

Transnational Criminal Networks and The Public Sector

Findings and Recommendations About Permeable Borders

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Introduction

The aim of this document is to collect, present and assess points of juncture between Transnational Criminal Networks (“TCNs”) and the public sector in a wide sense (political institutions, public administration and security agencies, public service agents),¹ and propose recommendations. These points of juncture are heterogeneous and refer to different kinds of public sector entities and different levels of government: from the way in which parliaments work -in some of the cases referred here, in the interest of TCNs- to the informal agreements between municipal authorities and TCN bosses -from a blind eye to their activities to the active commitment of local police agents in criminal activities.

This document focuses on the links between TCNs and the public sector taking into account the findings presented of the articles by Petrunov (2013)² and Salcedo-Albaran & Garay (2014)³.

¹ As they have been described and mentioned along the series of documents elaborated in the context of the project “*Understanding the structure of Transnational Criminal Networks operating in The U.S./Mexico Border and The Southeastern Border of The European Union*”.

² Petrunov, G. (2013). *Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union*. Vortex Foundation. Bogota: Vortex Foundation.

³ Salcedo-Albaran, E., & Garay Salamanca, L. J. (2014). *Structure of a Transnational Criminal Network: “Los Zetas” and The Smuggling of Hydrocarbons*. Vortex Foundation. Bogotá: Vortex Foundation.

The selection of a series of representative interactions between the public sector and TCNs will compose a picture of the main vulnerabilities of the political and administrative organizations vis a vis the expansion of TCNs. This composition, at the same time, will be also the basis for a series of recommendations on how to strengthen and build capacities in the public sector in order to reduce the incentives for these kinds of interactions and, therefore, to reduce the probabilities of their occurrence. The recommendations aim to strengthen different aspects of the public agencies and institutions, and are addressed to different kinds of stakeholders.

The different aspects of these recommendations are related to three main principles of Open Government: transparency, accountability and participation (TAP principles). Open Government can be a powerful concept in order to reduce corruption and abuse related to the interaction between public sector entities and TCNs. The advancement of TAP principles can alter the political economy of the context and interactions in which gray nodes have the opportunity to mediate between public institutions and TCNs.

The strengthening and increase of institutional mechanisms of transparency, accountability and participation can generate opportunities for increasing the costs of illicit exchanges of money, favors and protection. Moreover, these recommendations can be addressed to (or taken by) different kinds of stakeholders: political decision makers, Civil Society Organizations, journalists, academia, among others. Most of the recommendations are inspired in the lessons learned from experiences of reform worldwide.

As Table 1 shows, there are four variables to classify the examples of interactions between the Government sector and TCNs. The more general one is the Systemic Level. This category allows us to distinguish the systemic context of interactions or points of juncture -actual or potential- of the public sector and TCNs detected along the Understanding the structure of Transnational Criminal Networks operating in the U.S./Mexico Border and the Southeastern Border of the European Union. We distinguish here two systemic levels: firstly, there are examples that involve the takeover of political institutions, the decision making level of public policies and norms; secondly, there are interactions that occur within a concrete public agency -the police, the customs administration, for example- at all level of decision -from chiefs to low hierarchy agents. These two systemic levels are useful perspectives to analyze empirical examples regarding various stages of State Capture and Co-opted State Reconfiguration.⁴

⁴ Garay, L. J., & Salcedo-Albaran, E. (2012a). Institutional Impact of Criminal Networks in Colombia and Mexico. *Crime, Law and Social Change*, 57 (2), 177 – 194; Garay, L. J., & Salcedo-Albaran, E. (2012b). *Narcotráfico, Corrupción y Estado: Cómo las Redes Ilícitas han Reconfigurado las Instituciones de Colombia, Guatemala y Mexico*. México D.F.: Random House Mondadori.

The following variable, Point of juncture/situation, classifies types of interactions. This category aims at individualizing the actors involved in the junctures, and the vulnerable area or process. The column "Institutional vulnerabilities" aims at describing what conditions in the institutions or organizations increase the likability of these illicit exchanges to happen. Taking into account all that has been described in the previous categories, the column of recommendations focuses TAP principles, with the goal of strengthening or creating capacities to reduce the probabilities for TCN influence in the public sector policy design and implementation.

