

The modern state, the rule of law and the reality of crime and violence

“Summary essay based on the International Workshop: Governance of Violence, Organized Crime and the Democratic Rule of Law” August, 21-24, 2017, Puebla/Mexico City

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January 2018

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We take it for granted that societies are organized in (nation) states and that the states impose laws on their citizens, without which there would be chaos and wide-spread violence. We consider it as desirable that the laws be just, that they apply to all citizens alike and that they be universally enforced. We recognize that there is much unlawful behavior, in some states much more than in others, and that in some states the laws are neither just nor universally applied. We also realize that there is wide-spread violence within some states, not to speak of the violence between states. We wonder why this is so and what would have to be done to spread the rule of (just) law to those parts of the world where it does not apply. At the center is the question of “why”. What prevents that what we consider as desirable from being installed all over the world? It is gratuitous to say that there is no easy answer.

Before we start with an attempt to get a conceptual grip of the mass of disparate empirical information, we look – as an introductory exercise – at one particular case where organized crime has challenged the state for decades, without that an end is in sight.

1. A first glance at the issue: the unique phenomenon of Mexico

Why is there significant violence connected with the drug business in Mexico, but not, say, in Chile? Spontaneous tentative answers might point into different directions.

A. Chile does not offer that kind of lucrative opportunities to the drug business which Mexico does. Thus, the drug business never turned into a serious challenge to the authority of the Chilean state. This answer leaves the question open whether Chile would have a more resilient state vis-a-vis criminal challenges than Mexico has.

B. Different from the Mexican state, the Chilean state is so strong that no drug business would have a chance to challenge it seriously. Therefore, it does not even try.

The first proposition suggests that organized crime arises wherever an illicit business activity carries the perspective of huge profits. The second proposition emphasizes the strength of „the law“ to reduce illicit business activities to a „quantité négligeable“. Both focus on organized crime, but do not specifically address the issue of violence. Violence occurs when the business activity that yields such huge profits is being challenged, either by rivals or by law enforcement, and when the criminal organization(s) feel(s) strong enough to challenge the state, either directly fending off the state attack or neglecting the state monopoly on the use of violence.

If we stay for another moment with the two cases we first have to acknowledge that illicit drug dealing is by no means absent from Chile, which has a large and increasing drug market. We should therefore suspect that Chile, too, has a well-entrenched criminal infrastructure to supply this market – like the United States and many high-income countries throughout the world. Why is the drug business associated with large-scale violence only in Mexico and very few other countries? We could make a distinction between retail trade, whole-sale trade and drug production. It may be that the control of whole-sale trade is (a) the most lucrative drug-related business and, therefore the most contested one, making armed conflict among the contenders both specially likely and specially violent; that it requires (b) the most ambitious logistics, which would crowd out minor criminal enterprises and which makes it also more vulnerable to attacks by law enforcement than decentralized retail trade does; and that it constitutes (c) the key at least in the US war on drugs and hence its most important target.

These hypothetical considerations could explain why the drug business has set up its whole-sale base in Mexico, outside of (but close to) the important US market, while it maintains a highly effective retail infrastructure within this market. The whole-sale base is more vulnerable and the US state is, after all, much stronger than the Mexican state. Much of the exceptional violence which accompanies the transnational drug trade in Mexico could be explained by American pressure on Mexico to eradicate the drug base from which the US market is swamped and by the drug barons' subsequent attempt to defend their business. If we follow this line of reasoning, the Mexican case appears as pretty unique,

owed to a special configuration of conditions. Moreover, we should assume that it shows a path dependency. The commercially very successful development of the „Mexican connection“ made those who got in control of it ever more powerful, capable of challenging a hostile Mexican state head-on. It also became more and more of an uphill struggle to set up rival enterprises in other countries, say Guatemala or Honduras. Besides, the entrenchment of the drug business in Mexico has helped to erode the rule of law (even further?) and to consolidate a culture of intimidation, corruption and lawlessness. This, in turn, contributed to the further consolidation of the drug syndrome, and as a corollary weakening the rule of law even further. The speculation is not out of place that Mexico's journey into the 21st century and into the new stages of capitalist modernity might have been quite different, had the country not fallen prey to the drug business.

Our randomly selected, unsystematic, comparison of Mexico and Chile, which was extended in a not-so-random second step to the USA, led to a straightforward line of reasoning highlighting the uniqueness of the violence-prone Mexican drug syndrome. But our reasoning did not leave any doubt either that societies' vulnerability to an entrenchment of organized, highly lucrative crime varies from country to country. The North of Mexico and not the South of the USA became the stronghold of the drug trade, because it clearly had a higher survival chance in Mexico. It was easier to carve out a space of impunity there. With regard to impunity, the Central American countries South of Mexico would have served perhaps even better, but the logistical conditions were probably less favorable there.

There are various hypotheses that come to mind as plausible explanations. Some of them are generalized observations of attributes to be found with states which obviously encounter little effective challenge to their laws and other states, where you find considerable spaces of „lawlessness “. For instance, a high degree of economic development appears to go along with a high degree of rule of law. Economic underdevelopment paired with resource wealth often is accompanied by rampant corruption and in several cases by violent conflict over the control of the resources. Also, violent conflict seems to happen more often in countries that are „ethnically“(a cognitive construction) not homogeneous. Other hypothetical explanations of weak vs. strong statehood are not inductive, derived from observations, but deduced from a theoretical model of state formation, identity formation and loyalty formation. According to this line of thinking, a functioning state with the monopoly not only of the legitimate use of violence, but also its highly effective use, is, first of all, the exemption. Contested (if need may be, violently contested) claims of the right to rule and to command loyalty appear as the „normal“ state of affairs. Constitutional rule, to be contested only through constitutional procedures, is considered as resulting from a rather long „civilizing“ process, which has been by no means universal. From this perspective, the question is: what made „political civilization“ take place in some places, while things remained as they always were in others?

2. Beyond uniqueness: the state, the law and the dynamics of interest and power

Independent of the specific conditions that led to the Mexican drug syndrome and to its association with endemic violence, we recognize that there are states that are less capable of imposing their law than others and, hence, more vulnerable to escalation processes like the one we witnessed in Mexico. This shifts the question to the conditions that make states weak or strong, and also to the contingencies that send structurally weak states onto the track of escalating violence.

To arrive at answers, we have to understand the social dynamics that shape our central institutions „state“ and „law“. Both have the connotation of directing, organizing, taming behavior which is driven by forces that, if left to themselves, lead to highly undesirable results. A useful point of departure is the postulate that the quest for privilege and power is a central driving force of societal dynamics. It makes for competition and conflict. And it is important to see that the institution of the state is not really above these dynamics of competition and conflict, as claimed in some normative approaches which focus on the question: what should be? what is the state „meant to be“? The state has always

been part and parcel of the conflict and competition between powerful social actors.

In its rudimentary form, the state as virtual or imagined entity and the state apparatus as role-performing persons was at the service of its ruler or the “ruling class”. In the course of technological, economic and socio-political development, the rulers' privileges became – as a general tendency – circumscribed, while non-elites acquired rights to be respected by the rulers. Eventually, the subjects of the ruling power elite became “citizens”, who ideally (not everywhere in reality) have equal rights – human rights anyway, but also citizens' rights. Yet the quest for privilege remained de facto a driving force of humans' social behavior, which brings up the question of how to accommodate it in a society of fundamentally equal rights. The answer are “rules of the game”, which define what is admitted (“legal”) and what not in the pursuit of income, wealth, privilege.

These rules are ideally guided by the notion of a “public interest”, oriented towards a society that functions well in an utilitarian way, ensures synergies in people's “pursuit of happiness” and prevents avoidable damages. The notion of the “public interest” also refers to the protection of “inalienable” rights, not necessarily of all people, but of those who are included in the relevant definition of society. The rule of the law does not admit ways to pursue privilege which are against the public interest, as understood by the law-makers. But the definition of the public interest has been a bone of contention probably throughout human history. And throughout history, the definition and the law based on it have been responsive to power. A cornerstone have (almost) always been property rights, which protect privilege acquired in the past. Moreover, law-protected property bestows power which the less well endowed lack. Thus, property tends to make for unequal chances in the competition for future privilege – in some legal spaces more, in others less so.

The inherent bias of the law in favor of existing privilege can have consequences for its acceptance. If existing law is perceived as the law of the winners, it is not accepted as (fully) legitimate. And to the extent, non-legitimate law is being enforced, it is respected only as far as the enforcement goes. You break it where it seems advantageous. If your priority is the quest for privilege (not just because you are personally greedy, but because it is an institutionalized indicator of success and hence the gateway to social recognition), testing the limits of the law's power belongs to your rational strategy. And if you truly believe in the rule of law and renounce illicit profits which seem feasible without undue risk there will be others who pick up the opportunity. Moreover, if obedience to the law is considered a strategic variable and principally selective, it is not just a matter of responding flexibly and smartly to the opportunities offered by the market and the restrictions stipulated by the law, but also of deploying power to create **additional opportunities**.

Power can be used to change the law or to break the law. And it should be expected that power will be employed there where it promises advantage. The struggle for privilege, which has a central role in societal dynamics, implies a struggle with the law, which imposes restrictions, and for a law that does not or that restricts competitors. The struggle with restrictive law is by definition illegal, because it means breaking it, where this appears possible (expectation of impunity) and profitable. The struggle for a favorable law uses in part legal means (lobbying) and in part unlawful ones, for instance, if plotters against an uncooperative government are financially supported.

So, not only from the perspective of strategic players, but also from the observer's perspective, the law and the state behind the law are variable elements of a wider struggle for privilege. States claim that their law set the boundaries for the pursuit of material advantage. But (a) with the claim permanently being challenged and (b) with the state and the law de facto being instrumentalized by private (and foreign) interests, the paradigm of the arbiter-state, which is above the conflicts in society and sets the rules for them (the rule of law), cannot be taken as a description of reality. It is a paradigm that is preferred by specific groups of society. And it is only under special conditions that these “stakeholders” of an impartial rule of law can impose their preference against all those interests which have a rather selective and conditional stake in the rule of law and depart from it or make use of it the way it fits their assessment of the situation. The issue is not only one of private interests versus the

state as the caretaker of the public interest. State power is being targeted as a resource by societal (“private”) interests, which aim to use binding state decisions in order to further their own agenda, making their own private interest the “public interest”. It goes to the point where the public interest can legitimately be invoked against the law of the state.

The notion of a “true” public interest, which the good state should uphold, can only be operational if we introduce as the decisive criterion the will of the majority, qualified by the additional criterion of “adequate” heed to “inalienable” rights of all citizens and beyond that of all humans. The rule of a law which is not endorsed by a majority is in reality a kind of legalized repression. And to come to a majority-endorsed rule of law, it takes democratic procedures, normally imposed by self-empowered citizens. The process of citizens' empowerment, i.e. their emancipation from the domination by a – however defined – power elite is a crucial dimension of modern history, intimately, though not in a straightforward way, linked to the industrial revolution, which profoundly changed productive cooperation and the roles, life cycles and incentives attached to it. Citizens' empowerment makes for countervailing power vis-a-vis the powerful privilege-seekers, whose “natural” inclination is to go for a law that serves THEIR interests.

Beneath the level of privilege-maintenance, there is another, conceptually narrower rule of law, which is meant to maintain public order, providing, among other things, protection from arbitrary predation. This points at an additional dimension of human society: its dependency on coordinated production, if a more than rudimentary standard of living is to be secured. Coordinated production is needed regardless of how the result of the coordinated production is to be divided. It also holds for human groups that have specialized on predation. Beyond a certain level of complexity, which is itself a precondition of superior economic performance, and hence of mass prosperity, human society needs laws that establish duties and prohibitions. Anarchy, their absence, would make everybody, the privileged and the underprivileged, worse off. The desire for law-enforced public order has served, throughout the ages, to dampen the quest for emancipation and to facilitate the acceptance of blatant inequality.

Again: control of the state is being used as a means to establish and preserve privilege. But the state is also an entity that is separate from all its citizens (and without private “owners”). Its governors and the wider “political class” identify to some extent and under certain conditions with what they perceive as the interests of the state (the “raison d'état”). This political class sees also its personal ambitions linked to the perceived greatness of their state: its power vis-a-vis its citizens and vis-a-vis other states. In the pursuit of the *raison d'état*, governors cooperate with mafias, private hackers, rebels against foreign governments, or in former times with pirates. Big powers (i.e. their political class) have never ceased to consider such practices as their prerogative. Strictly speaking, they always have been deliberate law-breakers – in the interest of the state, as defined by the political class. Often enough, those who hold power in a state equal the state's interest also with the stability of the regime, i.e. the maintenance of their own power. The perceived separation of the state from its “owners” (rulers and or citizens) is – like the democratic emancipation of citizens – the result of a historical process linked to the transition into modernity. But it does not necessarily promote citizens' emancipation, as it carries the danger that the recently (and in many places not yet fully) emancipated citizens are disowned by a virtual “Leviathan” – something that needs more in-depth contemplation.

When state power is entangled in various ways with the struggle for privilege and power in the societal arena, rather than being above it, and when strong states act as more result than rule-oriented power contenders in the international arena, the idea of a state-administered rule of law must be seen as a rather exceptional phenomenon, as an ideal that becomes reality only under specific conditions. It must be a specific sort of society that generates such a state. Large and decisive parts of the population must be stakeholders of the rule of law. They must be people who benefit from an effective rule of law and to whom a criminal strategy of accumulating wealth or escaping misery is not tempting. And we should expect that neither poor people without economic perspectives are real candidates nor those who have learned to do profitable illicit business. The dependable stakeholders of the rule of law

should rather be found among those who can hope to make a decent living in a competitive rule-governed market, where competence matters more than connections. If this is so, a society that can underpin a resilient rule of law must be one where the economy offers such opportunities galore.

3. When power is not tamed by the law: the anatomy and dynamics of limited statehood

Roads to riches: capitalist, rentist, predatory

The pursuit of income and wealth is the driving force of entrepreneurial economics and written into the DNA of the capitalist society. The rule of law restricts this pursuit on behalf of the public interest. In capitalist societies, this public interest includes the chance of economic growth, i.e. the chance of the whole nation to become ever more prosperous. Individual enrichment must be pursued in a way, that does not impair this chance. Profits must be derived, as much as possible, from superior productive performance, to be proven in contested markets. This implies, above all, that predation (and market transaction further to predation) be ruled out – at least among those to whom the law applies, i.e. in our times the citizens of a state. Ruling out predation is tantamount to upholding property rights – to the benefit of everybody, but especially to the benefit of property owners. In the course of “political civilization”, it has come to include the protection of human rights (e.g. declaring it a crime to enslave people or to kill them in order to sell their organs).

Protecting the prosperity-generating potential of capitalism implies furthermore that competition be protected against attempts of reserving market access to some powerful “players”. Economic theory speaks of “rents” when income and wealth are derived from the absence of competition, i.e. from natural or politically devised monopolies. Rents constitute privilege which is not, like profits, earned in competitive markets, and not justified by its positive effect on society as a whole.

The law of capitalist societies does not only protect the market against the deployment of power. It also protects the “public interest” against the market. It prohibits to cater to certain kinds of demand which were declared illegal, either categorically, as in the case of narcotics, or depending on circumstances, as in the case of weapon sales. It upholds the state's prerogative to impose taxes on market transactions and to demand cooperation with its law-enforcement efforts, for instance when money from illegal transactions is to be “laundered”.

When the law restricts market transactions, it often creates incentives for illicit business. This is obviously the case when it prohibits to serve certain demand, like the one for narcotics, for arms, for things like rhinoceros horns, or in some countries for sexual services. Catering for such demand does not only carry the prospect of sales revenues, but of tremendous premiums, which can be charged from the clients because the business has to remain clandestine and hence closed to price competition. It promises rents well above profits in contested markets. Enhanced law enforcement elevates prices and profit prospects just up to the point where it really succeeds to suppress supply. Decades of “relentless” fight against the drug mafias in countries like the USA do not inspire confidence in this respect.

Restrictive laws also create incentives to break them where they increase selling prices. This is the case when taxes or custom duties are levied on transactions. Buyers collude with the violation of the law because black-market prices are lower. Those who channel the merchandise around the taxes find a market which would not exist otherwise. Wars and warlike conflicts are significant generators of such rent-yielding restricted markets. Accordingly, they produce stakeholders of war who have an interest in the creation and preservation of these opportunities (the famous war profiteers).

Violent conflict is then no longer a means to enforce a different, better or more advantageous reality, it is itself an advantageous reality which deserves being maintained as long as possible. War profiteers do not want to win conflicts, they want them to go on. The original cause loses importance. The conflict

is “decaying” into a way of life.

One of the biggest incentives for illicit enrichment has its roots in the state's prerogative to forbid and to allow. This creates gatekeeper authority that can be misused for the gatekeepers' personal enrichment. While the gatekeepers have a latent incentive to “sell” their gatekeeper decisions profitably, “buyers”, who pay bribes for the access to the public procurement market, get the opportunity to achieve profits with a significant rent component, because the bribe pays for the exclusion of competitors. Bribes also secure rents where they buy relief from police persecution. (See section on corruption below.)

Predation, i.e. taking appreciated goods from others who have produced or bought them, is the most straightforward way of enrichment. It puts coercive power on the place of productive competence. As such it is frontally opposed to the idea of capitalism as a way of organizing production and pushing for ever increasing productivity as well as for ever more appreciated products, that extend human possibilities. But in a different meaning capitalism is ultimately a way of organizing enrichment, investing not just in the means of production, but in the means of enrichment. And there are capitalist ways of organizing large-scale cost-efficient predation. It is not all that long ago that this has even been endorsed by national law, namely when the victims were humans exempted from protection by the law. Thus, it was legal to enslave and to expropriate “savages” (not to speak of killing and mutilating them). The enslaving was organized as large-scale capitalist business. It is outlawed now practically everywhere, but a less straightforward variant of it (forcing women into prostitution) has turned into a thriving illicit cross-border business.

Other businesses that originate in predation are the organized stealing of cars and organized burglary, both for the purpose of selling the prey. It is common even in states that are considered to be firmly under the rule of law. A somewhat different kind of predatory enrichment, with much wider dimensions, is the private appropriation of commons and of values without clear property title. To this one can add the unilateral extension of limited property rights. Some claim that the illegal appropriation of real estate and the illegal extension of using rights (for instance, turning nature reserves into construction land) is the biggest illegal business of all, with a larger volume than narcotics trade. It was certainly a key to the transformation of North America and Australia into “white man's land”. Rapid urbanization with its rapidly increasing demand for hitherto rather worthless land constitutes the background to tremendous opportunities of rapid enrichment. Network-supported manipulation of the regulations that define property rights, restrain transactions and restrict land use promises increases in property value that shadow many other high-profile business opportunities. Turning public property into private property under opaque legal and often outright illegal conditions constituted the main and extremely fast road to tremendous fortunes in the post-Soviet space.

Cruder forms of predatory business include kidnapping in order to get ransom (a special niche being the seizing of large ocean ships) and the extortion of “protection money”. Of course, there is also street robbery, pickpocketing and non-organized burglary. They are to some extent means to secure survival when jobs are scarce and when social control has given way to anomy (see below chapter 5). However, even where the disrespect for the of state's law is common, this kind of anomic predation tends to be a side phenomenon, dwarfed by other sorts of illicit business. Much more important is also the phenomenon of crude exploitation via market relations between buyers and sellers of highly unequal power.

