chinese triads into more flexible networks of illicit entrepreneurs employing less violent strategies of the police and local authorities cooptation (Chin, Godson, 2006; Varese, 2011; Xia, 2008).

Although it is commonly assumed that criminal enterprises tend to settle in weak states, the correlation between illicit transnational enterprises and fragility of states has not yet been comprehensively established (Pinotti, 2015, p. 159). At times criminal activities indeed tend to penetrate and establish themselves in places, where weakened states, pure law-enforcement and corruptive governments in combination with easy access to resources or geographical proximity to the areas of their main activity provide more favourable settings. The recent literature on peace-building illustrates many cases, in which massive presence of organized crime has produced a negative effect on post-war settlements' outcomes (Cockayne, Lupel, 2011; Kemp, Shaw, Boutellis, 2013). In fact, international investigations to prosecute organized crime always rely on state consent; it has been commonplace in such various contexts as those of Afghanistan, Kosovo and Guatemala that the state monopoly on legitimate force was used by criminal networks

as a shield to obstruct international action (Cockayne 2011, p. 4). Olivier Nay attributes this intentional focus on internal explanations of instability to the practical scope of 'fragility' discourse used primarily by Western countries to evaluate possible security threats coming from potentially unstable contexts (Nay, 2013, p.334).

Making states 'stronger' will not alone solve the problem of transnational illicit enterprises. Supposing that weak states may be first-hand targets of criminal enterprises because of their imperfect statehood may lead to a false assumption that organized crime does not inhabit strong states. Some historically illustrious cases of organized crime have been registered in many wealthy and strong states – the Cosa Nostra in the United States, the Mafias in Italy, and the Japanese Yakuza among the few functioning. This could further raise important questions on what is the ideal model of a strong state since cases of governance failures in the most 'robust' Western states are as well continuously present and hardly extinguishable. As discussed in the previous sections, many types of illicit businesses are cross-border by definition and imply labour division and specialization; drug transit and retail, human trafficking, money laundering and financial crime negatively correlate with state weakness and are rampant in the most developed countries of the world (Passas, 2003, p. 29).

We have hypothesized that weak states may have higher presence of criminal businesses. The findings generally confirm significant correlation between the two variables – state fragility and organized crime. State fragility is positively correlated with the presence of organized crime. Organized crime being absent, states' characteristics within the group may range from fragile to stable. If organized crime is strongly present, a state would with high probability be weak. Testing these results

against empirical evidence partially confirms the findings.

However, this correlation might be weakened by the observation that the presence of illicit enterprises alone does not determine state fragility or strength. Further avenues of research may build on the argument that illicit enterprises engage in governance providing public goods to local populations. Such cases are difficult to be grasped by global indicators and can be more fruitfully investigated comparatively.

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