TCNs and the public sector: Examples and recommendations

1. Institutional Dysfunctional Equilibrium

This category reunites all the cases in which there is a political decision-making process -policy design, lawmaking, accountability mechanisms setting- in which there TCNs seize opportunities to take them over to obtain their desired outcomes. We call it "equilibrium" because, nevertheless, institutions do not collapse, on the contrary, they find a new "normality". In this set of examples, TCNs direct a process to obtain a result, create the conditions to favor their operations, or, even when they do not promote them, these conditions exist and perpetuate a

context favorable to their operations. These are cases of "symbiosis of criminal groups and public power"⁵. These, in particular, are examples different from Organizational capture (the other category of this variable), in which the symbiosis is not of processes or institutions, but of members of personnel or areas within public organizations.

1.1. Takeover of political institutions and offices

There are several examples in which a decision making process or the position to take part in these kinds of processes are taken directly or indirectly by TCNs.

*Pax narcótica*⁶ illustrates how TCNs arrive to compromise with political authorities. Peace is granted in exchange of a blind eye, or even more, in exchange of an institutional context adapted to the needs of TCNs. The Colombian case of the "Parapolítica" is another good example of these kinds of equilibriums. Judicial, academic and journalistic investigation detected, among other examples of co-optation, the involvement of the 25% of the congresspersons with narco-paramilitary TCNs⁷. The menace of violence and the distribution of illegal economic benefits can grease the wheels in these kinds of situations, in which the actions against organized crime are suspended by a conscious decision

⁵ Petrunov, G. (2013). *Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union*. Vortex Foundation. Bogota: Vortex Foundation, P. 14.

⁶ Astorga, L. (2005). *El Siglo de las Drogas: El Narcotráfico, del porfiriato al nuevo milenio*. México D.F.: Plaza y Janés.

⁷ López Hernández, Claudia, "La Refundación de la patria' de la teoría a la evidencia" in *Y Refundaron la Patria...*, López Hernandez, Claudia (editor), Debate, Bogota, 2010. P 29-79.

of the government -in most of the cases studied here, the local government.

"The symbiosis of criminal groups and public power led to the introduction of specific legislation serving the interests of criminal groups...the amendment to the Criminal Code of the Republic of Bulgaria, known as Vanko 1. In 2006, several members of parliament introduced an amendment, seeking to reduce the maximum sentencing for the crime solicitation for prostitution".⁸

According to this narrative, a ringleader of a prostitution and human trafficking organization was directly benefited by this legislative reform. Even when there is no description of the exchange, the researchers appear convinced of the existence of a trade off, in which the legislators worked towards the interest of the criminal organization.

In some cases, former crime bosses are appointed in key public positions. This helps them to 'launder' their criminal biography and gives them access to public resources to eliminate rivals and to gain control over new criminal markets.⁹

This example, also from Bulgaria, shows the possibility of a direct involvement of TCNs members in political positions.

⁸ Petrunov, G. (2013). *Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union*. Vortex Foundation. Bogota: Vortex Foundation, P. 14.

⁹ Petrunov, G. (2013). *Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union*. Vortex Foundation. Bogota: Vortex Foundation, P. 14.

1.1.1. Institutional vulnerabilities

In all the above-mentioned cases there is a clear weakness in terms of the preservation of the autonomy of the political process and policy making from the interest of TCNs. This vulnerability works in two directions. On the one hand, there is a weakness in terms of how the political process accepts inputs from TCNs, being these inputs such as the communication of their interest in certain specific outcomes, and the entry of their members to public positions. On the other hand, there are weak or no accountability mechanisms to raise the cost of the accommodation of the policy process to the interest of TCNs. Neither public outcry nor the loss of votes or popularity, nor concrete judicial or administrative sanctions is to fear from this penetration of criminal objectives in the political and policy processes.

1.1.2. Recommendations: Antecedents, interests and assets disclosures accessibility and oversight.

Transparency and openness to citizen participation of the policy process and public officials antecedents; mechanisms of accountability to control the influence of TCNs on officials and processes are the main elements proposed here. The co-optation of political officials and the penetration of TCNs members as public officials can be reduced by accessing to information about the past and present of these officials. Some of the tools to achieve these goals are related to increasing the possibilities for monitoring the biographical antecedents of political candidates and public officials, accessing to their asset disclosure, and having in place an oversight agency to control the evolution of their patrimony. The

mandatory presentation of asset disclosures, their public accessibility and the control of patrimony are requirements of the United Nations Convention Against Corruption (UNCAC). An interesting example of a mechanism of asset disclosures digital presentation, accessibility and control is the Argentinean system for the Executive Branch that worked from year 2000 to 2013.

