

7. Brazil

7.1 VIOLENCE AND ORGANIZED CRIME IN BRAZIL: THE CASE OF “MILITIAS” IN RIO DE JANEIRO

*by Ignacio Cano**

1. The debate on organized crime in Brazil

As in many other countries, the concept of organized crime is widely used by the media and in public debates in Brazil, yet in the penal codes it is vague and its translation into law has been limited. Even though Law 9034/1995 refers to “criminal organizations” and Law 10217/2001 to “criminal organizations or associations,” neither defines what a criminal organization is. Without a precise legal definition, there is no clear consensus on the meaning of “organized crime.”

Brazil is a signatory to the Convention against Transnational Organized Crime of 2000 – also known as the Palermo Convention – so we can assume that its concepts can be considered part of the Brazilian legal system, despite the fact that they have not been translated into national legislation. According to the Palermo Convention, an “organized criminal group” is a “structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.” “Serious crimes,” on their part, are those punishable with a sentence of at least four years in prison, whereas a “structured group” is one “that is not randomly formed for the immediate commission of an offence” even when they may not “have formally defined roles for its members, continuity of its membership or a developed structure.”

According to this broad definition, one could argue that a sizeable proportion of all crimes committed in most countries could be labeled as “organized crime.”

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As a result, the proposed concept potentially covers many different situations and actors, from international networks that command hundreds of members to a few friends from the neighborhood who regularly engage in robberies or drug-dealing. The main problem with this conceptual breadth is that the term risks losing its specificity and its analytical edge. If “organized crime” can be so many different things, one should ask whether it is a useful term for thinking about crime and designing public policies.

Whereas, in legal terms, there is an obvious need for a clear-cut definition to decide when special legislation addressing organized crime can be applicable, in a broader analysis, “organized crime” should be conceived of as a continuum rather than as a specific phenomenon. In other words, rather than ask whether a certain kind of criminality is organized or not, one should ask to what degree it is organized, and then how this organization operates in practice.

In Brazil, “organized crime” is often employed in public debates to refer to either of the two following scenarios. First, it is commonly used to describe the activities of local criminal networks in poor communities, such as drug-dealers, death squads, or, more recently, militias. These groups typically control small areas and their populations and base their criminal activities precisely on this territorial control. As a result, the disputes over these territories between different groups can be fierce and can result in very high levels of violence. The vast majority of state interventions against “organized crime” attempt to address these kinds of criminal structures. Furthermore, the police are often viewed as one more actor within this territorial dispute.

The second scenario is that of the more sophisticated criminal networks, which infiltrate the state and carry out criminal actions that the public would define as “corruption.” These groups do not have a territorial base and only occasionally resort to violence, acting with more discretion and impunity. They can bribe high-ranking public officials or make them part of their organizations, and they rarely make newspaper headlines.

The differentiation between the above-mentioned scenarios is oversimplified in several ways. Foremost is that both realities are often connected, whereby drugs that are sold by local dealers in *favelas* (Brazilian slums) may have been introduced to the country by international networks that have bribed public officials. On the other hand, local criminal groups also tend to pay off corrupt state agents, albeit of a more modest rank, so they can operate. Ultimately, one of the main distinctions between both realities is the degree of sophistication. Limited though the distinction may be, it serves the purpose of highlighting the sharp contrasts between scenarios to which the label “organized crime” is attached. In other words, some types of crime are truly much more organized than others. Hence, some voices refer to “semi-organized” or “poorly-organized” crime when they describe local criminal gangs in *favelas* composed of young kids with limited education.

In Rio de Janeiro, the gangs that control their respective slums are affiliated with “criminal factions” (*facções criminosas*), larger groups that also fight each oth-

er for territorial control. These factions were created by convicts in jail and then extended their influence to the streets. To this day, each jail in Rio typically houses members of a single faction to avoid violence between their members. There are three main criminal factions in the state. The fact that over the last few years the state of Rio has made a priority of fighting the most powerful of them, the *Comando Vermelho*, has served to fuel the violence, since the others have been trying to take advantage of this in order to gain influence and territory. Meanwhile, in São Paulo the practical monopoly of crime by a single organization, the PCC, has been an important contributing factor in the strong decline of homicide rates over the last decades (Dias 2011).