In general, the template of a functioning state is more appropriate for profitable illicit business than chaos. In this respect, it is not much different from legal business (the distinction between them often being opaque anyway). Most illegal business that goes beyond profitable one-time transactions or crude predation also wants peace rather than warlike situations with unpredictable turns and frequent disruptions. It depends, like other business, on half-way reliable logistics with upstream and downstream supply. And it benefits from banal government functions, like the maintenance of social order. Therefore, it thrives best when embedded in a state with which it has arranged a “mutual

understanding”. It is not for nothing that drug trading organizations and other criminal organizations provide “alternative governance” in the territory where they have taken over the rule.

Rent seekers, predators and ordinary people

The opportunistic pursuit of advantage characterizes the behavior of people who take initiatives and deviate, if indicated, from established practices. Most people, though, are not innovators, but conformists and followers – even in incomplete quasi-states, that are characterized by rampant neglect of the rule of law. Like everywhere, they earn there a normal market income as factory workers, secretaries in offices, sellers in shops, nurses, doctors, designers of internet pages, teachers etc. etc. Depending on the country's economic development and the access to foreign labor markets, many, though, might not have a job that would secure survival.

All of them face the challenge to arrange themselves in a society where the law does not protect them, because it bows to power. Those without perspective of a legal market income face the additional challenge to secure their economic survival some other way. The ones who earn a living in the market economy can perhaps simulate to some extent the normality of a functioning state. But they must be careful not to challenge or to provoke those with power. If they need decisions of the law in their favor they must be prepared to have to buy them. They cannot rely on the law's impartiality. If they want the full protection of the rule of law they must be prepared to fight for it, challenging those who bend the law. This would have to be an organized collective effort, raising issues of mobilization, leadership and lasting commitment in view of bribing attempts and intimidation.

The situation gets more complicated by the challenge which those without an economic perspective face. To secure surviving, able-bodied men might turn to predatory activity of their own, preferentially organized in gangs, which become reference groups and as such a source of social recognition. The state law, which defines predation as “criminal”, might lack the normative power to confine this label to a few deviants, as you have them almost everywhere – especially when the state is being perceived not altogether wrongly as biased in favor of privilege. A specially attractive option might be to hire themselves out as “soldiers” of one of the really powerful players. Street criminality, in turn, poses a challenge to those “ordinary” people who are targeted as prey. Sooner or later those who can will organize “active protection”, buying the services of experts of violence (for instance, police men) or inducing preferential treatment by public law enforcement. Both ways further weaken the rule of law by privatizing it, i.e. making it ever more responsive to private power.

People have no choice but to adapt to the non-state and pre-state structures that affect their chance of making a living and of staying alive. They cannot afford to side with a toothless law, they have to side with the real power. Depending on the situation, this can take various forms. People can form networks of mutual preference treatment. These networks can take on the character of lasting “communities”, especially if mutual loyalty is attached to an ascribed criteria, like belonging to a certain family clan or a certain ethnic group, that distinguishes the “community” from other people. To the extent, such “communities of economic survival” are in fact organized along ethnic or religious identity lines, they also define rivals and enemies along these lines. Inter-ethnic or inter-confessional animosities are an interest-focused consequence. They are not at the origin of the enmities.

If resources and power are distributed very unevenly in a society, mutuality tends to be uneven as well. The weak part offers work and services of various sorts or, for instance, also electoral support and gets in return protection against predators and/or access to certain vital resources, such as arable land, cash or foreign emergency aid. The term “clientelism” refers to such uneven mutuality which is often not a matter of choice and strategy, but something owed by the follower to the leader/lord/strongman.

A society in which vital resources and services are made available in accordance with exclusive ties of loyalty is not a society of citizens. And the state mould into which these societies are cast masks this

fact. Many of those “ordinary” people who have to arrange themselves with the all-pervasive non-state structures of power would certainly prefer to enjoy citizens' rights and the effective (not just “nominal”) protection of the law which citizens, say, of Norway or Switzerland enjoy. Nevertheless, they contribute with their – practically unavoidable – daily adaptation to the dreaded reality to reinforce this reality. For one thing, as we know since Emile Durkheim, norms that are continuously being infringed and never enforced lose their normative power. Besides, behavior patterns form expectations and define reality for others to adapt to (for their own good). Everybody gets socialized into a non-citizen culture. It seems difficult, just to grow out of this continually self-reinforcing culture. It might take rather an orchestrated comprehensive break with it.

Corruption: the misuse of state power

The tension between the utilitarian drive implanted in modern capitalist societies (not only there) and the meta-utilitarian principle of the rule of law easily produces risk-appraising opportunism. You stick to the rule of law where you have to and you break the law when it is to your advantage and when the risk of being punished appears manageable. If we postulate that such opportunism is the rule in societies that are programmed materialistically, we should expect an essentially conditional rule of law – conditional in each case on the determination and the strength of “the law” (i.e. the societal forces behind it).

“Illicit business” has been declared illicit because it is deemed to run counter to a public interest which warrants a restriction of market freedom. The public interest invoked may have to do with human rights (trade with humans) or the health of the population, as in the case of narcotics. It may have to do with national security, the national advantage vis-a-vis foreign rivals (often dubbed “security” as well) and other international “desirableness”. It also may have to do with the protection of societal commons, non-formalized entitlements or other appreciated arrangements of things against a degrading by unfettered, purchasing-power guided market dynamics. An example for the latter concern would be zoning-type restrictions of real-estate trade. In fact, some claim that real estate is world-wide the largest illicit business, precisely because it is hedged in by many rules deemed in the public interest. These rules intend to bar territory and entitlement transformations that would be highly profitable. To bypass them is therefore tempting without question.

Wherever there is an attractive profit perspective we should expect the mechanism of conditional rule of law to be set in motion: prospective profiteers assess the chances of neglecting, bypassing and bending the rules. The option “neglecting” bets on a lax enforcement practice on the side of the state (indicating a low political priority of the respective rule, itself either a sign of general disinterest or of “active disinterest” on the side of those who hold power). The “bypassing” option relies on stealth. The option of “bending the rules” can take the crude form of changing power configurations with recourse to violence, for instance by bringing about an armed rebellion against an uncooperative government. The pushing aside of politically and militarily weak claims on resources such as land has in the past typically taken the form of suppression by superior force. Greed-driven aggression and violent expropriation are probably not a thing of the past, if conditions are propitious. But more widespread is another pattern of rule-bending. It does not (primarily) use force, but bribe.

This puts into the focus a core problem of the rule of law and introduces an illicit market of an entirely different kind. The problem is how to induce the state's agents to act in the interests of the sovereign who invested them with the power to act on his behalf? How can the agents be prevented from putting their own interest above the one of the state's “principal” (nowadays typically “the people” or, as a more abstract concept “the nation”)? The illicit market which is linked to the fundamental principal-agent problem of the state is the market for the decisions of the state agents, who can “sell” them, thus deriving a rent income from the gatekeeper's power they have been invested with – or which they have conquered – on behalf of that abstract entity which is the state.

We should expect that the intentional misuse of delegated state power is more of a problem in

economically underdeveloped countries, even though the economically advanced ones with “decent” income chances for the bulk of the population are by no means immune to the temptations of corruption. This expectation is based on two observations.

A. In many economically underdeveloped societies, the use of state power is the king's road to the accumulation of wealth and sometimes even to a “decent” income. Alternative roads are scarce. Under these conditions, it is attractive to “political entrepreneurs” to invest in the access to that source of rent income which is state power.

B. Under conditions of economic backwardness, those who have an interest in state integrity lack the power and the organization to impose their preference. Those who use delegated state power for self-enrichment have free way, which turns the state into a (sometimes the) major source of rent income.

When the state is being seized by “political entrepreneurs” as a source of rents (selling profitably the state's gatekeeper decisions) it is no longer an entity above society, as postulated by normative theory, it is an instrument in the hands of successful power contenders to advance their interests. In fact, the profitable exploitation of the state's gatekeeper power is an important motive of political elites i.e. those who have “occupied” the state, to keep existing states both together and apart. Also the creation of states (via secession) has been fueled by “political entrepreneurs” who intend to use statehood as a source of rents – without a state no profitable exercise of gatekeeper powers.

The “political entrepreneurs” who intend to “privatize” state power have to dispute their claim with others who want a well-functioning state and have the power to veto the corruption-bent predators. In the past, monarchs who intended to project power vis-a-vis other monarchs needed for that purpose an efficient state apparatus capable of supporting powerful armed forces. The state's agents had to act in the interest of the state's principal, so to speak. They had to be loyal to him (or her). Corruption would be sabotage and could not be tolerated. The motive of winning wars would extend to states organized as republics as well. This way, the state became an instrument of organizing society rather than exploiting it (“wars make states”). The notion of a public interest emerged, to which the state ought to be committed.

In the absence of the discipline-enforcing motive of the preparation of wars, it would be the citizenry that would have to keep in check the tempting misuse of state power by the state's agents. In order to be up to the task, citizens would have to be (a) wary of the danger of corrupt state agents and permanently watchful, (b) themselves largely uninterested in proceeds from corruption, because the (labor) market would provide people with satisfying income. For the citizens' interest to be an effective substitute for war-preparing monarchs, a general preference for state integrity and accountable government might not be sufficient. Probably, there must be the fear that the misuse of state agent power erodes the business perspectives of those not participating in the illicit deals. Without such an “active” interest in state integrity, the very concrete and specific interest of those who expect a sizable benefit should be expected to trigger much more of an effort to bypass controls than the marginal interest of those who face (and are quickly used to) more expensive state services does to ensure sustained controls.

In fact, the ones with the clearest stake in an accountable, efficient and non-discriminating state are probably business people who are exposed to full competition in open markets. Where citizens “have other problems”, trying to carve a livelihood out of a restricted market, they probably would not invest much effort in the fight against corruption. They would rather try to enter themselves some networks of advantage trading in order to improve their income chances. This is the essence of the clientelist logic, which imposes itself when the access to market chances is restricted and controlled by gatekeepers. The core of corruption is the misuse of the gatekeeper power which the state's agents have been invested with on behalf of the public interest. But the corrupt gatekeeper might offer chances where open competition offers very few. Those to whom the market offers few chances, which is typical for an underdeveloped periphery in the global economy, might go after some sort of

deal with the gatekeeper, according to the pattern “favor for loyalty”. Or they try to sell some gatekeeper services of their own, e.g. as teachers offering better grades, or as custom officers demanding a bribe for non-delayed treatment. Altogether, “ordinary” people should not be counted upon to mount effective resistance against the appropriation of the state by those who see the chance to sell state decisions for their private enrichment.

Nor should one bank too much on institutions that are devised to control the misuse of state power. A prime example of such institutions is the US constitution with its carefully designed checks and balances. It reflects the determination of the well-to-do bourgeois-agrarian American society towards the end of the 18th century to prevent such misuse, which was deemed an inherent threat in any politically organized society. This determination, in turn, was rooted in a specific configuration of interests. The US constitution was copied by other New World states with markedly different societies. There it became the decorative background – one could say with a sarcastic note – to long histories of state appropriation by rentist “political entrepreneurs”. In fact, institutions do little to establish and protect the rule of law when the configuration of interests is not conducive to it. More precisely: when state power is the key to the accumulation of wealth and when other strategies of wealth accumulation are of minor importance. This is closely linked to the dynamics of economic development.

We should expect that an ongoing struggle over the control of the state as a source of rents (producing tremendous fortunes as well as petty additional incomes for custom officers, teachers, judges etc.) will soon form a culture of rather unconditional advantage-seeking, which does not leave much chance to the rule of law. The misuse of gatekeeper power by the agents of the state is normal in this culture and people act accordingly, even though some “modern” strata of the population (those with a secure job linked to performance rather than network) would prefer to live in a society like Switzerland or Denmark.

We might also expect that corruption is conducive to a high level of violence in society. First, where corruption is endemic, the corrupt state agents have to dispute their grip on graft not predominantly with the watchdogs of state integrity, but with rival groups of “political entrepreneurs”. This is a potential source of violent conflict. If state power is being misused systematically for private enrichment it cannot easily claim legitimacy and loyalty. It invites challengers who want to share in the spoil. Second, the constant violation of the rule of law severs ordinary people's attachment to it as well and keeps the threshold low for all kinds of deviant behavior, from decentralized street criminality to the formation of armed gangs. Third, a corrupt regime is vulnerable to calls for fundamental renewal, if necessary via armed rebellion.

However, the facts do not bear out these expectations. Most countries with endemic corruption seem to show remarkable political stability. Recurrent or protracted factional violence over the control of the state is the rare exception. In fact, there is a strong tendency of replacing open competition through cartels, in order to avoid the costs of permanent conflict. Cartel means that the spoils are shared among the serious contenders, while the weaker ones are barred from them. As far as the proceeds from corruption are concerned, often the armed forces play a key role, because their commanders control the means of effective violence. They and all those within the military hierarchy who could mount a challenge are typically included in the group of beneficiaries. And as long as they are satisfied, challengers from outside the cartel cannot easily turn into a danger.

While some of the countries with endemic corruption do not exchange their heads of government frequently, which suggests that the grip on the corruption rent is a consolidated personal privilege (the boss and his men in the positions of power), many other countries are functioning like true electoral democracies. There, the cartel of the rent-extracting gatekeepers extends into the organization of electoral politics. Top office-holders may change, but the cartel maintains its grip. The relevant struggle for power takes place within the cartel, which acts as a gatekeeper also for the positions of promising candidates for office. It is very difficult indeed to enter an electoral race without the cartel's endorsement. That the rentist cartel is embedded in the rituals of electoral politics adds to its

robustness. It stays in the shadow, so to speak, of democratic legitimacy and is not directly exposed to claims of regime change, like outright predatory regimes easily are. In addition, structures of corruption that have entered a symbiosis with electoral politics are much less vulnerable to unfettered and very costly internecine struggles. They are fluid, responding to power shifts, and at the same time stable – like democracy itself. One might say that, perversely, electoral democracy with its regular exchange of the top office holders has, in many countries, become part of the business model of those who “occupy” the state for their own enrichment. They are among those who protect democracy against authoritarian challengers. The cartels of corruption are also concerned to maintain the minimum of a functioning state administration, taking care of things like urban infrastructure and basic education (leaving much, though, to the private market, which links with the profitable market for gatekeeper decisions).

Altogether, the symbiosis of democracy and systematic profitable misuse of the state's gatekeeper power seems to be robust, with regard to democratic stability and with regard to the resilience of corruption. But it is not without risk for the cartels. There is the latent danger of a “democratic coup” by outsiders who manage to mobilize support, bypassing the gatekeepers of the cartel and focusing their appeal precisely on the topic of corruption versus integrity. However, the history of states with endemic corruption provides us with many examples where the anti-corruption rebels were sooner or later re-trapped by the very resilient structures of corruption. According to our proposition above, this has to do with the political weakness of the stakeholders of integrity and their lack of permanent organization. Anti-corruption surges of political emotion are often short-lived while its profiteers are focused and adaptive. And the temptation on the receiving side of corruption does not subside if alternative roads to decent income and wealth are foreclosed. Once networks of advantage trading and impunity have been developed, they are hard to dismantle. And all this is amalgamated in a robust culture of corruption. The fact that even the Italian and the American mafia have cohabited for a century with “relentless” anti-mafia fighters is telling.

4. A modified typology

Countries can be classified with regard to the state of the rule of law within them. And the variable “rule of law” can be combined with other variables distinguishing between different kinds of statehood. Typically, a distinction is made between weak and strong states, on the one hand, and between democratic and authoritarian states, on the other. We get then four types of states, each with a typical range of rule-of-law conditions. I would propose a modified typology which focuses on the fundamental principal-agent problem of the state and puts the spotlight on the inherent forces of transition between the types. The main distinction is between states whose agents are loyally serving their principal (the electorate, the monarch, the Communist Party), fulfilling the functions the principal has assigned to them, without pursuing their own advantage at the expense of the state (and the principal), on the one side, and states whose agents enrich themselves at the expense of the principal, on the other. This distinction, which in reality has shades of gray, is related, as we have argued, to economic development, to the chances of the population to earn a “decent” income in the market (most of all, the labor market) and to be sufficiently protected by welfare-state arrangements from the “risks of life”. The higher these chances, the higher the likelihood that the state's agents are integer, both because considerations of economic survival do not push people into criminal activities and because the stakeholders of a well-functioning state tend to be more assertive.

As a further distinction I propose the one between strong and weak states, which produces the following typology.

	state agents loyal to the state's sovereign	state agents self-enriching
strong states	A	C
weak states	B	D

Type A: strong state, loyal state agents

Type-A regimes include consolidated democracies with a well-articulated civil society and with well-designed institutions of control (division of powers), which ensure good governance according to the preferences of the governed. It includes authoritarian states whose rulers and the elites who support them have ambitions to project power in the international arena. It also includes mobilizing (“fundamentalist”) regimes bent on creating a different society, like the Communist regimes of the Soviet era or post-Pahlevi Iran.

The level of violence in all kinds of type-A states is low, because strong government keeps predatory violence suppressed and does not tolerate much organized crime that would engage again and again in violent gang wars. Type-A regimes of the authoritarian version are strong enough to suppress rebellious anti-regime violence, while the democratic version provides hardly any motivation for that.

Type B: weak state, loyal state agents

States of type B (electoral democracies, but maybe also “missionary” authoritarian regimes) have the problem that the stakeholders of state integrity lack the power to clearly fend off particularistic interests who try to instrumentalize the state for their purposes or to carve out a space free of control by the state and its law (as illicit business typically does). This raises the question: what makes the state weak. One answer points at the state's lack of resources to keep at bay the trespassers. This would mean first of all that those who control the state deny the necessary resources because they have other priorities. Law enforcement is not high enough on their list. Often, lack of governing competence also plays a role. It may be institutional provisions which are to be blamed because they are in the way of professionalization. But then, rather sooner than later the issue arises of how to fix that. If it is not being fixed, we should again suspect that those who control the state have different priorities.

States with open borders tend to be more vulnerable to all kinds of organized (and non-organized) crime than states with rigorous border controls. Openness weakens the rule of law. Accordingly, neoliberal ideology, which extolls the virtue of market freedom, meaning the non-interference of any political will with the interplay of demand and supply, could be seen in a way and to a certain extent as a self-emasculation of the state. It runs the danger of giving up control of market processes that are used by organized crime to further its enrichment goals. An obvious case is money laundering, which has benefited greatly from the liberalization of financial markets. On the other hand, economic neoliberalism also has gone hand in hand with an assertion of state power and state law (Thatcher administration in the UK, Reagan administration in the U.S.).

The level of predatory violence and of violence resulting from conflict between criminal factions is higher in type-B states than in type-A states, because the government does not dedicate sufficient resources to its suppression. If a weak state tries to suppress organized crime with insufficient resources it will open an additional front of violent conflict, which can be protracted. Anti-regime political violence is low because political opposition has a high degree of freedom to articulate itself, to mobilize and to organize. However, societal conflicts over distribution (e.g. land rights issues) can turn violent if state authority is not capable of moderating them and forcing them into non-violent moulds. Limited control power of the state can offer the country's territory as “battleground” for foreign political conflicts, involving, for instance, expatriate groups. Foreign hostility to the country

(example: terrorism) has it easier, too, when the government is weak and cannot control its borders.