The openness of the policy process itself is key to hold anti organized crime policies accountable for their aims and results. To this end, it is necessary to access a publicly discuss the rationale and empirical grounds for legislation and policy design (such as statistics, impact assessment, etc.), as well as transparency of the performance of these policy decisions (performance indicators, public audiences to hold officials accountable). There is a wide variety of tools to implement these aims, starting with an effective law of access to information valid at all levels (national and subnational) articulated to a vibrant press, civil society and academia able to request, analyze data and advocate oriented by evidence are some of the key elements. Mexico is an example of having these kinds of norms in place (such as national and sub-national freedom of information laws), but without the necessary protection to those that can make use of it (press, CSOs), its effect is very limited (see below).

1.2. Point of juncture/situation: Widening the space for co-optation and complicity: the neutralization of media accountability.

The access to information and a vibrant and free press can be powerful tools for transparency and accountability. The flow of information required to reduce co-optation of political processes as indicated in 1.1., the possibility of reporting the activities of TCNs, and the government right and wrong answers rises the costs of political wrongdoing and reduces the chances of arbitrariness and abuse. On the contrary, the isolation of the press favors dark agreements and negligent strategies of the public sector facing TCNs.

In Mexico, for instance, it has been questioned to what extent press coverage of the "drug war" is not free and independent due to TCNs coercion, and to what extent such a coverage is required as a way of reducing corruption and hidden pacts between authorities and TCNs, particularly, at the local level.

The efforts to identify and prosecute corrupt public officers who cooperate with criminal organizations are extremely important, but as we have seen above, this remains outside of the courtroom. Corrupt practices are part and parcel of the country's situation and condition to a great degree the model of functioning of TCNs, yet the investigations analyzed herein did not discover relevant links to corruption. At the same time, there are numerous media publications with detailed stories about corrupt public officers with ties to organized crime. Unfortunately, in most cases the information from the media publications and journalist investigations never reach the court.¹⁰

The gap between investigative journalism and judiciary investigations in Bulgaria looks wide. While the authors show that findings by journalists exist and they are relevant, there is no proactive follow up by judiciary authorities, in order to use these elements to investigate TCNs and their links to public officials.

1.2.1. Institutional vulnerabilities: Lack of protection and follow up of the press.

There are at least two kinds of weaknesses involved in the findings. On the one hand, in the Mexican case, there is the lack of protection and guarantees for the journalistic work, which is left to its own devices in front of the violence and corrupt incentives of TCNs. Assassination of journalists -74 in 2012- and human rights defenders, impunity and a passive acceptance of the situation by authorities at all levels has been denounced by human rights and journalists organizations, and taken as

¹⁰ Petrunov, G. (2013). *Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union*. Vortex Foundation. Bogota: Vortex Foundation, P. 70.

a key issue by the Inter-American Human Rights System and the United Nations Human Rights System.¹¹

On the Bulgarian side, there is investigative activity by the journalism, which looks like flowing with at least enough freedom to be publicly known. Nevertheless, even when its findings reach the public sphere, they do not become inputs for the judiciary prosecution system. If prosecutors took the press as an input, at least the most sound press findings could give impulse to a more thorough public prosecution.

1.2.2. Recommendations: Grant security and access to information; use press findings as anti organized crime policies inputs.

Transparency, accountability and participation are involved in different ways in granting freedom of the press. The free flow of information about the actions of TCNs and the government allows citizen to understand their context, threats and the adequacy or inadequacy of government response. In time, it can become a motivation for voting for or against public officials, as a way of accountability. Any possibility of citizen participation in monitoring the policy process, for example, through the activism of CSOs, requires a threshold of information. Granting the access and security of sources of journalism is the minimal condition for this to happen. The international Human Rights systems and the Civil Society have demanded increased guarantees for journalists and human rights defenders, and the end of impunity, with no success so far. Creative ways of allowing the reporting of the criminal

¹¹ See Article 19 Mexico report <http://www.libertad-expresion.org.mx/alertas-de-agresiones/informe-de-articulo-19-sobre-asesinatos-a-periodistas/> and Freedom House <http://www.freedomhouse.org/report/freedom-press/2012/mexico>

activities of TCNs, ending the de facto censorship situation, using international support and solidarity are paths that require urgent exploration.