The existence of criminal factions in Rio has consistently raised alarms concerning their ability to mount a direct challenge to the state, particularly after a few very well-publicized episodes of attacks against police stations, buses, cars, and other public targets, presumably in order to generate fear and intimidate the government. These incidents were defined as “terrorist attacks” by some, though the label was controversial. Despite these concerns, criminal factions in Rio are not structured organizations with centralized command, planning, operations, and targets. They could be better conceived of as loose networks of mutual support that serve local gangs to fend off attacks from the outside or, alternatively, to gather resources to invade new territories. Also, they help settle disputes among members of the same faction.

Given that state repression has been centered on these local gangs, the degree of organization of these criminal factions has been overstated by the government and the media, to the point that they have been equated with “organized crime.” While this has served a political purpose for the government and the elites – overshadowing the role of the more organized and sophisticated criminal circles in which members of these elites partake – the above-mentioned attacks on public institutions and public targets has undoubtedly strengthened this view.

If debates on organized crime and statements by public officials on this issue are common, the topic has received comparatively little attention by academics. Although there are some publications within the juridical realm that deal with the legal aspects of organized crime, in the social sciences and in criminology, research on this topic is relatively rare and mostly focused on specific manifestations and examples. An exception is the work of Mingardi (1998), who claims that organized crime of any significant scale is impossible without collusion with sectors of the state. He distinguishes two types: “traditional” and “entrepreneurial” organized crime. The former could be characterized as comprising a group of people dedicated to illegal and clandestine activities, with a hierarchy of their own and entrepreneurial planning, which includes division of labor and planning of profits. Its activities are based on the use of violence and intimidation, and profits originate from the sale of illicit products or services – plus, they are protected by civil servants. The traits that differentiate them from any other criminal group are a system of clientelism, the imposition of a “law of silence” within their circles,

and the control of territories through force. “Entrepreneurial crime,” on the other hand, appears to be a more blurred concept, mainly defined by the use of methods typical of companies, and by the dismissal of old symbolic values such as honor and loyalty.

The scarcity of studies on organized crime in the social sciences and criminology contrasts with the relative abundance of research on drug-dealing in the slums, mainly ethnographies (Zaluar 1994; Barbosa 1998). This somehow reinforces the interpretation that drug dealing in poor communities constitutes the central manifestation of organized crime in Brazil.

2. Historical roots of organized crime

It has been said that the main difference between colonization in North and South America was the fact that, while the former was led by people who migrated to a new land in search of a new life for themselves and their families, the latter consisted of fortune hunters – including the representatives of the monarchy – who intended to accumulate riches as quickly as possible before returning to their homeland. An economy based on the extraction of precious metals fits very well with this aim.

Whatever the precise historical causes, Latin American countries developed weak states with a low ability to generate revenue and to impose the rule of law, which was mistrusted by their own citizens. Also, authorities were often perceived as individuals attempting to extract personal benefits, which further undermined state legitimacy. On the other hand, social relations in Brazil were always governed by interpersonal connections and by the position of actors within the social pyramid, rather than by abstract and impersonal rules (Da Matta 1981). As a result of all these elements, corruption, which we could conceive of as ignoring or bending official norms in order to achieve personal gains, was traditionally considered as being systemic in the country. Campaigns of candidates based on the principle that they “deliver to the people even if they also steal” for themselves (“*rouba mas faz*”) or former President Luiz Inácio Lula da Silva’s admission that the alleged illegal financing of his party meant that “they did what everybody else did” bear witness to the perception that corruption was widespread.

If, as we have seen, the cooperation of state officials is often thought of as a crucial ingredient of organized crime, there is no doubt that systematic corrupt practices by officials fall neatly within the concept and also constitute the perfect breeding ground for the phenomenon as a whole.