Altogether, type B is an unstable arrangement, which will either be ended by the consolidation of state power and the subjection of the private interests under the rule of law or by the succumbing of (parts of) the state apparatus to those private interests and the consolidation of their power vis-a-vis the law. In this second case, the defining criteria “loyal state agents” would no longer apply. Significant parts of them would have been bought off.

Type C: strong state, self-enriching state agents

States of type C have been conquered by a power elite which (at the moment) is not being seriously challenged by rivals. However, such supremacy often rests on an alliance that has been forged between a “strongman” and potential rivals of his, like for instance the leaders of other “clans”. And the stability of the regime requires that the allies be rewarded. Another configuration would rest on the suffocation of every potential countervailing power with the help of an extended secret police and spying apparatus (Trujillo in the Dominican Republic). Normally, these states are dictatorships, but a variant can be a fake democracy where the real power rests with a strongman who is continuously being reelected or who stays in the background and to whom the official office holders report. Type-C regimes are predatory. The strongman/dictator and “his men” use the state's resources for their interests, which normally are heavily focused on enrichment and, of course, on power maintenance. Cooperation with illicit business can be part of the elite's arsenal of ways to extract maximum benefits.

The level of predatory violence and gang warfare is generally low in type-C states. But some of these regimes focus their repressive power on regime-maintenance and neglect public order. They are highly effective with keeping opposition at bay, but tolerate non-political predatory violence, for which economic misery might provide ample motivation (Congo under Mobutu, Haiti under François Duvalier or, on a different level of statehood, Russia under Putin). Type-C regimes often instigate anti-regime violence which tests the regime's capacity to suppress it. When the balance becomes unfavorable for the regime the defining criterion for type C no longer applies. Finally, it should be taken into account that the regime's continuous efforts to suppress opposition are themselves a source of violence.

Type D: weak state, self-enriching state agents

Type D is characterized by competition between self-enriching elites. Normally this competition is tamed by cartel-type arrangements. Many type-D states are formally organized as electoral democracies. Elections there are as much the mode of regulating the access to profitable state positions as they are the mode of establishing citizens preferences of governance. Many post-communist countries belong to this type, which seems to be remarkably stable. The democratic embedding circumscribes kleptocratic freedom of action and provides a dose of legitimacy and stability.

But then there is a second kind of type-D states. They are essentially unstable arrangements of rival rent-seeking power groups behind the facade of superficial statehood (“quasi-states”). What the dominant normative theory of the state sees as the latter's great civilizing accomplishment, namely the monopolization of the use of violence, has there never become a definitive reality. Statehood has always remained limited. Often, loyalties to pre-state social entities (and their leaders) are more powerful than loyalty to the state. This is the continuing reality of the pre-state world, characterized by ever-shifting and fundamentally opportunistic alliances between “clans”, strongmen with their clientele, and other factions of privilege-seekers. Inter-group violence which defies state law is a recurrent phenomenon, but not ongoing normalcy, because it is costly and reduces profits. Still, the credible threat of violence remains the backbone of much competitive rent-seeking. Credible threat, however, presupposes ineffective statehood.

We should expect that a weak state with self-enriching office holders will be prey to all kinds of illicit business, national and foreign/international, according to market opportunities. This business will use the lever of bribe (and intimidation) to pursue its profitable activities, from narcotics to rhinoceros horns, from forced prostitution to real estate, from arms to banal things like sand (reportedly the biggest mafia in India). There can be a mutual understanding, sometimes even an outright cooperation, between the illicit business and top office holders of the regime. However, some of the democratically embedded type-D states will be permanent battlegrounds between various sorts of mafia on the one side and the partisans of “the law”, who do not want to succumb to the normalcy of organized crime, on the other. This never-ending “war” demands casualties (example: Italian mafia-hunter Falcone).

Sometimes the stakeholders of state integrity might look for allies among the armed forces with their hierarchical discipline-oriented and often relatively apolitical professional culture. However, a resulting militarization of the fight against organized crime carries the risk that corruption invades the armed forces as well.

Type-D regimes are clearly the most violence-prone of all. The government's weakness leaves – like in type B – predatory violence, „warfare“ between organized crime groups and imported political violence without adequate suppression. This, in turn, might trigger vigilante violence. Besides, the same applies as in type-B states (see above) with regard to conflicts over distribution, most likely with a vengeance, as settlement of conflicts is biased by corruption. The precarious legitimacy of type-D regimes invites political resistance which is liable to turn into protracted violence. Moreover, type D includes states the control of which is – often violently – contested between rent-seeking factions. And it includes states the territory of which is the battleground, so to speak, of rent-seekers who are after the control of assets such as raw materials or after the control of lucrative markets. These rent-seekers might also fight the state if it tries to interfere with their business (Mexico).

5. Patterns of transition

Synopsis

Typologies present a moment's situation in a process of permanent changes. Countries can be assigned to a certain type for some time. But the forces that eventually will change the classificatory assignment are ever present. For an adequate picture of what is taking place in the world with regard to the rule of law you have to focus on these forces. The following synopsis attempts a first systematic glance (no more!) at them. It lists observed transitions between and within our four types.

- Type A >>> Type B (dwindling resources, changing priorities of government)
 - >>> Type D (corruption creeping in, maybe following economic deterioration)
- within Type A >>> more authoritarian
 - >>> more democratic
- Type B >>> Type D (corruption creeping in, illicit business finding it easy to establish itself)
 - >>> Type A (state firming up, maybe following economic development)
- Type C >>> Type D (loss of control to rivals, maybe inter-faction violence up to state decay)
 - >>> Type A (democratic revolution, maybe following economic development,
 - or otherwise: “fundamentalist” revolution aiming at change of society,
 - or otherwise: authoritarian consolidation, suppressing rival illicit behavior)
- Type D >>> Type C (one power contender becomes dominant)

>>> Type A (democratic revolution, most likely in “embedded” version,
maybe following economic development)

within Type D >>> from “embedded” cartel to more violence, up to state decay

>>> from inter-faction strife to “embedded” cartel

Democratic revolution (transforming regimes of type A, C, D)

People rebel against authoritarian regimes when they become increasingly dissatisfied with their rule, when the collective articulation of the discontent reaches a certain momentum and when the sensation gains ground that the regime may indeed collapse. Such rebellion focuses on the demand for democratic renewal, rather than a different authoritarian solution, if the “natural” stakeholders of democracy (modern middle class, non-precarious working class, intellectuals ...) have come to dominate the public discourse and/or if the democratic discourse dominates the international space, defining a widely accepted paradigm of modern statehood. The democratic discourse focuses on rights and on political procedures derived from rights. It does not focus primarily on the results of governance. It challenges, first of all, the “input legitimacy” of authoritarian regimes and not their “output”. But people's discontent with the results of authoritarian rule certainly adds to the impetus of democratic rebellion.

To succeed, democratic revolutions have to reverse the military balance, which sometimes takes a civil war, but which is sometimes accelerated because the incumbent regime loses the support of the armed forces. In other settings, it is a matter of defeating organized crime, which is set to defend its claims, deploying all its available means of violence. Active foreign influence or loss of foreign support (changing foreign policy priorities, different assessment of the geopolitical situation) often plays a crucial role in the downfall of dictators.

Democratic revolutions turn predatory dictatorships (type C) as well as modern, well-functioning authoritarian and “missionary” ideological regimes into real-choice electoral democracies, the latter ones typically when their initial society-shaping zeal has given way to bureaucratic stagnation. However, there is no guarantee that violently terminated dictatorships are followed by democratic regimes that enforce the rule of law. Typically, what follows is a type-D regime with significant corruption (maybe imbedded in an electoral democracy). Sometimes, failed “democratic revolutions” end up in the (temporary?) decay of the state and in factional warfare (Libya, Somalia, post-war Iraq). Sometimes, dictatorship returns with a new strongman consolidating his power (Sisi in Egypt, Museveni in Uganda, Lukashenko in Belarus, Berdimuhamedow in Turkmenistan or Karimov in Usbekistan).

Which outcomes attempted democratic revolutions take depends crucially on the unit/disunity of the armed forces, which prevents/admits the appearance of militias as power contenders. It also depends on what we might call a country's readiness for democracy. That Gorbachev's demise of Soviet-imposed one-party rule brought about consolidated democracies with a relatively high level of state agents' integrity only in Central Europe (East Germany, Poland, Czechoslovakia), can hypothetically be attributed to these countries' relatively well-developed civil society.

“Fundamentalist” revolutions (transforming regimes of type B, C, D)

Wide-spread discontent with dictatorial and corrupt, but also with ineffective democratic regimes has again and again carried to power “avant-garde” groups that are bent on creating an altogether different society, in accordance with a “fundamentalist” design. When they begin their intended renewal, this design has a utopian character, at odds with prevailing institutions and behavior patterns. Turning the utopia into reality takes a highly authoritarian rule which intervenes deeply in people's private lives. The term “totalitarian” refers to this. The guiding utopias can focus on the way society organizes production and distribution (communism). They can focus on quasi-metaphysical notions of a particular collectivity (a people, a nation, a race). Or they can focus on the relation between humans

and divinity. All these focuses are presented as an explicit and superior alternative to the one of electoral democracy and the validity of human and civic rights. “Missionary” movements which set out to conquer power originate typically in ill-performing societies that frustrate the aspirations of large parts of the population, in particular type-C and type-D countries, but also in type-B countries, as the rise of the Nazis in Weimar Germany shows. Other examples of the rise of “missionary” regimes with a fundamentalist agenda are Iran, Cuba, Afghanistan ...

“Missionary” regimes are themselves subject to increasing pressure of transformation. It originates partly in the unwillingness of the (largely uncontrolled) avant-garde elite to live up to its proclaimed high moral standards, with undue auto-privileging. In part, it originates in the principal-agent problem of every state apparatus (corruption creeping in). And in part, it originates in peoples' discontent with the permanent joyless austerity imposed on them. “Missionary” regimes mutate little by little towards type C and type D. They lose legitimacy and become ever more vulnerable to attempted democratic revolutions. Or they fall victim to foreign hostility. In this context, one of the most interesting political questions of our time refers to the future trajectory of communist-turned-capitalist China, which has so far preserved its regime thanks to its output legitimacy derived from superior economic performance.

“Fundamentalist” revolutions loom in the background as a menace to a number of type-C and type-D regimes (particularly in the Islamic world) which so far have managed to fend them off.

Authoritarian backlash (from type B/D to the authoritarian version of type A)

Sufficiently wide-spread discontent with the results of the democratic political process can carry an authoritarian regime to power, that does away with the democratic freedom of choice. An anti-democratic coup d'état of this kind does not need to be supported by a majority of voters. It might be enough that a faction of the armed forces mounts the coup, without that it is afterwards confronted with an outcry from the civilian side which would force it back into the barracks. That democratic regimes were discredited as ineffective on important accounts has happened repeatedly in Latin America. Their democratic input legitimacy was overruled by the prospect of “better” governance by a military regime committed to patriotic values (the future of the country) and prepared for the task of government by their emphasis on accomplishment rather than discourse. Sometimes, the formula “bad democratic government versus good authoritarian government” referred to the performance with regard to economic growth, internal security or corruption. Sometimes it referred to the direction to be pursued in a deeply divided country (conservative versus emancipatory/redistributive). This was the case in Chile, in Argentina, in Uruguay, in Peru with Velasco, in Venezuela with Chavez and recently in Egypt with Sisi.

Few of the authoritarian backlashes achieved what they set out for. Their initiators were discredited as rulers, often together with their institution, the armed forces, whose high ranks became susceptible to the temptations of self-enrichment.

That anti-democratic coup d'état's became much less frequent in recent decades might have to do with the general disillusionment with their achievements. It might have to do with the world-wide discrediting of the socialist left, which reduced both the need for anti-left interventions and the attractiveness of leftist authoritarianism. It might also reflect something like a current world-wide pro-democratic mood, which discredits a priori any relapse into old authoritarian patterns. This mood could, in turn, be the consequence of the cooling down of former ideological controversies concerning the appropriateness of capitalism.

Consolidating the rule of law (from type B to type A)

That type-B states consolidate into assertive type-A states should be expected as a consequence of (a) institutional development and (b) societal development. The first refers to the strengthening of the

structure of law enforcement with appropriate laws and appropriate resources, the second to the number and assertiveness of the stakeholders of the rule of law (“civil society”), e.g. as a consequence of economic development.

From the rule of law to endemic corruption (from type A/B to type D)

Consolidated democracies with a well-developed civil society are relatively immune to more than occasional corruption— due to their well-articulated organized stakeholders of public integrity. But they, too, can experience a relapse into systematic misuse of state power. The temptation to enrich oneself by “selling” favors should be seen as something wide-spread. What makes the difference are the favor-sharing networks that ensure impunity and that could be developed in the course of time – most easily at local level. It could be that corporatist patterns of coming to a common political understanding among all relevant “players” pave the way to rent-sharing arrangements, because they substitute the crucial mechanism of political competition by consensus-forming mechanisms.

Ideological mobilization regimes, which are not controlled by an organized citizenry, make it easier to build up the networks that would cover up corruption, once the erstwhile guardians of integrity lose their former missionary zeal and become susceptible to the temptation of self-enrichment. The self-appointed party elite needs an external enemy and an unquestioned supreme leader (a functional substitute of the absolutist monarch of yonder) to keep up discipline and loyalty against self-serving temptations. Likewise, where integrity was ensured by an authoritarian regime with international ambitions, it is highly endangered once the authoritarian grip loosens.

From predatory dictatorship to modern authoritarian statehood (from type C to type A)

There is a tendency at least with some type-C states to curtail self-enrichment by state agents and to move ever closer to the authoritarian variant of type-A regimes. Two basic factors can be behind such tendency: (a) the power elite's quest for legitimacy that will help to perpetuate its rule and (b) their international ambitions, which require a well-functioning state, like it was the case with absolutist monarchies. Authoritarian regimes that have consolidated their grip on the country might well be in a position to ensure the loyalty of the state apparatus and to exclude unauthorized self-enrichment by ordinary state agents. Above the law is then only the inner circle of the power elite, often including the leadership of the armed forces. The Dominican Republic under Trujillo, present-day Saudi-Arabia, Iraq under Saddam Hussein and Syria before the civil war may be seen as examples of such authoritarian and conditional rule of law.

In the longer run, predatory authoritarian regimes have no choice but to mutate to type-A regimes, if they want to avoid a much more common mutation, namely to lose their grip on the country to rent-seeking challengers.

From predatory dictatorship to disputed rents (from type C to type D)

Since predatory dictatorships do not have a solid basis of legitimacy it is likely that sooner or later rivals will show up and challenge the strongman, maybe heralding the fight against corruption. The challenge can assume violent forms, from the assassination of the strongman (Trujillo) to prolonged civil war (Syria). If we have a “clan society” with long-standing fragmented loyalties or an ethnically/religiously heterogeneous society, violent inter-factional conflict further to the forced removal of a dictator is not unlikely – especially if the predatory dictatorship has held together a “quasi-state” that structurally has always been on the brink of factional violence.

But we, too, have to realize that rivalry which puts in question effective central government

presupposes rents that can be skimmed off better if you have direct, not government-mediated, control of valuable assets, such as raw materials, poppy harvests or strategic routes. Moreover, the absence of effective government provides opportunities for illicit business and, of course, for old-fashioned violence-supported predatory enrichment. However, where the gatekeeper function of central government is the decisive source of rents the prey to be conquered is precisely the control of central government. A state of prolonged non-governance would benefit none of the power contenders. Resource wealth favors the break-up of states, its lack makes the state itself the central source of rents.

In societies that have already reached an advanced level of statehood, for instance in semi-industrialized countries, an overthrown dictator would be typically succeeded by an electoral democracy, which is nevertheless prey to all sorts of rent-seekers, from illicit business (depending on the business opportunities) to the corrupt state agents who “sell” them favorable gatekeeper decisions.

From endemic corruption to the rule of law (from type D to type A/B)

The “democratic embedding” that characterizes many states with endemic corruption provides a ready-made door for non-corrupt renewal, i.e. for a transition to a type-A regime (maybe via a type-B stage), if (a) a democratic power contender succeeds to rally the electorate for that cause and if (b) anti-corruption vigilance with teeth to bite is institutionalized (example Georgia?). We should expect such shift of power above all as a sequel to sustained economic development. Preliminary signs can be discovered, for instance, in post-communist Romania. The transition from endemic corruption to a non-corrupt state apparatus can occur the way that the rent-sharing cartel of the political class breaks up as new political competitors emerge who embark on a real (not just rhetorical) war against corruption. Depending on the strength of illicit business, a transition could take the form of a violent show-down with casualties, because “battle-hardened” organized crime might defend its source of rents.

Another type of transition sweeps to power an authoritarian government that promises a determined fight against crime/corruption and subordinates to it the observation of civic (even human) rights, without that it normally has those deep roots of integrity that would immunize it against the temptations of self-enrichment that will come with the right to govern, especially to govern without control.

From rent-seekers cartel to predatory dictatorship (from type D to type C)

A cartel of rent-seekers that is not embedded in the institutional frame of an electoral democracy is inherently unstable, as each of the contenders in the struggle for power and privilege must be suspicious of his rivals. Game-theoretically, the situation resembles the one of a multi-polar configuration of sovereign Westphalian states with its built-in general paranoia. This situation does not only promise recurrent violent conflicts, it also entails the perspective that one of the contenders does win the upper hand and takes over supreme gatekeeper power.

A predatory dictatorship might also emerge from an authoritarian regime that has originally set out to eradicate crime and corruption and has derived its legitimacy from the promise of a strong, yet clean hand and has then succumbed to the temptations of self-enrichment.

Termination of dictatorship by foreign intervention (from type A/C to?)

Foreign states have terminated regimes in other countries through the deployment of military power. Attempts to do so have typically been directed against “missionary” regimes committed to fundamental changes not only at home, but in the long run also elsewhere. One of these attempts has succeeded: the American-led military campaign against the Taliban regime in Afghanistan. Perhaps one can add the reduction of the “Islamic State” in Iraq and one can also mention the rather different case

of America's involvement in the coup against the socialist Allende government in Chile. America also toppled the dictatorship of Saddam Hussein and sent Iran back into a state of protracted violent internal conflict with nowhere evolving anything close to consolidated statehood under the rule of law.

These high-profile interventions are only part of what has been and is going on. Foreign interests in regime change have always tried to link up with the regime's enemies within the respective country.

Break-up of the States

States break apart into two or more smaller states if a secessionist group manages to impose its will on the erstwhile common larger state. Such break-up can be preceded by a secessionist war which may be short, but which may also be dragged on for decades (South Sudan).

In the process, constructions of collective identity often gain an important role (“we are Croatians, not Yugoslavs”). But by itself, identity can hardly ever explain what is going on and why. Identity is rather an epiphenomenon, giving a shape to something that derives its dynamics from other factors. Among them, we should suspect conflicts over distribution to be prominent. Important is also the military capacity of rebels to challenge an existing state. It can be derived from the defection of parts of the armed forces (what are their motives?), from purchasing power acquired with “illicit” business activity and from foreign support (again: motivated by what?).

Like with all violent escalation, the cohesion of the armed forces as the potential monopolists of effective military power plays a role. So does foreign interference, which is liable to tip the military balance and build up serious military challengers.