Incorporating investigative journalism findings to the judicial prosecution as a key input, for example, for triggering new investigations or to opening new hypotheses in existing ones increases the possibilities of making public authorities accountable for their wrongdoing. Strategic planning for the judicial prosecution of TCNs is a key step, because it allows realizing all the existing sources to feed this process. Among these, press findings should take a relevant part. Prosecutors and judges are not used to strategic planning, nor interact with journalists, CSOs and academia as a part of the information gathering, incorporating this practice might add value to their processes. At the same time, promoting access to information would multiply the eyes over the public authorities decisions, and stimulate the press, the academia and the CSOs to obtain information that could be indicative of weaknesses of the public sector in its work of controlling TCNs.

1.3. Lack of performance monitoring.

This finding applies to an ample variety of situations in the contexts analyzed here. The need of public indicators marks many activities and agencies, and points to a series of tools that can highly increase transparency and accountability of the public management. We are going to point out two examples in which this weakness has an impact, and its reversion would bring clear gains to the prosecution and reduction of TCNs impact.

[...] Several private nodes/agents participate in this structure, operating through firms that transport and distribute oil and hydrocarbons inside the United States. Also, the participation of nodes/agents who are part of “Los Zetas”, operating within financial institutions in charge of carrying out the money laundering process, as well as officials operating through Mexican customs agencies, were registered in the network. The graph [...] illustrates the structure of those specific interactions that were established with customs officials inside Mexico.¹²

There are several references to the way in which private agents interact in TCNs with money laundering purposes. These agents and the financial institutions involved are located in the private sector. Mexico has specific laws and agencies for prosecuting money laundering. Part of the problem is that these kinds of activities, such as prosecuting money laundering, appears as very technical where there are no clear understandings and there are few experts who know how to act, favoring arbitrariness. Making of regular routines of control complex issues only understandable by experts is a way of subtracting the topic from the public agenda. Even when these kinds of financial oversight activities are, in fact, complex, it is possible to determine a series of indicators which its public access would make the activity much more accountable (see 1.3.1).

The lack of coordination between different security agencies and different levels of government opens windows of opportunity for TCNs both to seize inefficiencies and even possible deals with agents (gray

¹² Salcedo-Albaran, E., & Garay Salamanca, L. J. (2014). *Structure of a Transnational Criminal Network: “Los Zetas” and The Smuggling of Hydrocarbons*. Vortex Foundation. Bogotá: Vortex Foundation, P. 22.

nodes). The lack of public data to follow up the existence, types and results of cooperation between agencies favors a context of institutional gaps.

1.3.1. Institutional weaknesses. Discretionary management and scarce dialogue with the citizenry.

The above mentioned examples are just some of the many cases in which the fight against TCNs appears to be an exclusive matter of security and technical officials and agencies. Because of this conception, even when there might not be an intention of creating opportunities for favoring TCNs actions, there are conditions that contribute to this result. The view of several anti-organized crime activities, such as anti-money laundering, as esoteric and only for initiated, without parameters for public monitoring, increases the area of discretionary use of power. Detecting, collecting and publishing key parameters to follow up to what extent anti money laundering agencies do they work, or inter-agency cooperation exist enables other circuits of the public sector -oversight agencies, the parliament, for example- and the public to hold these activities accountable.

1.3.2. Recommendations: Detect key parameters; collect and publish information.

Any public administration activities can be held accountable before public institutions and the citizenry by detecting, collecting and publishing the right indicators. In the case of anti-money laundering offices, there are certain performance indicators -such as (i) the criteria and thresholds for initiating investigations, (ii) the quantity of

investigations initiated, (iii) their result, the quantity of pending investigations, and (iv) the time it takes to reach a resolution, among others- for which it is possible to establish standards and follow up the efficiency and fairness of these public offices. In a similar way, inter-agencies cooperation can be subject to a series of indicators to show the flow of information, joint initiatives and other common efforts. These indicators need to be collected and published in a regular basis, and disseminated in formats that can be reutilized and interpreted by a diversity of audiences.

1.4. Low/no focus on institutional reforms

International politics and cooperation has been a relevant element in the design, development and reform of a series of Eastern European and Latin American countries. In Latin America, funds from the US government to finance the "war on drugs" in México, Colombia and Central America influenced key policy goals and the relative weight of different stakeholders in each country.