In Rio de Janeiro, leaders of illegal lotteries (*jogo do bicho*) have been financing Carnival parades and political campaigns for decades. Questioned about illegal practices, lower-rank state officials often justify themselves by the fact that their superiors carry out similar behavior, only with higher profits. Along the same lines, lower-rank policemen complain that the disciplinary system treats them

more harshly than officers higher up the ladder, and there is some empirical evidence to support that claim (Lemgruber et al. 2003).

3. The case of “militias” in Rio de Janeiro

Around 2006 the term “militia” was coined in Rio to describe groups of armed state agents (policemen, prison guards, firemen, etc.), who took control of small territories, charging residents and small business owners a fee in order to “protect” them, and monopolizing most economic services and transactions. For instance, gas and water could only be bought at designated shops, at a higher price, whereas transport or Internet services were provided exclusively by their organizations. Often, a levy was placed on real estate transactions in the community. Research showed that this phenomenon had existed for many years in certain areas of the city under different names (Cano 2008), even though there had been a quick process of expansion during 2006 and 2007, including territories that had been traditionally dominated by drug dealers. During those years, these “militias” had purported to “liberate” communities from the dealers, which led to an intense public debate in which some authorities indeed defended such groups as liberators, or at least as a “lesser evil.”

Some militia leaders successfully ran for office in municipal and state elections. Other federal representatives were elected with an overwhelming share of the vote in militia-controlled districts (Assembléia Legislativa do Estado do Rio de Janeiro 2008), which clearly indicated the existence of coercive voting practices (*curral eleitoral*) in such areas.

However, the notion of an anti-drug crusade was weakened by the fact that there had been no drug-trafficking in some of the areas occupied by militias and also by the revelation that a few militias continued to profit from drug sales. Furthermore, it was apparent that the “protection fee” was compulsory, as was the control of economic transactions, so that the whole operation could legally be characterized as extortion. Control was guaranteed through violence, and reports of threats and summary executions abounded in these areas.

In fact, coercive domination by militias shared many traits with other groups that exert similar pressures, such as drug dealers and death squads, that are centered around the control of small territories and their populations as a way to obtain illegal profits. On the other hand, militias, like drug dealers, also developed social assistance in the communities, often paying for parties, medicine, and burials.

Yet there are indeed some differences. Militias, unlike other groups, openly resorted to a legitimization discourse (“liberators”) as a way to help their expansion. They also represent a more organized enterprise that tries to dominate all economic activities. If death squads are supposed to be controlled by local politicians and businessmen – to the point that they can sell their services to different bidders – militias are self-controlled and respond to the initiative of their members. Also,

whereas all criminal groups that exert local control count on the participation of corrupt civil servants (e.g., death squads are routinely composed of police officers and drug-dealing could not exist without the complicity of sectors of the police), militias publicize widely that their ranks comprise state officials, since that is an inherent part of their identity and their legitimization discourse. In other words, they claim to be not just one more armed gang, but a semi-official iron fist that can provide security where the state fails. As a result, they consciously played with the ambiguity of being private and public at the same time.

In May 2008, members of the militia in the *favela* of Batan tortured a group of journalists who were investigating their activities undercover. The incident became a turning point. After this, the media actively spoke out against militias, the legislature began a parliamentary inquiry on this topic, and public officials did not dare defend them in public again. The final report of the inquiry listed the names of hundreds of individuals allegedly associated with the militias. Public prosecutors started bringing charges against some of the leaders of the militias, and many of them were sentenced and lost their seats in the State Assembly and on the City Council. Interestingly, state interventions against militias followed traditional investigative methods against organized crime: wire tapping, intelligence, and arrests. This was a far cry from the way in which the state fights drug dealers, that is through militarized operations involving shootouts to repossess the territory for short periods of time. Apparently, there have been no widespread armed confrontations between the police and the militias. This is due to the fact that the police uses a totally different approach and also that members of militias, many of them policemen themselves, are probably reluctant to shoot their colleagues.