Secession produces new states, which can be placed in our typology mostly in accordance with their societies' state of development. Slovakia has become, like the state it split off from, a fully-fledged democracy, maybe with a certain vulnerability to state agents' temptation of illicit self-enrichment. The latter is even more pronounced in the post-Yugoslavian democracies, especially in the economically more backward ones. Bangla Desh has evolved, like the parent state Pakistan, a conflict-torn country with a high degree of endemic corruption, but still bent on sticking to electoral democracy. Eritrea, split off after a 30-years' war of independence from conflict-laden, ethnically very heterogeneous and still mostly agrarian Ethiopia, which oscillated between type-C and type-D regimes, turned into a totalitarian one-party state. It must be assigned preliminarily to type A, with the typical self-privileging of the ruling party's elite pushing it towards type C. Independent South-Sudan, also the result of a decade-long war of independence against Sudan, turned, as a resource-rich and rent-promising, but at the same time impoverished and underdeveloped country into a the battlefield of rival warlords – a classical “failed state”.

6. Why countries differ: industrialization, mass prosperity and marginalization

The universal quest for privilege and power, in the absence of the moderating veto power of a politically articulated and organized citizenry can explain by and large why power is not tamed by the rule of law in many places of the world, while certain, relatively symmetrical, configurations of rival powers explain the outbreak of violence. But why do we have politically articulated and organized citizens in some countries and not in others?

The key lies in the transition from pre-industrial society (or formation of human living together) to modern industrial society. In the few European countries that pioneered the industrial way of production and in the additional countries that later on took an all-out effort of catching up with the pioneers, industrialization and the mass prosperity that eventually came with it thoroughly transformed society, generating and empowering stakeholders of the rule of law. They encompass those whose perspectives of material well-being are linked to productivity-driven economic growth, rather than to rent-yielding privileges, including entrepreneurs who are exposed to competition and the receivers of

salaries that rise with productive growth. The perspectives of both groups are curtailed if the rule of law is subordinated to the wishes of powerful rent-seekers. For the transition from the dominance of rent-seeking to the dominance of competition-driven productivity growth, it was certainly helpful that the European monarchs had established efficient state apparatuses in order to underpin their quest for power in the inter-state arena. In the USA and in Switzerland, where the absolutist heritage was missing, the preponderance of free owners of small and medium-sized rural estates and the absence of feudal lords was conducive early on to the rule of law and a culture of public integrity.

Now, in those places of the world where industrialization remained insufficient to generate a new “industrial” society of stakeholders of the rule of law, society did not stay within its pre-industrial pattern either. Here, societies emerged with a distinctive affinity to disintegration and anomy. Traditional possibilities of making a living and traditional patterns of social control dissolved, without giving rise to equivalent substitutes. Instead, a new pattern of marginalization emerged, with a concomitant generalized sense of deprivation and frustration.

The economic dynamics behind the new tendency of social disintegration can be sketched out as follows. Part of the local economy linked up in various forms with the global economy, benefiting primarily the owners of the corresponding resources (land owners, metropolitan real estate owners and traders), those who sell them up-market services (lawyers, doctors, private schools, restaurants ...), and those who managed to take over political gate-keeper functions. As the most frequent pattern, the countries which did not make the transition to a fully-fledged industrial economy developed some rudimentary industrial activities, first for the local market (restricting import competition), later on for foreign markets, incorporating cheap local manpower into global value-added chains. This way, additional parts of the local population came to earn an income, often very small indeed, in the post-traditional economy. Large parts, though, remained detached from the income sources on which the access to modern patterns of consumption depends. Moreover, the pre-modern patterns of production and market exchange as well as the livelihoods attached to them were increasingly destroyed by the industrial “invaders” anyway. In some places, notably in Latin America, the process of limited industrialization affected societies that were characterized by highly concentrated land ownership. There, the new opportunities accrued to a large extent to the descendants of the “landed oligarchy”, but also to newly emerging urban middle classes. Elsewhere, relative rural equality was superseded by the concentration of new wealth, often derived from political gatekeeper power.

A crucial element of the new marginalization syndrome is its ever more distinctively urban character – the result of migration from the countryside to the cities. There is a double pull factor to it: the hope to gain a foothold in the expanding, mostly informal urban economy (if not for oneself then for one's children) and the fringe benefits of urban infrastructure from electricity to paved streets and the refuse of restaurants, supermarkets, wealthy households etc., not to speak of begging and stealing opportunities. And there is a push factor to it: increasing population pressure due to declining mortality. Urban marginalization is conducive to predatory violence. Social control is low. There is often little sense of community. Many youngsters grow up without a father and socialization takes place to a significant degree on the street. A frustrated class of marginalized urban slum dwellers constitutes a more fertile ground for all kinds of lawlessness and to the development of a corresponding criminal subculture than both a class of poor tradition-bound peasants and a relatively small group of welfare-state supported unemployed. We should also expect that people respond more easily to ideologies of fundamental rejection of the existing social order, which seems to imply permanent large-scale misery, gross injustice and endemic corruption.

Traditional societies in all their varieties were held together by a high degree of social control, often blended with a good deal of repression, needed to preserve privilege. Post-traditional society, in turn, is an arena into which people are thrown, so to speak, to fight for their survival and their economic advancement as well as they can. In this respect, it has turned into an open society, life designs are no longer ascribed, as it was normal in pre-modern societies. At the same time, post-traditional society is – under conditions of large-scale underemployment, the consequence of insufficient industrial

development, compounded by rapid population growth – socially exclusive, because many of its members are bound to remain without an income that would keep them out of misery.

The twin facts that failure in the market is being punished drastically by destitution and that a large part of the population will inexorably be condemned to failure, favor a radically result-oriented rather than rule-oriented approach to personal strategy. There is no virtue in being an honest loser in a society that lets its losers down like most post-traditional economically underdeveloped societies (almost by necessity) do. The imperative is to succeed by all means. And what governs the struggle for survival extends to the hunt for advantage. Where superior productive performance is neither a promising option (because the tangible and intangible industrial infrastructure is underdeveloped) nor a compelling necessity for those with an entrepreneurial drive (because political influence can secure rents) the quest for wealth and well-being will focus on power-supported rent-seeking. For “ordinary” people without perspective of ever turning into successful rentiers, the most promising strategy is to enter some sort of a clientelist relation with one of the big players. In the absence of income-boosting growth perspectives, they cannot be counted upon as active stake-holders of an impartial rule of law. They have to survive, first of all, in the existing world of powerful rent-seekers.

Altogether, it was the competition-driven dynamics of ever-advancing productive potential, leading to ever-increasing mass prosperity, that brought about societies of stake-holders of the rule of law. This was the case in a reduced number of countries. Where the dynamics of productivity and mass prosperity were absent the rule of law did not have much chance vis-a-vis the ubiquitous struggle for privilege and power. All this is not to say that there cannot be a “civilized” society under the rule of law without ever-rising productivity. Nor does it exclude that rent-seekers using bribe and intimidation “conquer” a high-productivity society. Nonetheless, the particular trajectory of the economically advanced countries goes a long way in explaining why the rule of law is so much more resilient there than in economically backward countries.

7. History does not stop: scenarios of development

The past patterns of societies' development do not suggest a general tendency towards the spread and consolidation of the rule of law. According to our analysis, we should expect the future course to be set by the following – largely opposed – factors.

- (a) Sustained rapid economic development tips the balance of societal forces in favor of a more aggressively articulated demand for a non-corrupt and accountable state administration. The effect of development, which creates jobs and raises the market value of (not entirely unskilled) manpower, might be enhanced by demographic dynamics (emigration, reduced fertility).
- (b) The inverse scenario: the societal impact of protracted and deepening underdevelopment is less and less being contained by traditional social control. Society shows ever more pronounced anomic attributes. The level of individual and gang-organized criminality increases, rent-seeking and predatory elites thrive.
- (c) The many decades long practice of corruption has created and continuously reinforced behavior patterns and corresponding expectations, which might have effect even if the chances and options in society are no longer all that conducive to corruption. However, this would become, as time goes by, an increasingly unstable configuration.
- (d) The symbiosis of electoral democracy and the corrupt misuse of state power elicits ambivalent tendencies. On the one hand, the democratic political frame might facilitate the articulation of demands for a stricter abidance by the rule of law, push the practice of corruption more and more into a defensive position and give rise, little by little, to a culture of integrity. This, in turn, could improve the respective country's perspectives of economic

development so that we get a virtuous circle. On the other hand, if life chances of the population do not improve discontent might accumulate with the whole package, the democracy part and the corruption part. Support might grow for a revolutionary turnover of the system, which promises a development push to the benefit of the whole population. Such promises might well be unsubstantiated and followed by wide-spread disillusion. But the upheaval would set an end anyway to the to the stability of democratically embedded systematic corruption. The range of possibilities would be reopened, one of them being a recrudescence of political conflict up to outright civil war or a sequence of coup d'etats. It would be very likely that such renewed political turbulences will drag in foreign geopolitical interests, as it has recently been the case in Syria or Yemen.

- (e) Profitable business that is considered “illicit” because its pursuit runs counter to a declared public interest will not dry out. It will attract investors, who try to carve out a niche of freedom from state persecution. To this purpose, they will test the immunity of the state's agents to the temptations of extra enrichment. They will succeed in some states more than in others, depending on the culture of integrity in the different countries and on the mobilization and organization of those who have a stake in the rule of law in general and in the respective public interest (for instance the protection of nature spaces against construction interests) in particular. Often, the bribing of state agents is preceded by or combined with lobbying, i.e. the attempt to prevent the declaration of a public interest that interferes with profit opportunities. But there is also illicit business which generates premium profits precisely because it is illicit and because it is engaging in a costly fight against state persecution (e.g. narcotics). This business will not lobby, but bribe and, if deemed necessary, fight.
- (f) Where there are profitable business opportunities there are interests to make use of them and, even more, to actively create them. These business interests will be stakeholders of corruption, because it is with the help of bribes that a public interest which is in the way of profitable business can be overruled. And it is with the help of bribes that markets can be manipulated and competitors be excluded from them. Therefore, bribes are not only demanded by political gatekeepers, but also actively offered by business interests. Corruption does not only exist. It is being created and progress towards the rule of law, brought about by the efforts of civil society, is being reversed by rent-seekers. The pursuit of illicit business fuels the market for state decisions, which is constituted by state agents' willingness to take bribes. It can be taken for granted that offers to bribe will not only come from business, but, when “strategic” interests are involved, also from foreign states. It is not to be excluded that attempts at market manipulation will take violent forms as well, for example instigating rebellions against uncooperative governments. This will depend on the opportunities (to exploit identity-related conflicts, for instance) and on the power configurations in the concrete case. All these attempts that originate in private business or foreign “strategic” interests reinforce the misuse of the state's gatekeeper power and counteract potential tendencies towards a strengthening of the rule of law and accountable government. They are liable to destabilize a country, e.g. one with democratically embedded corruption, for a long period. One should expect that the likelihood of such destabilization depends very much on the tolerance, or inversely the stability-mindedness of the international “community”. It seems that on this account the global situation has not become more conducive to the reduction of violence in recent time.

8. Ways to tip the balance

The best thing that can happen to enhance the chances for the rule of law in a politically organized society is economic development towards full employment and rising mass prosperity. This makes for ever more people who have a stake in the rule of law and will organize to promote and defend it. However, sustained economic development into this direction is hardly something that can be politically decided. It is itself a challenge difficult to live up to for any government. It takes the determination to pursue in a sustained way a policy that is appropriate on several accounts

simultaneously. In many cases, this many-faceted policy demands a fundamental departure from the ways of the past, something which might not find the support of well-entrenched interests. A key ingredient of any promising development strategy is a certain minimum of rule of law, which might not find the liking of the predatory elites who run the country for their own enrichment. Why should they abandon their successful business model? In this case, the goal to be achieved turns into a precondition for its achievement.

Even where this difficulty is not insurmountable, a country's position in today's global markets might make any significant advancement out of a labor-surplus periphery economy an uphill struggle with little prospect of success. To connect with positive life perspectives, people would have to emigrate to countries where economic growth generates demand for manpower, even if initial job opportunities are rather bad and characterized by obvious exploitation. Large-scale emigration can improve the conditions for the rule of law, for it gives many people a new economic perspective and reduces dependency on clientelist advantage-trading. In addition, remittances can stimulate economic growth and generate income chances also for those who have not emigrated. Some emigrants might return with business ideas and some savings to invest, factors which an enlightened development policy can reinforce. But on the other hand, the well-entrenched forces of corruption will not easily be converted to unprofitable patriotic integrity. It would take a successful rebellion against them, something which depends on very specific conditions. We do not have evidence to see an enhanced likelihood that this would happen.

To put a national economy on the track of sustained development is fundamentally something that has to come from within a society. It is a matter of encouraging, rewarding and facilitating productive entrepreneurship and innovation. It is also a matter of a collective effort to provide the cognitive, physical and mental-cultural overheads of successful market-proof entrepreneurship. But there are occasions where help from outside can make the difference between success and failure. An example is African agriculture, which suffers from subsidized foreign, most of all European competition and where a result-oriented "partnership for development" would demand support for the build-up of competitive African productive capacity. The example can be extended to all promising, not yet fully competitive lines of production (including services) that would benefit from a sympathetic, rather than defensive and relentlessly competitive, approach by the highly developed world. The appropriate paradigm would be the one of nationally supported, maybe even "orchestrated" regional development within a country. In the short run, this is not in the interest of competing regions.

The idea that they should do something to stabilize countries which are sending emigrants in large numbers to the prosperous parts of the world and/or which exhibit advanced symptoms of anomy is not alien to governments and public opinion of rich countries. But the intergovernmental bias of official politics (except where "strategic" interests are at stake) easily has the effect of reinforcing corruption and related clientelism, because money meant to go into physical infrastructure, schools etc. is put into the hands of the self-enriching predatory elites. In fact, nothing greases the machines of corruption as much as raw materials and foreign aid.

Another lever of strengthening the rule of law, if the country's economic situation is halfway conducive, is to mobilize and organize those parts of the population that have a decisive stake in public integrity. They are business people in competitive markets, in particular, and urban middle classes who aspire to a well-functioning state administration, in general. Mobilization and organization can tip the balance, where the systematic misuse of delegated state power is embedded in an electoral democracy. It could sweep to power a political force that has made anti-corruption its political nostrum and is both willing and capable of keeping it up. Mobilizing anti-corruption stakeholders abroad may also strengthen the cause of public integrity under specific conditions, namely when it contributes to discrediting, and hence weakening, further a government with a bad reputation.

A key problem of the rule of law is that the law is in conflict with specific interests. To the extent one would reduce this conflict by legalizing illicit pursuit of profit, the rule of law would face less

challenges. Perhaps paradoxically, if some public interests were abandoned this would benefit the rule of law. The top candidate here is the trade with narcotics with its motor of addiction-driven consumption. If U.S. politics came to the conclusion that the negative side effects of forbidding drugs trade by far outweigh its protection effect the problem of drugs-related violence and corruption would disappear, so to speak, from one day to the next. The narcotics traders would be driven into other businesses in which they are already active anyway (mounting menaces and “selling” protection, violence-assisted monopolization of waste recycling etc.) or which they would dispute with their rivals to be. Or they simply retreat with their already amassed fortunes into legal trades, like the once criminal U.S. multimillionaires Rockefeller, Carnegie etc. have done. This way, they (or at least their children) would turn into stakeholders of the rule of law.

The legalization of narcotics consumption in the U.S. (and its many followers) would change Mexico profoundly. Among other things, it would diminish dramatically the proceeds from corruption (turning ordinary state-office holders into desperate street gangsters?). Maybe it would accelerate economic development, thus turning more people into stakeholders of the rule of law. However, this would not be an automatic consequence, but would depend on several contingencies not directly related to the rule of law.

An important lever to tip the balance in favor of the rule of law is the foreign policies of those big and middle powers that do have geopolitical ambitions. If they abstain from destabilization for the sake of positional advantages vis-a-vis their rivals, potentials of violent escalation (mostly with detrimental consequences for the rule of law in the affected countries and regions) would remain untapped. That would mean e.g. that inter-ethnic tensions, many (perhaps most) of which reflect distributional conflicts, do not erupt into organized violence. The same would apply to many religious conflicts. This line of thought points at the importance of the international architecture of security, peace and trust. What would motivate, for instance, Iran, Saudi-Arabia, Turkey, Russia and the U.S. to try to prevent that others gain influence in territories where they have ambitions of their own? No answer can be suggested here. But it is unlikely that the struggle for geopolitical influence with its destabilizing, violence-promoting and anti-rule-of-law consequences is a constant in the world of nation states, one which would paradoxically undermine and even destroy statehood in parts of the world. If it is not a constant it is a variable that could be targeted by the stakeholders of sustainable international peace. Rationally speaking, they should be by now the majority of mankind. But then, the passion of identity feelings easily blurs many people's perception of what are their interests from a rational point of view. Without their susceptibility to such passion, they would be more critical towards the geopolitical inclinations of their political elites. This is uncharted territory, where speculation easily gets lost. But remaining on the pseudo-solid ground of classical “realpolitik”, which accepts the “Westphalian” nation state with its foreign-policy “reflexes” as the ultimative organizing principle of world politics gets you trapped in an unhistorical understanding of politics. It turns a blind eye to the dynamics of interests and power beyond – above and beneath – statehood. And it turns a blind eye to the fact that well-functioning and powerful “Westphalian” states prevent functioning statehood in weak quasi-states with limited statehood. The notion of a time axis on which some countries have NOT YET fully developed their statehood is not entirely wrong, but insufficient for an adequate understanding of the persistence of such underdevelopment and of what it takes to break the deadlock.

An even more utopian lever to advance the rule of law, but one which merits nevertheless some consideration focuses on institutionalized greed, which is a driving force of capitalist economics. An alternative societal organization and culture would emphasize values of communality, relative equality and solidarity and distinctively uncouple social esteem from wealth and living standard. Such a society would motivate personal ambition, initiative and innovation by linking it more directly to social recognition (one of the strongest human motivators), without the intervening variable “wealth”. This would greatly reduce the temptation to add to one's income and wealth by illicit means. Illicit income would carry the strong risk of social exclusion.

International Workshop

Governance of Violence, Organized Crime and the Democratic Rule of Law

PROGRAM

August, 21-24, 2017
Puebla/Mexico City

**Saturday,
August 19**

Arrival in Mexico City

Hotel Four Points

**Sunday,
August 20**

13:00-15:00

Transfer to Puebla
(approx. 2 hours)

***Hotel Villas
Arqueológicas***

20:00-21:30

Welcome Dinner

***Hotel Villas
Arqueológicas***

**Monday,
August 21**

San Andrés de Cholula, Puebla, UDLAP

(Meet in the Hotel Lobby at **08:15h** to be taken to the UDLAP (15-20 min))

09:00-09:30

Inauguration

**Auditorio
Guillermo y Sofia
Jenkins**

09:30-11:00

Opening Lecture

***Democratic Governance and the Rule of Law in Failed
States. Necessary and Sufficient Conditions*** (45 min)

Robert I. Rotberg

Moderator: Gerardo Rodríguez Sánchez Lara

followed by

Plenary Discussion (45 min)

Coffee Break

11:00-11:30

Jardín de las Rosas

11:30-13:00

Opening Lecture

Rule of Law and Human Rights. Impacts and Measurement

(30 min)

David Cingranelli

Moderator: Juan Antonio Le Clercq Ortega

followed by

Plenary Discussion (60 min)

Auditorio

Guillermo y Sofia

Jenkins

Lunch

13:00-15:00

Hacienda de la

Rectoría

15:00-18:00

Session 1:

Library (CIRIA)

BI 102/103

Coffee from

15:00-17:00

Decisive Governance Factors for the Rule of Law and Low Violence: Presenting a “Typology of Governance of Violence, Organized Crime and the Democratic Rule of Law” (30 min)

Hans Mathieu

Moderator: Catalina Niño

followed by

Plenary Discussion

Preparation of Working Groups

Return to Hotel

**Tuesday,
August 22**

San Andrés de Cholula, Puebla, UDLAP

(Meet in the Hotel Lobby at **08:15h** to be taken to the UDLAP (15-20 min))

Working Groups by Region and/or Governance Types

09:00-11:00

Session 2:

For Room Number

see Group

(Appendix)

Defining Typologies by Region

Coffee from

09:00-13:00

- What explains the variety of combinations of democratic, authoritarian and non-state governance, effectiveness of the rule of law and levels of violence and organized crime?
- What are the crucial factors for establishing a democratic state of law with low levels of violence and

high levels of control over organized crime? And, conversely, what are the crucial factors that lead to high levels of violence and organized crime?