While the United States has pledged up upwards of \$2.0 billion in the Merida Initiative going to Mexico, to improve judicial infrastructure and offer resources and technology to the military—there has been very little oversight of judicial reform, therefore resulting in the majority of the funds going towards purchasing equipment .¹³

1.4.1. *Institutional vulnerabilities: Procrastinating reforms.*

The lack of support and focus on institutional reforms tends to reinforce the role of the tactical and technological resources, mostly useful for

¹³ Hernández, A. P. (2010, August). Yale World Fellow. (D. Enriquez, Interviewer).

vigilance, intelligence and, frequently, the tactical needs of the "war on drugs" metaphor. Without minimizing the relevance of covering these needs and leveling the field, the shape of the international cooperation budgets reflects the relative weight of stakeholders and aims mostly linked to the security forces and the military, instead of focusing in building capacity to control corruption and to close loopholes in the security and justice institutions that allow the co-optation of personnel and processes.

1.4.2. *Recommendations: Coalitions for budget priorities.*

In order to shape an agenda for the cooperation more focused in institutional reforms, it is key the role of CSOs and the academia to gather and disseminate the evidence of the need and the cost efficiency of building institutional capacities, improving transparency and accountability mechanisms and strengthening democratic tools. An interesting example of these kinds of coalition has developed recently in Honduras. The coalition Alianza por la Paz y La Justicia¹⁴ has advocated for an institutional reform focus on security policy. In this effort, the coalition made strategic use of data on international cooperation impact gathered by international alliances¹⁵ in order to advocate based on evidence.

¹⁴ Ver http://pazyjusticiahonduras.com/phocadownload/Pronunciamientos/pronunciamiento%20publico%20apj_mp_31_7_2013.pdf

¹⁵ “*Justfacts*” is a database product of the joint effort of Washington Office for Latin America, the Center for International Policy and the Latin America Working Group, funded by the Inter American Development Bank <http://justf.org/>

Building coalitions and promoting an agenda of institutional reforms in the field of international cooperation can rapidly be expanded to the security agenda in general. The priorities set by these kinds of coalitions, and the channels of dialogue with public authorities can reach the domestic budget and priorities, creating a window of opportunity for a wider agenda of institutional reform.

2. Organizational Co-optation

In this category of articulation between TCNs and the public sector, TCNs show the ability to make sections in public agencies, and in particular, people within these organizations, to work in their interest. The main difference with the Institutional capture category is the level and the range in which the articulation between TCNs and the public sector. While in the Organizational co-optation there are people and groups of people co-opted, in the Institutional capture we find policy decision making processes or positions taken by TCNs.

2.1. Point of juncture: Symbiosis of personnel

In this group of cases, the point of articulation happens during the recruitment of human resources for TCNs from public agencies. It is not the traditional case of members of public agencies being bribed or threatened to avoid doing their job in order to allow TCNs to do theirs freely (as corrupting a custom agent to turn a blind eye). It is a symbiosis in which when working for TCNs, members of the staff of public agencies become actual staff of TCNs, with specific functions in their structure. For instance, in Mexico there are cases of political leaders and

public servants who receive a monthly payment and, as a consequence, are sometimes counted as part of the operative of “*Los Zetas*” or “*La Familia Michoacana*”. Specifically, the case of a political leader at the State of Tamaulipas, in Mexico,¹⁶ illustrates how the gray node recruited by TCNs from high positions in a political party at the state level reaches managerial positions in the illegal activities. Even when, of course, this recruitment seeks for the influence that this gray node has in the legal public sector, he also plays specific role as manager of criminal activities.

In the skimming case, the police officer investigating the TCN and the criminals were closely connected. The police officer himself approached the TCN boss and offered his help for protection in exchange of money. In the course of time, the police officer joined the criminal ring and helped to transfer money to Bulgaria.¹⁷

When “Karen” began working with “Los Zetas” received a payment of US \$300 each two weeks. “Karen” explains that, at that moment, another police commander of the Operative Police Group [Grupo Operativo Policiaco, GOP] was in charge of paying him for his services.¹⁸

¹⁶ Salcedo-Albaran, E., & Garay Salamanca, L. J. (2014). *Structure of a Transnational Criminal Network: “Los Zetas” and The Smuggling of Hydrocarbons*. Vortex Foundation. Bogotá: Vortex Foundation.

¹⁷ Petrunov, G. (2013). *Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union*. Vortex Foundation. Bogota: Vortex Foundation, P. 71.

¹⁸ Salcedo-Albaran, E., & Garay Salamanca, L. J. (2014). *Structure of a Transnational Criminal Network: “Los Zetas” and The Smuggling of Hydrocarbons*. Vortex Foundation. Bogotá: Vortex Foundation, P. 18.