However, an ongoing research project on militias reveals that militias are still very present and widespread. Despite the sentencing of some of their leaders, they were hardly ever dismantled and the payment of fees and levies continued. In a few cases, where these groups seemed to have been removed, new groups sprang up to occupy the vacuum. The main difference with respect to the situation a few years back is that militias seem to have renounced the claim to publicly legitimize their activities. Admittedly, some of the local residents do support the militias, while some others oppose them, but there has been no further public discussion of their role. They seemed to have learned that visibility is a risk factor rather than an advantage, and few candidates for public office associate their names with them anymore. Likewise, residents are very fearful of talking about this issue, so the research project found it very difficult to obtain testimonies, even from individuals who came out in support for their presence.

A few years ago, it was thought that militias – lacking a centralized organization – could end up fighting each other for territorial control in much the same way as drug dealers do. Indeed, there has been an escalation of violence arising from disputes in the last few years between militia members – both between dif-

ferent militias but mainly within. In fact, the leadership of some of these groups has been wiped out by internal strife.

In short, the intervention of the criminal justice system against the militias over the last few years was successful in taking out the most visible leaders of the most conspicuous groups but was, by and far, ineffective in the attempt to prevent them from operating. One could say that the main impact of these prosecutions has been a lower profile on the part of these criminal organizations and a significant reduction in their ability to infiltrate the state at the highest levels, such as the State Assembly and the City Council. The most modest of these groups – composed of a few policemen that have dominated small communities for decades – in all likelihood continue to operate undisturbed, given that investigators and prosecutors have focused on the best-known and the biggest groups.

On the other hand, the state of Rio has been engaging in a new policing project since 2009 under the name of Units of Pacifying Police (UPPs). Under this initiative, a number of military policemen occupy a certain slum permanently and try to establish a more constructive relation with local residents. The new objective is to eliminate territorial control by criminal groups and to stop the shootouts rather than to win the unwinnable "war on crime." By and large, these UPPs appear to have been successful in these aims, with a sharp decrease in homicides and shootouts in these areas. Doubts arise as to the sustainability of this initiative, since it has been applied in around 40 communities so far and there are hundreds of slums existing in similar conditions. The level of police saturation applied in the UPPs makes it impossible to apply the model to the whole territory, since the police force would have to be multiplied.

In any case, it has been suggested that – given the criminal justice system's inability to prevent militias from operating – the strategy of UPPs could be a viable alternative against these groups. Police presence could put an end to territorial control and stop extortions and the coercive imposition of monopolies. So far, only one area formerly occupied by militias has been taken over by a UPP, namely the community of Batan, as a result of its symbolic value after the torturing of the journalists. Even though the project appears to be successful in this community, several elements make it unlikely that the UPP project will incorporate many areas dominated by militias. First, the UPPs have focused on rich and touristic areas in the south of the city and on neighborhoods that will host the Football World Cup and the Olympic Games. Second, if criteria were realigned to give priority to the more violent regions where shootouts are common, these would probably be, for reasons mentioned above, areas connected to drug-dealing factions rather than to militias.

4. Militias from local, national, and international perspectives

Undoubtedly, the phenomenon that has been defined as “militias” in Rio de Janeiro has deep connections with other types of organized crime in which it finds its roots. Indeed, one of the main hypotheses to explain the rapid expansion of these groups in 2006 and 2007 was that some corrupt policemen realized that it was more profitable to control a community directly and impose a tax on different economic activities than it was to take bribes from local drug dealers. Prior to that, some evidence (Observatório de Favelas 2006) pointed to the fact that dealers in the slums were paying steadily decreasing wages to the youth they employed and that, as a result, it was safe to assume that their ability to generate profits was being eroded. This would fit with the notion of a transformation from the old model of taking bribes to a new model of direct territorial control and economic exploitation. The existence of previous connections between the dealers and the members of these militias would also help in understanding why the takeover was so swift in some communities. Witnesses described how the militias arrived overnight, killed a few key dealers, and completely dismantled their network, sometimes incorporating some of those who worked for the dealers into their new organizations. This kind of operation could only be carried out by individuals who had very good intelligence on how local dealers operated, who they were, and where they could be found.

Drug dealers, even at the local level, were traditionally considered to be part of a wider network that extended beyond national borders. The main reason for this is that most drugs and all heavy weapons are made outside of the country. Drugs originate in Andean countries, with the exception of some marijuana grown in Northern Brazil, and machine guns are mainly brought in from the United States, allegedly using the same circuits. Hence, there was an obvious – though perhaps distant – connection between kids who sold drugs in the slums and international crime.