11:00-13:00

Session 3:

Scenarios for the Rule of Law and Low Violence depending on Type of Governance

Coffee from
09:00-13:00

- What are the decisive factors for states that do not correspond to the ideal type of democratic states of law with low levels of violence to improve democratic rule, achieve effective rule of law and lower levels of violence and organized crime?
- Which of the types of governance identified would be able to achieve improvements on all three accounts without external cooperation or intervention?
- Who are the internal or external actors that would be necessary and sufficient to build alliances for a democratic governance and rule of law?

Lunch
13:00-15:00

Hacienda de la
Rectoría

15:00-17:00

Session 4:

Policy Implications

- Which of the types of governance identified can achieve improvements without external cooperation or intervention and if external cooperation and intervention is required, of what should it consist?
- Are there governance situations where neither internal nor external efforts can bring improvements in the short or medium term?
- Is it possible to consolidate non-state-governance into full democracy, and high levels of rule of law and security without building bureaucratic states? Under what conditions?

**For Room Number
see Working Group
(Appendix)**

Return to Hotel

(Meet in the Hotel Lobby at **18:20h** to be taken to Dinner at the UDLAP)

Dinner
19:30-21:00

Comedor Américas

**Wednesday,
August 23**

San Andrés de Cholula, Puebla, UDLAP

IMPORTANT: Please carry out your check out in the morning and take your luggage with you to the bus

(Meet in the Hotel Lobby at **08:15h** to be taken to the UDLAP (15-20 min))

09.00-11:00

Session 5:

**Library (CIRIA)
BI 102/103**

Reports on the Working Groups
(15 min per Working Group)

Coffee Break

11:00-11:30

11:30-13:00

Session 6:

Policies and Governance for the Democratic Rule of Law
Moderator: Hans Mathieu

followed by
Plenary Discussion

Lunch

Box Lunch for the
bus transfer

14:00 -16:00

Transfer to Mexico City

**Hotel Misión
Express**

**Evening at your
free disposal**

You will be
provided with a per
diem according to
the FES policies

**Thursday,
August 24**

Mexico City, UDLAP, Jenkins, Graduate School, Paseo de la Reforma 180

(Meet in the Hotel Lobby at 08:15h to walk to UDLAP Jenkins Graduate School (approx. 10 min))

Public Event

09:00-10:30

Session 7:

Auditorio

(Floor 16)

**Tendencies and Policies for the Governance of Violence,
Organized Crime and the Democratic Rule of Law
Working Group Conclusions**

(15 min per Working Group)

Moderator: Gerardo Rodríguez Sánchez Lara

followed by

Plenary Discussion

10:30-11:45

Closing Lecture

***Governance of Violence and Organized Crime in Latin
America*** (30 min)

Bruce Bagley

Moderator: Gerardo Rodríguez Sánchez Lara

followed by

Plenary Discussion

(Meet in the Lobby at **12:00h** to walk to The University Club of Mexico (approx. 10 min))

Lunch

12:30-14:30

The University

Club of Mexico

**Friday,
August 25**

Mexico City, UDLAP, Jenkins, Graduate School, Paseo de la Reforma 180
(Meet in the Hotel Lobby at 08:15h to walk to UDLAP Jenkins Graduate School (approx. 10 min))

Internal Meeting

09:00 – 12:00

Opportunities and possibilities for future international
cooperation for a Democratic Governance, Transparency and
Accountability in the Security Sector

**Salón 1
(16th Floor)**

(Meet in the Lobby at **12:00h** to walk to the restaurant)

Lunch
12:30-14:30

t.b.c.

Participantes:

Ariel Avila

Juan Antonio LeClercq

Kira Ciofalo

Moderador: Bruce Bagley

Relatores:

María Paula Aguilar Romero, 153415

Daniela Rojas Arroyo, 151720

International Workshop Governance of Violence, Organized Crime and the Democratic Rule of Law

Dependiendo del sistema de gobernanza que se aplique en un país se presentarán diferentes formas de crimen y de violencia, así como distintas recomendaciones para responder a estos problemas.

Es necesario también analizar ¿Qué tan fuerte es el sistema institucional para poder resolver los problemas de crimen y violencia? Existen 2 tipos de violencia: tipos de normas para delincuencia organizada y otras a los que no cumplen las características delincuencia organizada.

¿Qué tipo de violencia se asocia con eso y que tipo de políticas salen de eso?

¿Qué tipo de regímenes hay?

Estados Unidos: democracia consolidado, el crimen está fragmentado.

¿Qué tipo de violencias?

Primera Tesis: Regímenes autoritarios consolidados tiene mayor capacidad de controlar los crímenes organizados.

Violencia como resultado del cambio político

En regímenes autoritarios a nivel nacional, cuando el sistema de seguridad es más libre se domestica sin embargo, a nivel subnacional se encuentra una mezcla entre lo legal y lo ilegal

Aproximación jurídica; que tan fuerte es el diseño institucional en materia penal para dar respuesta a estos problemas de violencia

El Estado mexicano está experimentando dos tipos de sistemas para la delincuencia organizada, que es y que no lo es. En términos constitucionales representa un problema

La ciudadanía está percibiendo la reforma como insuficiente/laxo (derecho penal mínimo), la ola de violencia ha generado en ciudadanía el cuestionamiento de por qué el sistema no funciona

Sistema deficiente en persecución de delitos

INEGI – personas privadas de libertad

% de personas en reclusorios víctimas de tortura, forzados a declarar falsamente, declaración sin abogados. Falta de voluntad política.

México tiene un sistema democrático poco consolidado, crimen organizado ¿cómo ha respondido el Estado a la violencia?

Transición del sistema penal incompleto. México no se ha podido organizar para enfrentar los diferentes tipos de violencia. No es cuestión de voluntad política es un problema sistemático. La respuesta de un

gobierno democrático poco consolidado es insuficiente pero además ha demostrado estar cooptado por el mismo crimen organizado.

Abuso del uso de la prisión, en su lugar debería ser prisión preventiva

El problema está en el sistema político que permite que los reclusorios estén cooptados ¿cómo se corrige esta situación? ¿qué políticas públicas podrían funcionar?

¿Qué tipo de crimen organizado se ha generado en una democracia poco consolidada? ¿Qué formas de organizaciones criminales tenemos y cómo lo enfrenta el sistema político? ¿Qué tipo de crimen organizado?

México: Carteles. Más de 300 organizaciones y México no ha respondido eficientemente. Las soluciones no han podido resolver y sobretodo prevenir. No está controlado por las políticas públicas.

-Ariel Ávila- 5 características:

organización piramidal. Modificación——> adaptación.

Se basa en una división territorial.

Ejército privado.

Siguen en la etapa donde la prioridad tiene que ver con la cantidad de armamento que poseen.

Hay comunicación entre el sistema política y las organizaciones.

Poder Local, estatal y nacional.

Organizaciones no simplemente son piramidales: Piramidal viejo, militar y descentralización (donde la organización se subdivide y tienen autonomía).

México ha fallado en responder a esta crisis, e.g. militarización de Calderón. No se ha logrado que estos grupos dejen de cooptar las cárceles.

El crimen organizado no está controlado por las políticas pública.

Bagley-

1. Piramidal – diferentes organizaciones han caído por este esquema
2. Militar – Zetas, generaron una estructura de mando y control, tampoco funcionó
3. Hub and Spoke - Autonomía criminal y sistema de franquicias

4 tipos de organizaciones criminales-

En Colombia el crimen no es el generador de violencia porque los grupos

¿Cuáles son las políticas públicas que permiten reducir los niveles de violencia?

La respuesta de México ha sido insuficiente y tardía

Colombia no presenta una relación tan íntima entre crimen organizado – Estado como en el caso de México

5 tipos de relación con el Estado en México

1. Basada de manera fundamental con la corrupción – soborno, pagarle a la policía municipal, etc
2. Colusión – relación de complicidad y participación con la actividad criminal “no eres parte de actividad criminal” captura del estado.
3. Sustitución – comprar o sustituir a la autoridad (Iguala, Guerrero) inician de manera municipal pues buscan el ingreso de los predios e impuestos porque no hay registro de este ingreso
4. Choque frontal “señores de la guerra” – organizaciones criminales confrontándose. Disputa del monopolio de legítima violencia
5. Crimen organizado de Estado – lo que está pasando en México es un fenómeno a partir de la corrupción o es sistemático. Vínculos de coparticipación con el crimen organizado.

No son relaciones si no etapas. Y se puede saltar constantemente de una etapa a otra, además las regiones subnacionales pueden estar en una etapa mientras que a nivel federal se encuentran en otra. No son tampoco etapas son variables.

En Colombia aprendieron que no se le puede ganar la guerra al Estado. Cuando el crimen organizado disputa la política local o nacional el Estado los detiene, en Colombia no se llega al punto de sustitución.

3 etapas

1. Predatoria
2. Parasitaria
3. Simbiótica – cuando el crimen organizado se convierte en el Estado

Es importante mencionar que se puede ir de la etapa simbiótica a la predatoria, por ejemplo, cuando hay cambio político e.g. Veracruz, cuando hay cambio de partido

Se puede tener una etapa simbiótica a nivel local pero no a nivel federal

¿Cómo reacciona el Estado con respecto a los 5 tipos de relación/etapas?

Crimen organizado diferente a narcotráfico

e.g. Puebla- la constante no es el narcotráfico sino diferentes organizaciones criminales

En el caso mexicano a nivel sub-nacional en vez de etapas, son variables.

Entre más descentralizado el Estado más simbiótico el crimen. “Federalismo extremo”.

Autonomía Criminal-

Subcontratación –

Funcionamiento por franquicias-

La respuesta del Estado es atacar al nivel más bajo del esquema.

Respuesta por régimen:

Autoritario/ no autoritario

Democracia consolidada/ no consolidada

Híbrido

En las democracias transicionales se puede pactar la paz, a corto plazo. Análisis de estrategias a mediano y largo plazo

Autoritarismo Consolidado:

Rusia y China

El crimen organizado se reduce, domestica y se subordina a las autoridades. El crimen organizado no captura al Estado, el Estado predomina.

Autoritarismo en Transición:

Venezuela, Nicaragua

VZLA

Primera forma: petróleo de Venezuela PEDEVEZA

Segunda forma: frontera con Colombia, fragmentación del crimen organizado en Colombia.

1. Regímenes autoritarios en transición necesitan generar lealtades mediante dos formas a través de garantías para que la gente no salga (vacíos de poder)
2. Se mantuvieron a las guerrillas y el paramilitarismo en caso de invasión (de EUA)
3. Relación con criminales sin intermediarios, organizaciones penetradas desde lo alto

Estados autoritarios más propensos a una relación simbiótica entre Estado y crimen organizado, la relación simbiótica se da en zona de fronteras.

El imperio de la ley y la reducción de violencia no son compatibles en el corto plazo.

Autoritarismo transicional: Sacrificio del imperio de la ley, sacrificio de la institucionalidad, se expande el crimen y la corrupción, delincuencia común, sacrificio de la democracia.

La única manera de no sacrificar la democracia es a través de un pacto de élite.

Legalización de la droga – debilitamiento parcial de los grupos

Despenalización de las drogas

Híbridos – se sacrifica mas el imperio de la ley

Régimen	Forma de organización criminal	Nivel de violencia	Imperio de la ley	Políticas públicas frente a crimen y violencia	Consecuencias de Políticas Públicas
Autoritario					
1.1 Consolidado	Sometimiento a crimen	Baja violencia	Observación parcial / bajo respeto	Uso del poder militar y policial, sin respeto a DD.HH	<ul style="list-style-type: none"> - Reducción de violencia - Sacrificio de la democracia, del imperio de la ley, de los DD.HH
1.2 Transicional	<ul style="list-style-type: none"> - TOC - crimen organizado - organizaciones regionales - organizaciones locales 	<ul style="list-style-type: none"> - Disputas - Violencia descontrolada 	Transgresiones sistemáticas de la ley	<ul style="list-style-type: none"> - Confrontación total (nacional/ sub-nacional) - Pactar (nacional/ sub-nacional) - Combate selectivo 	<ul style="list-style-type: none"> - Explosión de confrontación/ violencia - Reducción regional - Violencia - Sacrificio progresivo del imperio de la ley y la democracia - Aumento de la corrupción institucional
Democrático					
2.1 Consolidado	<ul style="list-style-type: none"> - Reducción de escala agrupaciones criminales - Descentralización y dispersión 	<ul style="list-style-type: none"> - No seguridad nacional - Brotes de violencia locales 	<ul style="list-style-type: none"> - Fortalecer imperio de la ley - Estabilidad y reglas del juego - Baja percepción 	<ul style="list-style-type: none"> - Profesionalización - Coordinación Institucional - Endurecimiento de sanciones a nivel legal, político, económico y social - Reinserción social 	<ul style="list-style-type: none"> - Legitimidad institucional - Altos grados de satisfacción del imperio de la ley - Alto grado de goce de derechos humanos - Contención de violencia

2.2 Transicional	<ul style="list-style-type: none"> - TOC - OC - Organizaciones regionales - Organizaciones locales 	<ul style="list-style-type: none"> -Disputa -Violencia descontrolada 	<ul style="list-style-type: none"> - Reformas limitadas - Transgresiones esporádicas 	<ul style="list-style-type: none"> - Confrontación parcial con pactos implícitos - Intento de fortalecimiento institucional - Militarización de cuerpos de seguridad pública 	<ul style="list-style-type: none"> - activación de la sociedad civil -reducción de violencia a corto plazo - Erosión imperio de la ley - Expansión de la corrupción a largo plazo - Deslegitimización de las instituciones
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FACTORES EXTERNOS (comunes a todos)
1- Grado de dependencia PIB/ M . Ilegales (Nacional y Subnacional)
2. Demanda Internacional de productos ilícitos
3. Comunidad Internacional: pros positivos; pros negativos; ayuda intl.
4. Alianzas entre actores no estatales ilegales nacionales e internacionales
5. Niveles y dinámicas de flujos migratorios

- 2 SESIÓN AM

Primera tarea

- Régimen de gobierno y Estado de derecho
 - Tipo
 - Autoritarismo
 - Hegemonía electoral autoritaria
 - Autoritarismo competitivo
 - Democracia electoral
 - Democracia liberal
 - Características óptimas
 - División de poderes
 - Capital social desarrollado
 - Elecciones libres y competitivas
 - Libertad de expresión y prensa libre
 - Libertades ciudadanas y DDHH
 - Respeto a minorías
 - Seguridad como bien público/Monopolio dominante
 - Interrelaciones
 - Estado cómplice con bajo capital social
 - Estado autoritario
 - Crimen organizado fuerte con capacidades de control
 - Estado ausente con bajo capital social
 - Estado fallido o débil
 - Crimen autónomo o aislado
 - Estado ausente y capital social elevado
 - Estado ausente con funciones paralelas al crimen organizado
 - Crimen organizado presta servicios complementarios al estado y sociedad civil esta relacionada a las actividades criminales
 - Estado cómplice con capital social elevado
 - Sistema criminal controlado por el estado
 - Crimen organizado subordinado y sociedad civil articulada a actividades criminales
 - Escenarios de transición
 - Autoritarismo
 - Bajas capacidades del crimen organizado y bajos niveles de violencia
 - Democracia liberal
 - Bajas capacidades del crimen organizado y bajos niveles de violencia
 - Transición entre autoritarismo y democracia liberal

- Es la zona problemática donde el crimen organizado tiene ganancias en el proceso de transición y retrasa la misma hasta que se dan las condiciones institucionales y de cultura política que retoma el control de la violencia y el crimen organizado
- Crimen organizado y violencia
 - COT (Actores y relaciones)
 - Evade
 - Coexiste (supone acuerdos formales o informales por control o regulación de territorio en subordinación al estado)
 - Subordinación del COT al Estado (Caso Argentina)
 - Compite
- Objetivo
 - Lograr niveles tolerables de funcionamiento del crimen organizado y violencia. Que no cooperen territorios, no sustituyan funciones estatales ni coopten estructuras estatales.

Segunda tarea

- Qué hacer para lograr niveles baja violencia, estado de derecho y democracia
 - Objetivo
 - Lograr niveles tolerables de actividad criminal y violencia, en un estado que provee todos los servicios que debe proveer, sin territorios ni instituciones cooptadas
 - Asuntos
 - Seguridad pública
 -
 - Necesidades de realizar pactos
 - Cuáles las condiciones mínimas para hacerlos aceptados
 - Modificaciones institucionales para mejorar las condiciones poblacionales y territoriales. Entendiendo que los pactos son el medio y no un fin. deben tener estrategias para fortalecer presencia y funcionalidad institucional en los territorios ganando legitimidad. No pueden haber intervenciones de talla única.
 - Asumir que los estados y ciudades no tienen la misma presencia institucional, por lo tanto tienen. Diferentes niveles de vulnerabilidad.
 - 1. La temática no es solo de autoridad sino de ganar legitimidad. 2. El objetivo es dismantelar organizaciones criminales vs disminuir impactos de las mismas. 3. No hay talla única sino hay que entender cada territorio de acuerdo a sus problemáticas. 4. Se debe entender como transiciones y no como rupturas. 5. La tarea de construcción y fortalecimiento institucional es el fin del proceso de transición para reducir las vulnerabilidades.
 - La presencia de un estado que no funciona de forma institucional, frágil o disfuncional no significa en ningún caso la inexistencia de estado o la no presencia de estado.