Working on the case, (a police officer) contacted the leader of the TCN and offered to cooperate with the group in exchange for protection money. Eventually, the police officer became part of the money transferring scam.¹⁹

Several elements are common to all the cases quoted here: they refer to police personnel recruited by TCNs not only -and not mainly- to neutralize them as agents of the "law", but to incorporate them to the criminal organization with specific functions. Of course, specific tasks like transporting people and goods have a strategic added value when the personnel involved are law enforcement agents.

2.1.1. Institutional vulnerabilities: A wide range from institutional to organizational weaknesses.

If a TCN has the opportunity of systematically recruiting personnel from public agencies, and particularly from law enforcement, the vulnerabilities are probably countless. Nevertheless, there are some specific weaknesses that the quotes above particularly reveal. In Mexico, one of the clearest gaps of coordination is the one between the federal government and the local administrations that favors the easiness with which TCNs can recruit personnel from security agencies at the local level, without the federal government to be able to deter it. In all of these cases, at the field level of the organizations, the lack of internal preventive mechanisms of fraud and abuse from unfaithful employees is a key vulnerability.

¹⁹ Petrunov, G. (2013). *Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union*. Vortex Foundation. Bogota: Vortex Foundation, P. 63.

At the same time, there is a key problem of internal and external oversight. If there are no mechanisms of control counting with enough powers and information to investigate and prosecute illegal activities from public officials, the incentives for not accepting TCNs "job offers" are very low. It is necessary to address the lack of sound controls, and the weakness or lack of independence of those that actually exist.

2.1.2. Recommendations: Strengthening internal and external accountability

The recommendations to address vulnerabilities are focused in reducing the discretionary power of the police agencies to dispose of their human resources without accountability, and submitting them to oversight mechanisms. Different kinds of institutions, such as Ombudsperson, Inspector General, Ethics panels, are the examples of external oversight than can help to keep track of the behavior of police personnel. External oversight bodies, such as those tried in Ireland and Australia have the advantage of not being part of the hierarchy chart of the police forces.²⁰ To allow the feed of information for these bodies to act, it is necessary to foresee a series of channels.

Personal declarations of assets are a key tool to keep track of unusual patrimony increases. For example, in Uruguay, the anti-drugs police department of the national police requires annual updates of asset disclosures.²¹ These kinds of forensic accounting oversight requires also

²⁰ Diagnóstico de Incidencia en Seguridad, Hernán Charosky (with the collaboration of Carolina Garber) for Transparency International, in press.

²¹ Entrevistas del autor realizadas a autoridades policiales del Uruguay. Año 2012.

of lifestyles investigation when necessary. Access to information laws, written with enough amplitude to include at least some key aspects of the police work, can be a powerful tool for the citizenry to oversee the focus and the distribution of human resources of the security bodies. In Chile, the passing of a Freedom of Information Law and an institutional system for implementation was successfully applied to make more transparent the police administration and decision-making processes.²²

Whistleblowers and witness protection are necessary regulations to reduce the threats that internal and external informants can have when they want to provide information to oversight bodies or the Judiciary.

Performance indicators of the productivity of the human resources, and public discussion of the priorities for their deployment (as in the cases of community policing such as the Argentinean forums, and also the above mentioned Honduran Civil Society Coalition) can be useful to hold the staff accountable.

2.2. Illicit associations: The borders as zones for grey cooperation.

The transnational character of TCNs make necessary to give the border and customs agencies a place of their own. Their functions, powers and jurisdictions make these public organizations of strategic interest to permeate the borders. In the Mexican case, it is a bidirectional permeation: (i) South-North, the flow of drugs, human trafficking and

²² Diagnóstico de Incidencia en Seguridad, Hernán Charosky (with the collaboration of Carolina Garber) for Transparency International, in press.

hydrocarbons, and (ii) North-South, weapons. In the Bulgarian case, the border of Bulgaria is the entry for human trafficking and drugs to the European Union. In both cases, the borderline is also a zone of articulation between TCNs and public agencies.