Nevertheless, militias do not justify this international link. To the extent that they do not deal drugs (though some of them do, as we have seen), they do not need to import anything from outside. They establish monopolies for the sale of national products and services, which ensures that no economic transaction can happen without their authorization. Therefore, their main commodity is still territorial control, as in the case of drug dealers. But while the latter tend to use it for the purpose of processing and selling one single product, that is, drugs, militias try to incorporate any economic activity that they can extract a profit from. This implies that residents have to pay a higher price for many goods, which leads to frustration and resentment. While some residents support militias due to the social control and “peace” they bring, others would rather have the dealers back, since the latter did not interfere with peoples’ lives as long as they did not affect their business.

Thus, militias can be conceived of as a genuine adaptation of local organized crime to increase their profits. Since 2008, some other Brazilian states have also reported the existence of “militias” in their cities. While in some cases, the phenomenon appears to be different despite the common label, some other states do describe groups of state agents who impose fees and establish monopolies on cable TV, Internet, gas, transport, etc. It is unclear how far these structures will grow, but the Ministry of Justice has already launched an initiative to create a group of experts to reflect on the problem at the national level.

5. Consequences and impacts of militias as organized crime

Militias are a particularly perverse form of organized crime. Agents of the state – armed and trained to protect citizens – use their weapons, their training, and even the dubious legitimacy derived from their official roles in order to extort people. Hence, they are an example of the worst face of privatization of security, whereby public officers use public means to pursue private gains at the expense of those they are supposed to serve.

To accomplish their aims, they prey on the most vulnerable sectors of society who lack the means and the voice to defend themselves and who have been subjected for decades – if not centuries – to violent social control by the state and by various armed groups. This brutal control is all they have known, to the point that many do not believe that any other way to regulate conflicts is possible.

When criminal groups are formed by members of the state, they are particularly hard to fight because their members know how the police operate and can act preemptively to protect themselves. There have been testimonies of people who have accused policemen of wrongdoing in connection with such militias, only to realize shortly afterwards that the accused were informed of the nature of the accusation and the identity of the complainant. It is no wonder that witnesses are particularly scared to testify against armed state agents and that researchers find it extremely hard to find interviewees who dare speak out on this.

Also, members of such groups may count on the possible reluctance of some state officials to take hard action against their colleagues, despite their criminal behavior. As explained above, there are no shootouts between policemen and militia members, even if the latter exert territorial control in the same way as drug dealers do. We are certainly not advocating police shootouts as a policy, but the difference between the treatment of the dealers and the militia is certainly revealing.

We tend to think of transnational crime as particularly threatening and difficult to eradicate, given the limitations of national states compared to the ease with which crime can be perpetrated across borders, legislations, and jurisdictions. Yet one could build the argument that in some cases it is precisely the local, fragmented, and adaptive nature of organized crime that makes it all the more difficult to eliminate. Without a centralized structure that can be dismantled, and preying opportunistically on local conditions, militias in Rio have shown that it is

one thing to arrest a few individuals at the top of these organizations and a very different thing to stop them from functioning.

On the other hand, to the extent that they do not deal drugs, these criminal groups can avoid the attention of the state, which is often focused on the misguided “war on drugs,” and continue their expansion. Likewise, to the degree that they operate in degraded and forgotten territories, their visibility is minimized.

This is not the place to address the possible measures that could be taken to diminish the influence and the harm caused by these groups – measures that would likely entail many different approaches: criminal investigations; regaining territorial control; regulation of irregular activities; internal and external control of police and other official corporations; reform of electoral legislation to fight corruption, etc.

Whatever the measures and whatever the characteristics of the criminal groups that currently control the slums (militias, death squads, drug dealers, etc.), one thing is certain: It can no longer be accepted that significant sectors of the Brazilian urban population live deprived of their basic rights in conditions that we could define as neo-feudalism, that is, subjected to the arbitrary decisions of the leader of the local armed group who rules over their lives and property.

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