- ¿Se hacen necesarias las crisis de legitimidad? Parece ser que es el caso de América Latina. ¿Qué pasa cuando se da una crisis de legitimidad y no pasa nada?
- Lecciones de los países de AL que no tienen violencia
 - Regulación de la producción de la hoja de coca redujo de forma muy importante los niveles de violencia, además incorporó la participación de los productores en el proceso de regulación.
 - Cuerpos policiales por el crecimiento del mercado de consumo rompen acuerdos previos, promocionan bandas y se rompen los equilibrios previos, generando el incremento de la violencia.
 - La situación de presencia del crimen organizado y baja violencia no es producto de ninguna política o estrategia explícita, y relativa penetración de instituciones, baja densidad criminal, integración funcional a la logística comercial transnacional, recursos generados por el crimen organizado no distorsionan la competencia política, mercados internos tienen amenaza local pero no nacional, no hay sectores de la población que dependan de servicios provistos por el crimen organizado

Vulneración del Estado de Derecho

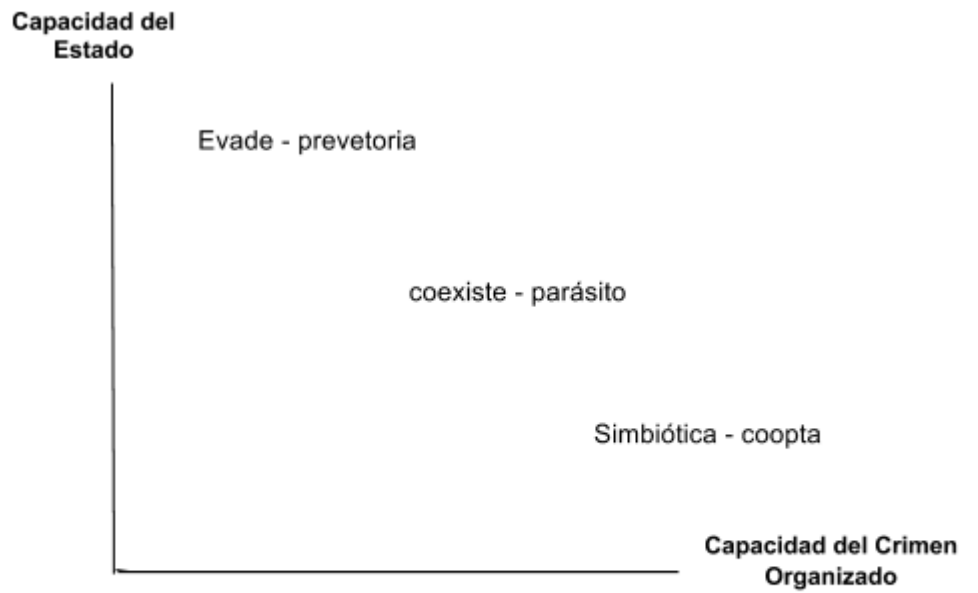
Definición del Estado de Derecho

(se analizan estos puntos para comprender el Estado de Derecho)

- División de poderes
- Elecciones libres y competitivas
- Libertades ciudadanas
- Derechos Humanos
- Monopolio/ seguridad
- Respeto a minorías
- Poderes libres competitivos
- Libertad de expresión y prensa

Tipos de relaciones establecidas entre Estado y Crimen Organizado

- Evadir - categoría prevetoria
- Coexistir - parásitos
- Simbiótica - cooptan



Un Estado liberal es más vulnerable en términos de cooptación. (opinión de Carlos Garzón)

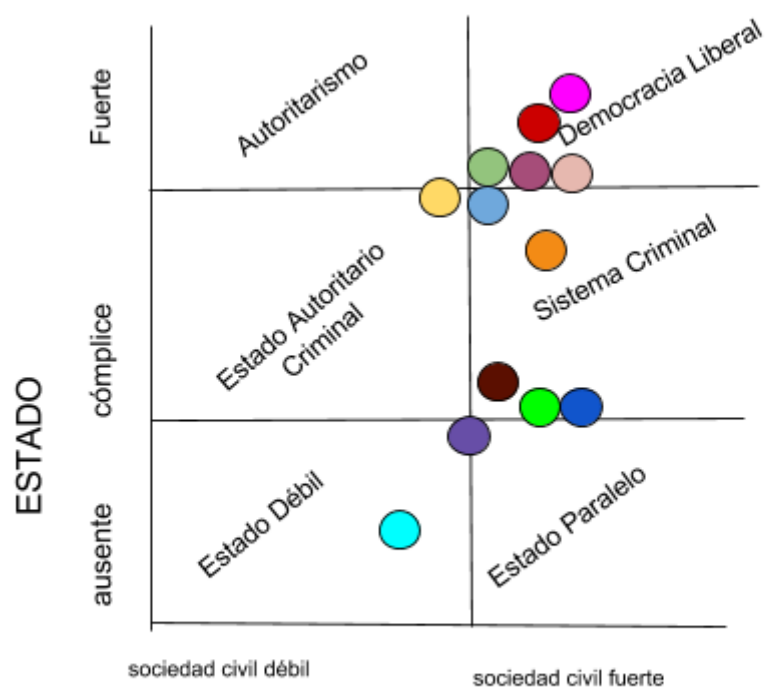
La competencia interpartidaria coincide con el control mexicano de cocaína en México

En el caso de Bolivia y Paraguay existe debilidad institucional pero cero violencia. Mientras más bajo perfil mejor porque no se hace notar

Primera parte del debate: Definir regímenes y de acuerdo a esto analizar cómo funciona el Crimen Organizado

Posibles combinaciones de regímenes políticos conectado con el papel del crimen organizado en cada país:

- Crimen organizado aislado
- Estado criminal autoritario
- Estado paralelo
- Sistema criminal



- ≈ México
- ≈ Colombia
- ≈ Argentina
- ≈ Perú
- ≈ Brasil
- ≈ Chile
- ≈ Uruguay
- ≈ Paraguay
- ≈ Bolivia (tierras altas)
- ≈ Bolivia (tierras bajas)
- ≈ Haití
- ≈ Medellín
- ≈ Sao Paulo

Marina Caparini
Alfred Pfaller
Phill Williams
Bonnie J. Palifka (Skype)
Gerardo Rodríguez Sánchez Lara

Democratizers vs. Cleptocratic Autocracies in Post-soviet states.

- Differences over time in the post-soviet states (Russia, Georgia) → Russian population is spread → different cases of democratization of post-soviet states.
- Georgia:
 - Traffic Police → the one closer to the public was the first reform
 - Infiltrated by organized crime
- Bulgaria → mafia state?
 - Tim: success of the control of the economy
- Methodology: level of democracy, rule of law, level of violence → different states with diverse levels of these indicators.

Discussion questions:

1. What explains the variety of combinations of democratic, authoritarian and non-state governance, effectiveness, of the rule of law and levels of violence and organized crime?
 2. What are the crucial factors for establishing a democratic state of law with low levels of violence and high levels of control over organized crime?
 3. And, conversely, what are the crucial factors that lead to high levels of violence and organized crime?
- Map countries into a matrix to have an empirical base
 - Levels of violence vs level of organized crime violence
 - Ex. Latin America's violence is mostly domestic
 - Definition of organized crime: Palermo definition
 - Not enough information to measure violence in an empirical study. → How to proceed to the study if there is a lack of knowledge of the facts regarding violence.
 - Russia is very different now than in the 1990s → violence would move from sector to sector. → Interesting parallels with the Russian and Mexican processes.
 - States like Latvia, Lithuania, Ukraine → different violence levels → some belong to NATO
 - Using homicide rates is the only measure of violence in all countries → penalized by all constitutions
 - Why do we have authoritarian states in the post-soviet states in central Asia and why post-soviet states in Europe have democracies with flaws? → geopolitical influence
 - German influence in the reform of security in Eastern Europe
 - Improved mechanism to promote judges and police
 - Moldova vs. Romania → state that did not enter the European Union and another that did.

- EU process was uncritical to reform elites even when they were committing abuse and bias with political opposition. → political subjective process (Romania and Bulgaria were not ready to enter the EU)
 - When entering the EU part of your sovereignty is yield to Brussels
- Identity issues play a major role and geopolitics is a factor used to mobilize identity issues.
 - Conflicts in Georgia, Moldova & Ukraine → background of a left nationhood and statehood questions.
- Russia defines itself in terms of geopolitics which is not useful for the people but for the rulers.
- Corruption is a background that rounds all the issues
 - Money laundry is one of the important topics of violence → outsiders' instrument of having influence in the violence and power relations in these countries.
 - Criminal organizations are taking over the state? → Good governance at jeopardy because people is linked to the power structures.
 - Support civil society and free press as tool for fighting the power structures.
- In order to understand what's going on in the region → achieve desired results → historical background → whenever new statehood is offered (collapse of the Soviet Empire) it's an opportunity for predatory elites to take over power → what can prevent predatory elites to take control?
 - The harder the post-soviet states try to push away from Russia the more they are drown back.
 - Cause of violence the clash of interest with an opposition → elites look for enrichment.
 - 2nd force to prevent predatory elites → foreign actors → big difference in Central Europe due to the influence of the EU
 - Possible explanation for the huge difference between European post-soviet states and Central Asia post-soviets states.
- Jurisdictional asymmetries → how do we think about criminal markets to make them less profitable → related to money laundry
 - Ex. Pharmaceutical market in the US and the opium crisis related to Mexican heroin consumption.
- Russia is still a main factor in the post-Soviet states
 - Either as influenced or exclusion or a mixture situation of European and Russian influence.
 - Some countries have no dichotomy between state and organized crime → power elites in states in transition.
- Relate strong state and organized crime with strong and weak society.

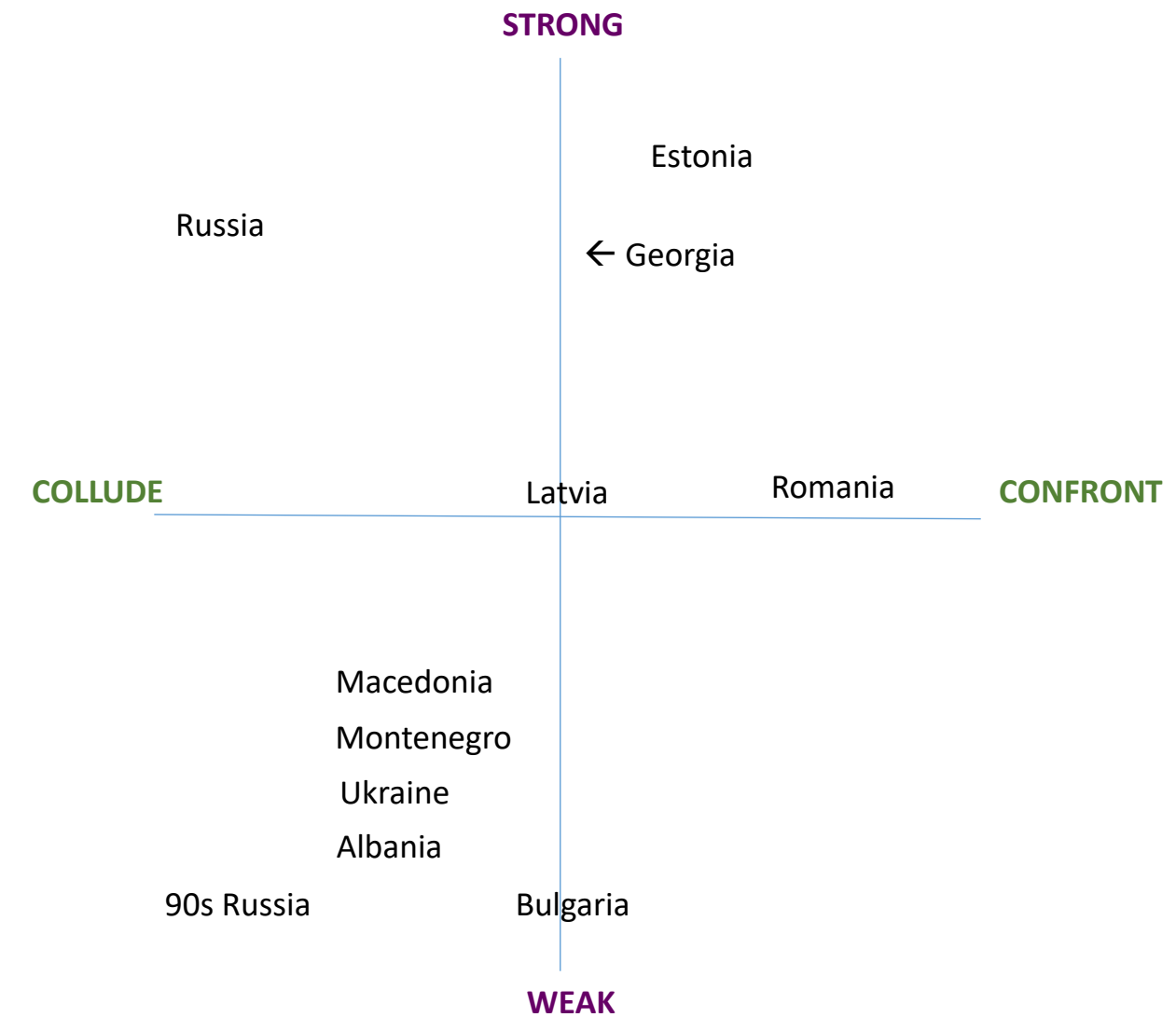
Second session:

- Categorize states and their change over time
- **Potential explanatory variables:**
 - Strong/weak societies, geopolitics (EU, NATO and Russia) & identity politics, also consider geographical situation. Strength of statehood vs. nationhood.
 - States of former Yugoslavia had a strong nationhood but not state culture
- Economic variable:
 - Clientelism and power elites vs. confrontation
 - Baltic countries saw mayor economic growth

- Post Yugoslavia was punched into a hole due to clientelism and predatory elites.
 - Inclusion or exclusion of the international economic activities has defined the prosperity of the country.
- Migration & Movement of people and frontiers → Albanians → when they left Albania or were left outside they were not given opportunities abroad → crime became the only way.
 - Oriented towards the future outside homeland → Moldova → become political apathetic → resistant to the power diminishes with the possibility of migration.
- Drug trafficking and violence:
 - Vulnerable populations participating in international criminal networks → Albanians
 - Drug trafficking is a problem for countries consuming → eastern Europe countries vs. Albania
- Compare patterns of interaction → same category countries have different patterns of interaction that places them inside certain category of the matrix.
- In states where there is a strong confronter state violence is weak (Estonia) vs México where the state is confronter and strong but there is high levels of violence.
- Degree of tolerance towards organized crime and its involvement in certain levels → permissiveness while not involving in it → *acquiesce*
- States can change
- Importance of the chances organized crime has in different settings of politics and society.
 - Geography
 - Economics
 - Recruiting people → less in a country with growing economy and small population → Estonia.
 - Collapse of the Soviet Union → special surveillance who become unemployed → vulnerable to enter organized crime

Structural variables that define the matrix:

- Categorization: home state, host state, service state, intermittent state
- Different criminal activities that can flourish in different states and different areas → crime is not monolithic.



		Strength of government		
		Strong	Mixed/medium	Weak
Government vs. OCGs	Congrontational	Georgia		
	Acquiescent	Poland	Bulgaria	
	Collusive	Russia (2010s)	Latvia	Russia (1990s) Macedonia Montenegro Ukraine
	Low organized crime		Romania	

Third Session:

- Romania: certain success → society pressure in the government → the more prosperous a country becomes the stronger the rule of law.
 - If economic development leads to a better governance → economic perspective of a peripheral countries depends a lot of what is happening in the center.
 - In the medium run economic development is an improver of governance.
- Even actors having good intentions can have not the best results
- Georgia one of the best example for fighting organized crime
- Sdfsdf

Estonia:

- Successful transition history:
 - Small country → Macedonia also a small state but no will of democratization
 - Society and political parties that responded with check and balances for a successful transition
 - Total elite transport → problems you cannot do much about them but are present as challenges for governance.
 - Potential improvement in rates of violence and organized crime compared with 10 years ago
- Levels of impunity as important factors → pact of impunity between the elite
- It is not about a change in regime → it has to be adapted to each case and to the uses and traditions of the place
 - Involvement of civil society as a useful tool
- Economy hardly developable
 - If the economy is not stable and growing people tend to leave to enter the global economy elsewhere with better chances → vicious circle → due to the independency of the states instead of still belong to a greater being
 - Ex. Former Yugoslavia states.
 - When economy is growing and living standards are stable → people tend to tolerate more authoritarian regimes and corruption indexes
 - Focusing on society is KEY
 - Transformation for good governance come gradually
 - Help of good leadership as a trigger for the transformation (Ex. Denmark)
 - Support is not happening if people have stronger primary needs than political rights → importance of Economic Development
- The influence of the neighborhood as a domino effect of benefits → countries with good governance influence for the better their close neighbors
 - Change in society triggers change in government
 - Economic development for countries alone is simplistic → international view to understand connections and repercussions in the area. → Changes of perspective come from the outside for small countries.
- **Hungary:** reforms for entering German market → people seeking to leave and that opens the door for authoritarianism

- Many countries from the periphery who suffered from the world crisis in 2008-2009 had not fully recovered as other developed countries.
- Mitigation of migration effects → conflicts not settling soon which opens new opportunities for crime
 - Mafias taking control of refugee camps
- Ex. money laundry
 - If you make it more difficult you push the issue somewhere else
 - If you keep making it more difficult until the issue has nowhere else to go you eradicate the problem.
 - Long term solution
- **Immigration factor** → difficult to track criminal organizations' activities
- **Moldova:** a lot of economic cooperation with a pro-European government which is predatory elite.
- Future of all Europe → dynamics of organized criminality in transition countries and host countries.
 - Better policies from the EU regarding migration policies as organized crime takes advantage of the flaws → focus in source countries and neighboring
 - Vast majority of refugees land in these countries.
- Clean up of justice system → success in Ukraine and Romania
 - Internal change important for improving governance
- *Which are the decisive factors that we have to prevent for getting worse? → Prevent a regression in countries.*
 - If you effectively prevent things from getting worse you are actually in the right track for improving them.
- If there is a permissive society you will have an abusive government
 - Develop societal processes to encourage societies' involvement as a check to governments.

What are the decisive factors for states that do not correspond to the ideal type of democratic states of law with low levels of violence to improve democratic rule, achieve effective rule of law and lower levels of violence and organized crime?

- Improve economic perspectives for periphery countries → how?
 - Less permissive society vis-à-vis abusive government
- Manage migration crisis more effectively
- Focus on judicial improvement
- Greater focus on anti-money laundry
- Protect global financial system
- Recognize there is level beyond which Organized Crime is unlikely to go
- Keep Organized Crime groups small and afraid → strategies that mitigate the level of violence.
- Nudge Organized Crime groups into greater paternalism and less predatory behaviors
- Political pressure born from influential actors like the EU →
 - Ex. Sanctioning Hungary for policies regarding banks, media, civil society organizations
 - Coordinated actors among like-minded states
- Support civil society groups. Human Rights activists.
- Educate youth in civic values.
- Invest in economic development possibly and conditionality

Which of the types of governance identified would be able to achieve improvements on all three accounts without external cooperation or intervention?

- Organized, mobilized civil societies (Hungary and Romania?)
- Provide greater resources for investigation.
- Develop “white lists” rather than black lists → might have to be done externally
- Aim for sure highly symbolic successes against Organized Crime
- The system could improve without external assistance depending on the quality and vision of the people leadership
- Enlightened authoritarian leaders, though this is likely to unpotable to some western audiences.

Who are the internal or external actors that would be necessary and sufficient to build alliances for a democratic governance and rule of law?

- Internal: middle class, business groups, students, young ones, labor?
- External: governments of rich center countries: EU, NGOs?
- Educate and employ the youth: long term strategy
- Create economic development opportunities
- Work with political parties to strengthen structures and processes
- Develop regional initiatives in counting cross-border phenomenon.