[The node/agent identified with the code] DIOFMEACOFKUNAP was in charge of providing a warehouse for the amphetamines, securing the vehicle to traffic the drugs, and connecting the boss with a person at the customs who could guarantee the safe crossing of the border.²³

The court dossier reveals that a then employee of the customs office assisted in providing a shield for the drug traffickers. Allegedly, this person persuaded his colleagues in the checkpoint not to carry out a thorough inspection of the vehicle that carried the drugs. Regardless of the evidence, the customs officer was not considered a member of the TCN and was only a witness in the trial.²⁴

[...] Agents who provided a shield for the drug traffickers to pass through the border checkpoint without a customs inspection. Specifically, a member of the TCN, an ex-customs officer, provided the information about when it was safe to cross the border.²⁵

In the Bulgarian cases we see a series of unfaithful behaviors of particular agents. These descriptions don't indicate the existence of a systematic exchange between public agencies personnel and TCNs. Nevertheless, the existence of these cases of bribery and co-optation is

²³ Petrunov, G. (2013). Analysis of Social Network Models of Transnational Criminal Networks operating in the Southeastern Border of the European Union. Vortex Foundation. Bogota: Vortex Foundation, P. 33.

²⁴ Ibid., 41.

²⁵ Ibid., 41.

indicative of institutional weaknesses that allow these cases of permanent corruption to occur.

On the other hand, in the US-Mexican border there is a variety of situations and articulations between TCNs and the public sector to take into account. There is a tariffed system of bribing for passing illegal drugs bypassing the Mexican vigilance.²⁶ But the information about the possible inefficiencies or even complicity from personnel of the US federal agencies, as well as the state and local officials at the Border States and counties, is still a pending agenda of investigation.

2.2.1. Institutional vulnerabilities: What we know we don't know.

Some of the areas that require attention are human resources auditing and internal oversight mechanisms. To what extent the border control and customs agencies have adequate mechanisms to keep track and hold accountable their own personnel? It is necessary to detect the key points of risk in the hierarchy chart and assess the institutional capacities of the corresponding controls. Another area that appears necessary to explore is the assessment of weaknesses in the US agencies at all levels of government, such as specific federal border and customs administrations, state and local polices in the border zones.

²⁶ Conroy, B. (2012, 13-May). TSA Drug Running Scandal Betrays Drug War's Pretense. Retrieved 2012, 3-August from The Narcosphere: <http://narcosphere.narconews.com/notebook/bill-conroy/2012/05/tsa-drug-running-scandal-betrays-drug-war-s-pretense>

2.2.2. Recommendations: Chart the unknown and strengthen controls.

A risk map of the positions in the hierarchy chart of the affected agencies pointing which are the most vulnerable positions to bribes and other forms of co-optation, and an assessment of the state of the internal oversight and audit mechanisms would be a first useful step. Following that, it will be necessary to strengthen these kinds of mechanisms, and add routines of patrimony evolution and life style over the human resources located in the most exposed positions.

Opening channels for the flow of information towards anti-corruption and oversight bodies is also necessary. Implementing secure channels for redress, complaints and allegations, and granting whistleblower protection are among the minimal steps needed.

Conclusions: Break the taboo

Understanding the structure of TCNs is a great effort to map networks, interactions and their effect. One of the effects of these interactions is the articulation in different ways of TCNs and the public sector. In order to detect and neutralize this harmful influence, it is necessary to deepen the knowledge of the weaknesses of the political processes and agencies affecting the public policies against organized crime. Once this knowledge reaches an acceptable level to feed the political conversation, it is necessary to make of the institutional weaknesses and the needs of reform a central topic in the public agenda.

Opening the discussion about TCNs to the institutional analysis and the comparative perspective on reforms might be a relevant step. Academia, CSOs, multilateral organizations, the media, national and local authorities need to be involved in a dialogue in which the acknowledgment of corruption as a gap for the penetration of TCNs in the public sector. Once this taboo is broken, then the possibility of reform becomes, at least, reachable. The military language of the war on drugs shift the focus towards an "enemy" which is an external element, an alien to be annihilated. This way, the political and organizational flaws are hidden under the building of a straw man. But if we can provoke the spark of self-observation and reform, then will be possible a new perspective, more democratic, in which transparency, accountability and citizen participation are key elements.

Annexes

Table 1. TCNs and Public Sector. Mapping the gaps and steps to overcome them.