Final remarks:

- Reduce criminal opportunities and how to close them up
- Change the incentive structures → impunity and symbolic convictions
- Enhance knowledge information → recognize variety of structures
- Keep in mind market dynamics
- Bring down the gap between the private and the public → good governance
- Better coordination between institutions and cooperation at a regional level not only domestic.
- Research regional project with national experts
- Excellent methodology for working like today's workshop.
- Problematic that there is an ideal type
- Intersectionality of factors regarding impact of organized crime in different levels of good governance
- Deep structural problems in the transition countries that ease criminal activity
 - Sometimes the state is the problem and not the solution
- Any reform or change is going to take a generation to show impact. → Small steps getting individual people make the right choices and take advantage of social network so eventually the result can show in the long run.
- Cannot approach every country with the same perspective, each one needs its own diagnostic.
- Create an international network for governance, rule of law, violence and organized crime for deeper study.
- judicial system: independent, professional
- professionalize police (investigative) forces and penal system

- avoid recruitment of prisoners into organized crime groups
- avoid OCG activity coordination from prisons
- improve transparency and accountability of government
- implement e-government
- promote an engaged society, good citizenship
- provide necessary public services: eliminate spaces that are filled by organized crime

Grupo 3: Medio Oriente

Governance of Violence — Fundamentalism authoritarian and/or Failed States

Repertoire:

1. What explains the variety of combinations of democratic, authoritarian and non-state governance, effectiveness of the rule of law and levels of violence and organized crime?
2. What are the crucial factors for establishing a democratic state of law with low levels of violence and high levels of control over organized crime?
3. What are the decisive factors for states that do not correspond to the ideal type of democratic states of law with low levels of violence to improve democratic states of law and lower levels of violence and crime?

The questions are assuming that there is a relationship between low levels of violence and a democratic state.

If we can achieve low levels of violence by a democratic state or by any other type of regime.

Discuss some regions, MENA, due to fundamentalist governments.

What kind of regimes are there in the region? What type of organized crime is there in the region? What kind of violence we see in the region?

Syria, Iraq, Libya, Yemen, Bahrain, Morocco, Tunisia,

(Most States could be identified as fragile states. What are the various dimensions. Broader issues of the legitimacy of the State). — > the situations are overall different amongst the Middle East and North Africa. — Could be interesting to compare them.

How reconstruction may enhance violence in the countries.

MIDDLE EAST.

Syria.

- Government fragmented across the country.
- There are non-state actors exercising power throughout the country.

- Authoritarian regime, features high-levels of clientelism, corruption, etc. There is a narrow elite, high levels of wealth and inequality. Government actors are gate-keepers to wealth. When you create winners and losers there is an incentive to the latter to access violence and illicit markets and engage in organized crime.
- Regimes that are too late into profit-making are very afraid of losing government control, even if it is for a small fraction of time. The family that controls the state is not willing to let others participate. The way profits are made tends to be related to crime.
 - This is not only profit making, but also keeping control of the state.
- When did the government lost control? The Arab Spring.
 - [US Institute of Peace: meetings between 2011 and 2012. The opposition to Assad — Distinguish the ones that are still at war from the ones are trying to get over the conflict. This is important because violence changes according to varying circumstances].
 - Under authoritarian regimes they rule with an iron fist. There was a level of control, but organized crime tended to work together with government forces.
 - Violence existed before the Arab Spring.
 - Violence as an instrument for the government. Now organized crime works together with terrorist groups.
 - One single political party that holds power. Violence was not that strong because the government was the one to control it.
 - They provided one good. — Absolute security to those aligned on the “right side.”
 - A strong state provides welfare, security, and representation. – Public goods to the civil society, health, etc.
 - The only good these authoritarian regimes provided was security.
 - In the Middle East and North Africa, the vision of the State is different to the occidental one. Part of the violence is a result of the West trying to impose their own vision of a State and democracy, i.e. the intervention in Libya.
 - Before 2011 the main point of organized crime was Turkey (Captagon, a drug based on fentanyl). Now it is Syria.
- There is a consensus on the fact that foreign intervention enhances violence in an already violent-prone area.
 - The geopolitical evolution, not only in MENA, has a consequence in organized crime evolution. Now, with globalization, they don’t have the same areas of control and goals.
- Talking about *Daesh*.
 - They use organized crime to fund their illicit activities. Trade of antiquities, and other criminal networks.

- POINT MADE: When you have governments that discriminate against certain parts of the population, it will lead to violence. Ex. Iraq and the Shia-Sunni situation.
- Foreign intervention and the “Us vs. Them” Argument.
 - The Regime is colored by being backed for a foreign (western) country.
 - Coming in to say “we’re going to work with this people, not them;” leaves other groups behind. Alienating them might create more violence.
 - Some Muslim populations will tell you that they are “not interested in democracy.” Ex. Egypt with Morsi in 2013.
- Perhaps it would be more in-hand to divide the countries between conflict-affecting and authoritarian regimes. Instead of Maghreb and Middle East for this discussion.
- Predatory security forces.

Back to the questions.

- What explains authoritarian regimes?
 - Religious/ethnic differences, lack of a healthy civil society that express their grievances, corruption, the regional environment that helps them justify authoritarianism to protect themselves from the region’s instability and violence resulting from Islamist fundamentalism,
- What explains high levels of violence?
 - The role of foreign intervention, discrimination, economic choices, vision of inequality, Arab Spring and domestic pressure for changes, corruption, political transitions, geopolitical changes, social changes,
- What explains organized crime?
 - Tighter illicit markets and multinational criminal organizations working together due to globalization.
 - Increase of organized crime and high levels of violence and organized crime.
 - More problems in Maghreb with violence and organized crime than that found in the Middle East because they are “freer.” i.e. Morocco, Libya, Tunisia,

How to establish a democratic state of law with low levels of violence and high levels of control of Organized Crime?

- Local elections.
- New political division.
- A different role for foreigners: Give insight for comparable cases or serve as facilitators: “be in the back seat, not the driver seat.”
- Encourage civil society to participate in a more active and peaceful way to express their grievances.

- A reform on the security reform to seize, or at least minimize, its predatory behavior.
- Identify drivers of change.
- Locally owned and tailored solutions for each country and its own situation. We ought to stop using the “it worked in certain country, it should work here as well” argument.
- Economic inclusiveness and sustainability so they do not rely solely on aid.

What actors do we need?

- Independent and inclusive political parties.
- Civil society and NGO's.
- Free press.
- Democratic reformers in the government.

Countries able to achieve improvements.

- Morocco.
- Tunisia.
- Iran.

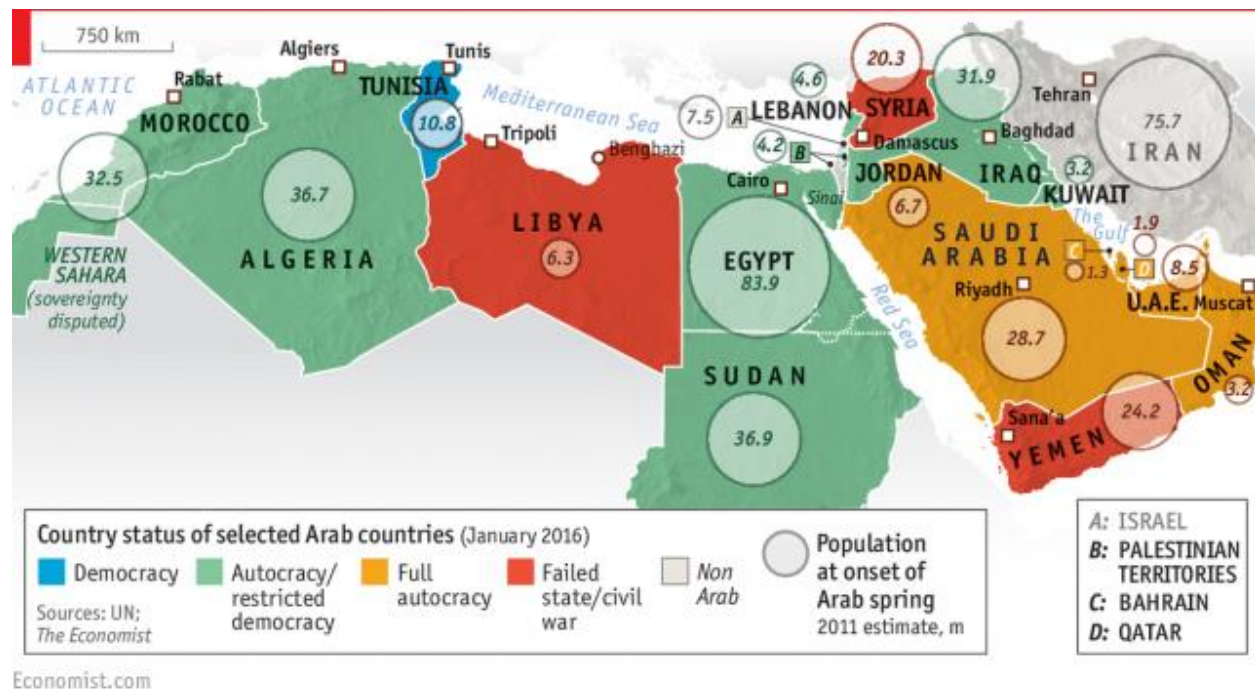
Three questions:

1. Which of the types of governance can achieve improvements? (As seen on The Economist [1.1])
 - Democracy: Tunisia.
 - Restricted democracy: Morocco and Lebanon.
 - Non-Arab:
 - Countries that cannot make improvements:
 - Egypt: no.
 - Sudan: total autocracy (pinpointing)
 - Jordan: protected country.
 - Saudi Arabia: in a couple of years a conflict may arise in the country. Chiefly on the domestic level, basically due to its sectarianism.
 - Algeria: the moment Bouteflika dies, there might be a lot of civil and political unrest that may lead to a crisis. “Algeria might end up as the Maghreb’s Venezuela.”
2. Chances of foreign intervention or to help the democratization process and its transition:
 - Libya. → Help them to “Improve things.”

- Iraq → Tremendous chances for support due to the unrest ISIS has created and Iraq's efforts to overcome the threat.
 - Syria → intervention in the non-military sense it might be more feasible (advisors, supporting some rebels, etc.), but military intervention is not likely. If Assad were to disappear it would create a power vacuum and its position would be filled by someone else. (Russia and Iran have seen the consequences of creating a vacuum of authority and how much it destabilizes the region. Hence, they would not allow it).
3. Is it possible to consolidate non-state governance into full democracy and high levels of rule of law and security without building bureaucratic states? Under what conditions?
- While it is possible to build non-state actor governance (ISIS, e.g.) that fulfill the roles of political powers such as the judiciary, you cannot consolidate fully-working democratic non-state governance without a bureaucratic machinery.
 - Hence, the answer to the question is no. At least, not under these conditions.

Graphics.

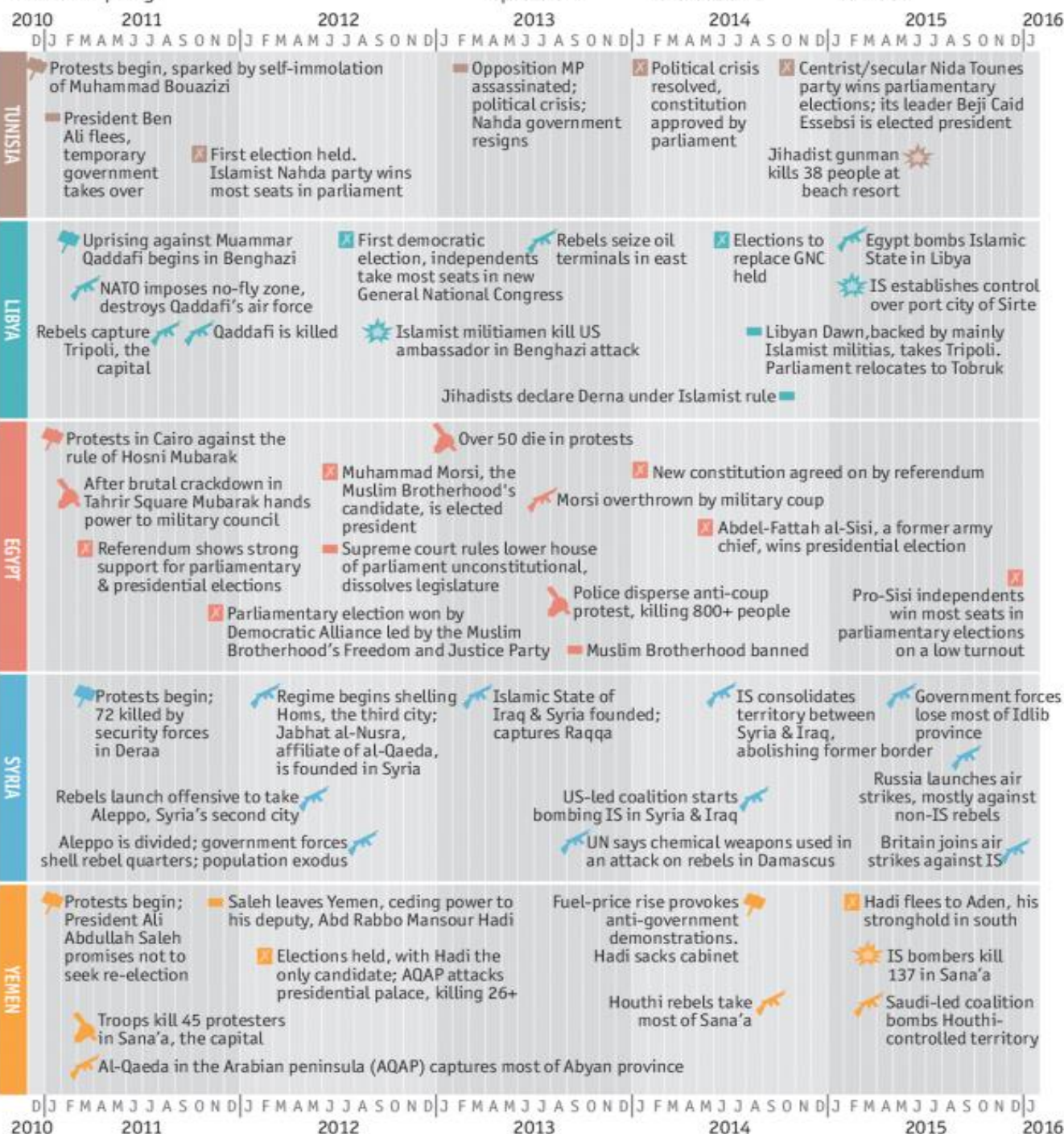
1.1 The Economist: Map *Country status of selected Arab countries (January 2016)*.



1.2 The Economist: Graph *A full five years, The Arab Spring*.

A full five years

The Arab spring



Source: The Economist

Economist.com

Grupo 4: Asia

Asia

ONUDC

Violencia, crimen organizado y estado de derecho en Asia

- Cambodia comparado con AL tiene tasa baja de homicidios
- Bangladesh e India tasa de homicidio entre 2.5 y 4
- Indonesia tasa de homicidio baja, Japón y Laos de los mas bajos
- Vietnam bajo
- Tailandia ha bajado → causa preocupación
- Singapur el mejor, Malasia bajo
- Myanmar Philipinas incrementa

Países de preocupación (Asia del sur+ Vietnam y Filipinas)

Filipinas

Myanmar

Tailandia

Laos

India

Bangladesh

Cambodia

Preguntas marco Zamora

¿Es posible hacer un mirada a todos los países en conjunto?

¿cuál violencia hablamos (política, delincuencia común, crimen organizado, etc)

David Cingranelli

Tres tipos de violencia

- Violencia no organizada (tasas de homicidio de la gráfica)
 - Organizada (crimen)
 - Político
- ocurren los tres tipos en los tres países

Filipinas 2014 10 c/100 mil

Índice de transformación

- Malasia se posiciona bien 48 de 200 países

- Indonesia se posiciona 39 de 200 países

Índices de violencia

Japón lugar 37

Singapur y Corea del sur 32 y 38

Filipinas 84

Malasia 65

Tailandia 66

Vietnam 70
Indonesia 73
China 75
Bangladesh 90
Cambodia 86
Irak 105
Siria 111

*Esto quieren decir que es alarmante, se encuentran en posición relativamente mala

- 1- Malos índices en aspectos de estado de derecho, a pesar de que podrían tener bajos niveles de violencia
- Es necesario enfocarse en los países que se encuentran sobre el promedio de violencia
 - No les gusta determinar una violencia, crimen cercano a la cultura
 - Se observa crimen organizado simbiótico, el crimen organizado es dividido
 - No hay competencia entre el estado y el crimen organizado → es controlado por el estado
 - ¿Cómo distinguir el crimen no estatal?
 - ¿COMPARAR AL CRIMEN ORGANIZADO ASIÁTICO O LATINOAMERICANO, ES NECESARIO COMENZAR CON LA TERMINOLOGÍA EN SOCIEDADES ASIÁTICAS? ES DISTINTO,

Hans Mathiu

- La tasa de homicidios relacionada al crimen organizado (crímenes interpersonales):
 - India 0%
 - Jamaica 84%
 - *se sospecha un conflicto en los datos con India y Jamaica
 - América (18 países) 30%
 - México, Colombia, Guatemala, más del 50%
 - Oceanía 1%
 - Europa (18 países) más del 1%

Este tipo de mediciones tiene sesgos sistemáticos, debido a la declaración de crímenes

Marco Zamora

Relación entre crimen organizado y estado de derecho no es clara, se busca una tipología como alta, baja y media violencia, tomando como base la tasa de homicidio, desarrollo humanos, expectativas de vida, años de escolaridad

Hans Mathiu

IGI contiene sólo un país con bajos resultados: Filipinas

Corea no es tan bueno como parece

Japón tiene índice de 49

Corea 63

Filipinas 80

Tailandia 79

Vietnam 83

Malasia 124

Centro de paz

Peores:

Myanmar 19

Filipinas y Laos 12

Vietnam 7

Tailandia 5

Indonesia 5

Camboya 12

India 12

Indonesia 8

→ India, Bangladesh, Nepal, Myanmar y sureste de Asia, sur de China, Laos, Camboya → más que nada se incluirían por deficiencia de gobernanza

David

Aclaración de conceptos:

El crimen organizado en Asia es ligado a cuestiones de estado a diferencia de América Latina,

¿Qué actores están involucrados como crimen organizado?

Violencia estructural:

Patrocinada por el estado u organizaciones criminales que dañan a ciudadanos (no en forma de violencia ni física), tiene como consecuencia medible la inequidad de la sociedad

→ Principal problema en el mundo: **la inequidad** a causa de arreglos entre políticos y entre políticos y crimen organizados, prácticas corruptas y negarle a los ciudadanos su bienestar. ← no como indicador

¿qué se excluye de la violencia estructural?

Corregir la distribución de ingresos genera crimen organizado, pues la pobreza es distinta a la mala distribución económica, pues se encuentran más volubles al crimen

Indicador de violencia es el DH

De manera general los países asiáticos están bien respecto a DH y distribución de ingresos

ENFOQUE DE PAÍSES

Países al sureste de Asia, excepto Malasia, Corea del Sur y Singapur ← estos países incluyendo Malasia tienen un nivel alto económico, pues se produce un porcentaje del PIB del cual los dueños están incluidos en el gobierno

Países a considerar:

Corea del Sur

China

Myanmar

Tailandia

Singapur

Indonesia

Filipinas (problemas de drogas)

India

Pakistán

CAUSAS DE LOS PROBLEMAS: LA GOBERNANZA

La definición de democracia es importante para la violencia

Democracia: separación del gobierno e inclusión

Corea del Sur

- Democracia liberal
- Bajo nivel de violencia
- Control del crimen organizado
- Oligarquía política y económica
- Gran capitalismo conglomerado
- Bajo nivel de violencia relacionada al crimen organizado
- Hay respeto por las libertades civiles
- La división de las coreas tendrá impacto de mas conflicto

China

- Socialismo autoritario
- Partido único
- Corrupción productiva → utilizan activos de empresas para obtener resultados para empresas de manera privada
- Economía del estado controlado por los partidos y la milicia
- Corporativismo social → implementación de política sin embargo, los líderes obtienen beneficios y distribuyen jerarquías
- Respeto por libertades económicas
- Potencia nuclear
- Disparidades en el sistema político y estilo de vida

Myanmar

- País en transición a la democracia? / mas que nada una creciente democracia pero no una transición
- Economía controlada por el ejército
- Ejército controlado

Tailandia

- Autocracia controlada por la corte
- “Autocracia con cara feliz”
- Altas tasas de crecimiento → agricultura, turismo, bienes raíces

Singapur

- Capitalismo autoritario controlado por el estado
- Poco respeto por las libertades civiles
- Políticas industriales activas
- Según AOF es el país más globalizado del mundo
- Busca limitar los tipos de violencia

Indonesia

- Estado musulmán (no islámico) pues no se declaran a si mismo como islámico
- Post-socialismo con algo de libertad de expresión (ideología pantasila de resiliencia nacional)
- Tortura
- Crisis del ‘97
- Capitalismo crony
- Insurgency/ levantamientos
-

Filipinas - tasa de homicidio del 10% con tendencia a incrementar

India

- Clientelismo
- Alto nivel de violencia
- Estado fallido (hubo elecciones, violencia)
- Tráfico de drogas
- Democracia con elecciones más grade
- Problemas de castas no resueltos
- Respeto por las libertades sociales(paradoja: está dentro de la ley la tortura y las matanzas) → no esta dentro de los derechos humanos
- Tortura por agentes del estado
- Población grande (300 millones) → potencia nuclear
- Conflicto kashmir
- Conflicto de Sri Lanka
- Conflicto religioso musulmán- Indú
-

Pakistán

- Potencia nuclear
- Autoritarismo sin líder
- Poco respeto por libertades civiles
- Tortura
- No es un estado musulmán pero existe gran influencia del islam
- Conflicto kashmir
- Territorialismo tribal (lealtad a la tribu que al estado)

- Retomar Pakistán: problemas religiosos

- 1- ¿En que casos debemos incluir las divisiones étnicas?
2. ¿mas allá, hay formas de gobernanza no estatal relevantes, en el sentido de que haya autoridades en el país reconocidas, lo que explicaría los altos o bajos niveles de violencia, pues el control social pueden reducir la violencia?
3. Relevancia del gobierno en la gobernanza externa (dependencias)

DE MANERA GENERAL (conclusiones)

¿qué pasa con socialización y control social y hasta que punto sucede?

¿se busca solucionar los conflictos con el estado o los conflictos entre tribus y religiosos?

Factores externos en la gobernanza?

SINGAPUR, COREA Y CHINA CON MAYOR GLOBALIZACIÓN

KOF Index de globalización

Globalización económica de comercio tecnologías, pero mas que nada CULTURAL

NACIONALIDAD DEL CRIMEN ORGANIZADO:

¿hasta que punto las culturas violenta pueden ser una intrusión en la globalización?

China busca evitar el acceso, es el único país en la lista

El crimen organizado usa la violencia en tres casos:

- entre grupos de crimen organizado
- cuestiones internas
- cuando las actividades económicas no son protegidas por el estado

Diferencia entre crimen organizado y actividades criminales

Crimen organizado

Nivel de violencia:

- Si no hay protección del estado ni control social, se espera altos niveles de violencia
- La ausencia de instituciones que controlen, aumenta el nivel de violencia
-

Tipo de negocio

Ambiente de gobernanza:

- Control social tradicional

Corea

Funciona bien, pues su corrupción es política

China

Es autoritario pero con buena seguridad pública, hay áreas donde el crimen lleva a violencia

Myanmar

Su preocupación primordial no es la seguridad pública, sino que el control político, tráfico de drogas

Tailandia

Datos confiables y la policía en Tailandia no tiene mala reputación

Singapur

Estado de derecho que funciona, grupos de personas mantienen un control fuerte, es autoritarismo funcional sino no funcionaria la globalización, lo que requiere confiabilidad

Indonesia

Áreas del país con control tradicional

- Lealtad de tribus y religiosas se usan de manera efectiva
- Mal posicionado respecto a tasa de homicidio

Filipinas

Pakistán

- Alta tasa de homicidio

- No necesitas democracia para un alto nivel de seguridad y alto de violencia
- Los casos indican que los niveles de estados funcionales provocan bajos niveles de violencia
- en grandes territorios no se puede establecer un estado y las autoridades no estatales y los criminales tienen ventajas significativas para extraer de pequeñas comunidades
- la violencia religiosa en medio oriente no sube mucho las tasas de homicidio

Recomendaciones

Corea: no hay

China: en cuanto a seguridad nada, Estado de derecho deficiente y parte política, recomendar mas derechos

Session 2: Defining typologies by Region

- ❖ Difícil hacer observaciones generales. Es mejor hacer por casos
- ❖ Cuando uno habla de la región subsahariana se deben ubicar las zonas:
 - Región del Sahel se deben considerar como tribus.
 - Grandes lagos está presente los señores de la guerra.
- ❖ Tienen el control de las principales riquezas y mantienen el control
- ❖ El problema de definir es el concepto de Estado. Las fronteras fueron trazadas sin consenso. Solo por la comunidad internacional. Ejemplo, los Tuareg, que son cinco estados
- ❖ Colonialismo:
 - La diferencia no se puede hacer con Mali y Sudáfrica. Son diferentes contextos.
 - El concepto de no estado
- ❖ **Cuando se habla de África se debe cuidar los conceptos.** En la parte norte se puede hablar de tribus, la parte sur es de jefes o señores. Por eso es complejo de entenderlo.
 - Estos señores de la guerra, son los que tienen un peso político.
- ❖ Gobernanza:
 - Intentar analizar cómo era antes del colonialismo. Y después, si se maneja un punto de inicio, se analizar cómo el colonialismo destruyó eso.
- ❖ Sahel y norte, cuando había conflictos entre clanes era diferente. La palabra tenía un peso grande.
 - El consejo de los 40, llamar a las personas grandes y hablar con todos.
 - Tribunales gacaca (se pronuncia gachacha): si te ofenden te paran frente a él para liberarse, decirse todo e irte.
 - Otro es, presentarte en la comunidad y decir lo que hiciste, responder a la comunidad y los abuelos te dan un castigo social.
- ❖ **No se deben enfocar tanto en las características de cada estado, todos son diferentes. Se debe entender que el crimen organizado es independiente de eso. Se debe analizar como ajeno al estado. Para tomar en cuenta la característica de crimen organizado y la diferencia entre los estados.**

- ❖ Sin embargo lo importante es saber, que en muchos casos las redes criminales vienen directamente del estado, del gobierno. Son ellos quienes permiten esto. Así que se debe analizar los actores políticos y el crimen organizado?
- ❖ La independencia da como resultado estados híbridos, neo patrionalismo.
- ❖ Caso de Kabila, coloca a las grandes figuras, los acomoda y les da carta abierta.
- ❖ En Mali, hay una población que tiene libertad de movimiento. De haber traficado armamento ahora se dedican a la narco-menudencia.
- ❖ Ya no se puede despegar el norte de África del sur. Todas están vinculadas, están organizadas y en comunicación.
- ❖ Economía criminal.
- ❖ Crimen organizado prueba que tiene control de regiones, más que el estado.
- ❖ No se debe olvidar que el estado en muchos casos facilita los recursos.
- ❖ En América Latina da la impresión que lo político no importa solo el negocio, pero en África sí.
- ❖ Es una decisión de negocios y habla como político.
- ❖ La **ayuda internacional** es un pilar en el gasto del estado, y una fuente de ganancia.
- ❖ Los campos de refugiados también son espacios en los que se puede facilitar el negocio, algo que no sucede en América Latina.
- ❖ Las ayudas pueden afectar. Hay una crisis, no importa que tan malo es el gobierno.
- ❖ **Hay una concentración política que afecta: ayudas internacionales.**
- ❖ Fundamentalismo crea una inestabilidad que fomenta el crimen organizado.
- ❖ El poder político es una amenaza.
- ❖ El miedo al fundamentalismo motiva las redes criminales.
- ❖ En África hay masa de violencia que en la actual.
- ❖ La importancia de la violencia de género es peor.
- ❖ Actividad criminal: existen diferentes dinámicas.
- ❖ **De la pregunta uno que habla sobre democracia, autoritarismo y no estado, es mejor solo gobernanza. Porque lo demás solo causa conflicto al momento de entender los conceptos en el continente africano.**

Session 3: Scenarios for the rule law and low violence depending on type of governance.

- ❖ Es completamente enorme el crimen organizado en África.
- ❖ Han cohabitado por décadas.
- ❖ 1989: en México, pasó el caso como Mali. Agarraron a un capo. Es comparable a 20 años México.
- ❖ **No existe una relación de quién controla a quien África. Sino que cohabitan en uno mismo.**
- ❖ **Ruta cero: dónde pasa el producto más fuerte, vienen del golfo de Guinea, es la zona más tranquila. Pasan todos los productos de manera libre y tranquila.**
- ❖ **Corrupción no afecta al crimen organizado. No es un factor**
- ❖ Monopolio controla las redes criminales.
- ❖ **Escenarios: grupos armados paraestatales que toman el control.**
 - Se podría pensar que en países en donde no hay estado, los grupos armados ya no son para-estados. ¿Sino que son el estado?
- ❖ **Pensar en la intervención de China en el continente. Ha cambiado mucho la relación entre estados y a nivel interno.**
- ❖ Ha criminalizado la región, quiere la región de los grandes lagos y ha modificado los escenarios.
- ❖ Es la influencia de actores externos. Así como Francia en el norte.
- ❖ **China podría ser un exportador de método de gobernanza a estos estados. Así como otros países lo han hecho en otros.**
- ❖ Nigeria, Kenia: cristalización.
 - Etiopía, Burkina Faso, Burundi, Congo,
- ❖ La francofonía aumentó la violencia.
- ❖ Mali es lo que no sabe controlar, es un problema con Argelia.
- ❖ La droga latinoamericana entra por el golfo de Guinea. De ahí se distribuye por cuatro rutas, las viejas rutas de paso. Los controlan los grupos regionales, los clanes. Tienen sus propios territorios, son alianzas familiares.
- ❖ Lo mismo que ocurre con los que vienen por el Sinaí.
- ❖ El control es regulado. Burundi: producción, la exportación aumentó. Al mismo tiempo la inteligencia militar falló.
- ❖ Cruzar la línea de frontera.
- ❖ Tráfico de humanos, es el contrario de drogas. El tráfico se va principalmente de África y Asia.

- ❖ La migración externa es irrelevante comparado con la migración dentro del continente. Es más tradicional.
- ❖ ¿Va a continuar o aumentar la dinámica de migración?
 - Trafico intercontinental, si.
- ❖ Buscar la metrópolis. Les permite expandir las redes.
- ❖ Buscan España, Italia, Francia, Bélgica.
- ❖ Países europeos, cuando deportaban los pasaban a países latinoamericanos sin saber, como préstamo.
- ❖ Congo es un ejemplo para todo. Ahí encuentras todos, por algo dicen que si no se logra hasta buscar un punto medio en la región de los grandes lagos, no se va a parar. Todo lo que pasa en esta zona repercute en toda la región.
- ❖ Los señores de la guerra están ahí porque el estado quiere que estén ahí. Eso permite que sea una dinámica interestatal.
- ❖ Les permiten que manejen los recursos y de esta manera cruzan fronteras.
- ❖ Nigeria, explotó minas de coltan// Mali con el uranio.
- ❖ Y EEUU? No hay intereses de intervenir.
- ❖ Las redes se deben reconfigurar. Es un proceso de transición y las redes deben continuar.
- ❖ Hay choques externos que desestabilizar. No es sostenible a largo plazo porque están expuestos. Y las repercusiones pueden ser imperdibles.
- ❖ Presidente d Argelia, ya están reorganizando todo, porque los que están detrás del gobierno saben que si no hay, habrá desestabilización.

Session 4: Policy implications

- ❖ Debe prestarse la debida atención a los intereses públicos pero deben tratarse a su vez de los intereses privados
- ❖ Surge la pregunta de si es que la cooperación internacional puede servir como frente o si es que ésta puede fungir como solución de problemas
- ❖ **Cooperación internacional como una alternativa.**
- ❖ **Cooperación entre gobiernos locales y externos a favor de la gobernanza.**
- ❖ **El tener una fuerza financiera, tiene capacidades de evitar el desarrollo del crimen organizado**

- ❖ todos los bancos del oeste tienen mecanismos de chequeo de los cuenta habientes más grandes, sin embargo, a pesar de registrar las cuentas de familiares y amigos deberían haber checks de seguridad más estrictos o "double checks"
- ❖ la diferencia entre US y Venezuela es que no hay sanciones
- ❖ En Sudáfrica están involucrados con el crimen organizado.
- ❖ El congelamiento de cuentas como solución es planteado como una alternativa a considerar. Sin embargo, también se señala debería analizarse cuánto y cómo sería el golpe a los bancos, es decir se deben revisar los efectos y consecuencias
- ❖ Cuando el gobierno tiene demasiados controles sobre los bancos o el banco central, los efectos de la confiscación de bienes y cuentas podría ser perjudicial
- ❖ El juego de los Bitcoins, en el que cada vez más organizaciones se muevan a través de la criptomoneda complica el registro de las transacciones monetarias y su origen legal o ilegal
 - Organizaciones se mueven a través de esto. Como ISIS que inicio el uso de esto.
- ❖ No bancos, tu dinero lo inviertes en yates, bienes raíces principalmente, por lo tanto los controles más estrictos en instituciones bancarias o financieras no resolvería en gran medida el problema. Lavado de dinero.
- ❖ Se debería dar prioridad a revisar las cuentas bancarias
- ❖ Transparencia en el sistema bancario
- ❖ Crimen organizado es trasnacional, incluso entre ellos existe una cooperación internacional de redes.
- ❖ 50% del dinero de muchas organizaciones e instituciones en África Subsahariana es dinero donado (donated aid)
- ❖ A pesar de existir organismos transnacionales o supranacionales OEA, Unión Africana etc, no se habla de responsabilidad regional. ¿hasta qué punto la región es responsable sobre lo que pueda ocurrir en un determinado país?
- ❖ El tratado de Helsinki entre US y URSS es sinónimo de estupidez
- ❖ **Proyectos en África:** Proyectos del arroz, el de reforestación de la región, y el intento de atender zonas específicas. **Se buscaba atender objetivos específicos.** Con la prioridad de alimentar a la población que el tema de la seguridad. Proyectos basados en los objetivos del milenio. Ayuda para el desarrollo del continente.
- ❖ Se intentaron resolver apartados importantes, ajustar más los objetivos.
- ❖ Si miras a un área específica del gobierno, podrás observar errores y aciertos
- ❖ **No hay evidencia empírica de que las unidades anticorrupción hayan dado resultado**
- ❖ **Políticas públicas y gobernanza: si los estados están tomados por el crimen organizado, entonces ellos no pueden ser objeto de cooperación internacional. Porque eso sería enviar dinero o ayuda a los grupos de crimen organizado.**

- Entonces ¿qué se debe hacer?
- ❖ **Hay proyectos que no van dirigidos al gobierno en sí, sino a pequeñas organizaciones civiles. Que fomentan la resolución de problemas específicos en regiones específicas.**
- ❖ Se debe buscar regular la exportación de productos que salgan de África, como el caso de los diamantes.
- ❖ Eso es cuando se tiene un objetivo específico.
- ❖ Papel de las organizaciones:
 - Acción específica.
 - Redes sociales juegan un papel importante.
 - La solución para un conflicto se debe dar por módulos. Si dices que la solución es una cosa, entonces no va a funcionar. Se da por una serie de procesos.
- ❖ **Justicia trasnacional...como un proyecto que no se ha terminado. Funcionar en el sentido de que hay una alternativa para denunciar de manera indirecta.**
- ❖ Se habla de la responsabilidad conjunta (como región). Comienza a abordarse el tema de alimentación y acceso a ciertos servicios o bienes
- ❖ ONG internacional debería hacer campañas con respecto a estos fenómenos, que aunque ya han habido debería ser la sociedad civil la que debería hacer presión
- ❖ ¿Cuál es la vida de las organizaciones de la sociedad civil en África? son pequeñas en escala pues por ejemplo, en Nigeria la organización es muy mala pero también hay algunas muy buenas algunas subestimadas y otras sobre estimadas
- ❖ En papel tienen el poder de hacer posicionamientos y de hacer recomendaciones pero en la vida real su poder es considerablemente menor, no solo por su organización interna sino por factores también externos y políticos de su contexto
- ❖ en caso de la tecnología en Venezuela tiraron social media y algunos medios de comunicación
- ❖ El acceso a medios de comunicación depende en cada continente, cada país y cada región, pues hay zonas, en las que hay pocas repetidoras o torres de comunicación
- ❖ No hay reglamento internacional.
- ❖ Pero se puede hacer recomendaciones, en cuanto a ciertas regiones.
- ❖ Alternativa laboral: importante, el estado no quiere invertir y la gente espera, entonces las nuevas generaciones no tienen otra opción.
- ❖ Ejemplos: **sociedad civil internacional logró hacer lobby**, para llevar la discusión de reglamentar o prohibir el uso productos. Que terminó en convenciones internacionales.
- ❖ Esto da pauta a que haya un proceso que piensa en la sociedad civil.
- ❖ **Es necesario hacer un lobby que tenga que ver con la relación entre el crimen organizado y violación de derechos de todas las generaciones.**

- ❖ Partidos políticos:
 - No es posible hablar de eso en África, es complicado. Porque tan sólo en América Latina, no hay un sistema de partidos políticos consolidado.
- ❖ Corte penal a nivel regional pero no ha avanzado en la Unión africana por ciertos problemas. La idea es copiar un poco el modelo de la corte interamericana, opciones para denunciar en internet por ejemplo.
- ❖ Como no avanzó el modelo de justicia transicional, en República Centroafricana se está usando el modelo implementado ahí como laboratorio con abogados franceses
- ❖ Es complicado meter a la DEA en territorio africano, sobretodo en el tema de la parte norte y crimen organizado
- ❖ Se interponen los temas de Derechos Humanos con el tema de la soberanía y en todo caso como en el ejemplo de Thomas Lubanga, no había presupuesto para sacarlo del país
- ❖ la idea es juzgar al interior del continente, es decir, el poder de interferir en el tema de Derechos Humanos, genocidio, lesa humanidad, etc. Son proyectos que hay pero sirven como ejemplos que muestran los problemas que han habido al implementar estos
- ❖ alternativas son importantes: campos de refugiados, cárceles etc no van a durar para siempre
- ❖ **El caso de las minas antipersonales, es decir debe atravesarse un proceso de maduración**
- ❖ acciones y propuestas concretas:
 - instrumentos de presión
 - mapeos

Podemos ver cómo DEBERÍA ser algo para hacer las recomendaciones y para que pueden establecerse criterios que logran realizar esos pronunciamientos

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