Systemic level	Point of juncture/situation	Institutional weaknesses	Recommendations
1. Institutional dysfunction/vulnerability.	1.1. Political authorities-TCNs Agreements public sector decision makers/TCNs	1.1.2. Cooptation by money for personal purposes, political campaign finances, violence threats	1.1.3. -Patrimonial evolution transparency tools (financial disclosures, specific bodies). - Protection of civil society that oversight increase. - Press investigation. -Promote disclosures for candidates.
	1.2. Media and accountability	Violence, threats against the press, self censorship	Grant freedom of the press, and access to information.
	1.3. Lack of monitoring	-Lack of monitoring performance indicators of money laundering. -Lack of monitoring of strategy as whole	-Money laundering performance indicators, panel of control. -Participative public strategy, indicators, panel of control

	1.4. Low/now focus on institutional reforms	Donors and recipients are governments, high influence of armed forces and security	Participation, advocacy Civil society: monitor and track cooperation.
2. Organizational cooptation	2.1. "Symbiosis of criminal groups and public sector"	<ul style="list-style-type: none"> -Lack of oversight, public information, accountability mechanisms. -Lack of accountability, public sight of subnational levels. 	<ul style="list-style-type: none"> -Financial disclosures for all other sectors (political parties). -Internal evaluation controls of patrimony, life style. -External Audits. -National/subnational tools, agreements for panel of control
	Customs – border crossing	space/opportunities for gray nodes to make relationships, work out routines with TCNs.	<ul style="list-style-type: none"> -Financial patrimonial disclosures, life style oversight. -Inspector general, oversight external bodies. -Redress and complaints. -Whistleblower protection.
		-Lack of knowledge of cases, oversight bodies findings and other info about US weaknesses, gray nodes.	-Map US public sector vulnerabilities.

Table 2. Security Agencies Reforms

Reform	Situation	Content	Impact	Principle
Police Integrity Commission (New South Wales Police, Australia)* 1996	Bribery, drug trafficking and money laundering. Noble cause corruption conducting to widespread corruption.	Independent agencies system to monitor police conduct	Mixed records. Karp (2008) and Holmes (2010) stress the lack of holistic approach and the continuity of the phenomenon of corruption. Internal reports stress the increase of internal informants and effective monitoring.	Independent oversight (accountability).
China , 2003*	Series of high profile scandals	Massive purges, reeducation, recruitment reform, rotten apple focus, community policing Recruitment reform: national instead of local to neutralize provincial elites Guidelines strict. Community policing.	Community policing: building superintendents, involving neighbors, "social order joint protection" Failed bcause of migrations. "Superficial punitive measures against individual officers"	Accountability, participation.

Honduras, 2011-present *	Corruption, alliances with organized crime, low trust from population	Civilian command of investigative police Chief of police able to assess confidence and performance of all officers Commission for the reform of public security US regional cooperation (community patrols, training) Active civil society coalition engagement	Low anti corruption support. Wider rule of law, organized crime and corruption situation, - International (Mex.).	Participation and Accountability
Jamaica 2005 *	low trust in the police, non state/ criminal actors providing security, no accountability, corruption, human rights abuse.	Anti Corruption Branch, community policing efforts and Independent. Commission for Investigators hot line.	ACB went from 41 cases investigated in 2008 to 195 in 2011. hot line useful- 10 cases 1st month.	Accountability Participation
Kenya, 2010 **	Post conflict	Inspector General reports to three bodies	No improvement.	Accountability

Serbia *	Ethnic bias & corruption	Inspector General Office Multi-Ethnic Police Element Programme - community policing with an ethnic pluralism basis. Semi independent provincial councils for monitoring Internal affairs unit	First year 307 criminal cases from internal oversight, versus 262 2003-2008.	Accountability participation
Prisons Independent Monitoring Boarduk and Wales 2003 **	N/A	Community monitoring of conditions of prisons	N/A	Participation, transparency
Police Ombudsman, Ireland 1998- **	Widespread allegations of corruption	Independent body of investigation of allegation on security forces behavior	Positive perceptions surveys in public and police	Accountability
FOIA and Proactive transparency in security forces, Carabineros, Chile **	State reform	Implementation of FOIA as channel for transparency	Better knowledge for the citizen about the performance of security forces.	Transparency
Neighborhood Fora for citizen participation, buenos Aires, Argentina **	Security Reform	Participative assessment, design of preventive programs, early warnings, monitoring	High acceptance and participation. Informative short-circuits with police stations. Political changes threatened its continuity	Participation

Sources of the table:

* Arresting Corruption in the Police, Transparency International Defense and Security Program, London, 2012

** Diagnóstico de Incidencia en Seguridad, Hernán Charosky (with the collaboration of Carolina Garber) for Transparency International, in press.