
Transnational organized crime: legal challenges and responses from contemporary criminal policy

Criminalidad organizada transnacional: desafíos jurídicos y respuestas desde la política criminal contemporánea

Crime organizado transnacional: desafios jurídicos e respostas da política criminal contemporânea

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Abstract

This study aimed to analyze the legal challenges posed by transnational organized crime and examine the responses developed within contemporary criminal policy. To this end, a qualitative methodology was employed, based on a systematic review of doctrinal and international sources, complemented by a comparative analysis of the main strategies adopted by different states. Data collection was carried out by consulting academic databases and specialized documents, prioritizing relevant and up-to-date sources. The results showed that transnational organized crime has a dynamic and highly adaptable structure, which hinders its control through traditional criminal law mechanisms. Furthermore, it was identified that, although international instruments and criminal policies exist to combat it, limitations persist in their implementation and in effective cooperation among states. Finally, it was concluded that it is necessary to strengthen legal frameworks, promote international coordination, and adopt comprehensive approaches that address both repression and the structural causes of the phenomenon in order to improve the effectiveness of state responses.

Keywords: Organized crime, Transnational crime, Criminal policy, International cooperation

Resumen

El presente estudio tuvo como objetivo analizar los desafíos jurídicos que plantea la criminalidad organizada transnacional y examinar las respuestas desarrolladas desde la política criminal contemporánea. Para ello, se empleó una metodología cualitativa basada en la revisión sistemática de fuentes doctrinales e internacionales, complementada con un análisis comparado de las principales estrategias adoptadas por distintos Estados. La recolección de información se realizó mediante la consulta de bases de datos académicas y

documentos especializados, priorizando fuentes relevantes y actualizadas. Los resultados evidenciaron que la criminalidad organizada transnacional presenta una estructura dinámica y altamente adaptable, lo que dificulta su control mediante mecanismos tradicionales del derecho penal. Asimismo, se identificó que, si bien existen instrumentos internacionales y políticas criminales orientadas a su combate, persisten limitaciones en su implementación y en la cooperación efectiva entre Estados. Finalmente, se concluyó que es necesario fortalecer los marcos jurídicos, promover la coordinación internacional y adoptar enfoques integrales que aborden tanto la represión como las causas estructurales del fenómeno, a fin de mejorar la eficacia de las respuestas estatales.

Palabras clave: Crimen organizado, Delincuencia transnacional, Política criminal, Cooperación internacional

Resumo

Este estudo teve como objetivo analisar os desafios jurídicos apresentados pelo crime organizado transnacional e examinar as respostas desenvolvidas no âmbito da política criminal contemporânea. Para tal, foi empregue uma metodologia qualitativa, baseada numa revisão sistemática de fontes doutrinárias e internacionais, complementada por uma análise comparativa das principais estratégias adotadas pelos diferentes Estados. A recolha de dados foi realizada através da consulta de bases de dados académicas e de documentos especializados, dando prioridade a fontes relevantes e atualizadas. Os resultados mostraram que o crime organizado transnacional possui uma estrutura dinâmica e altamente adaptável, o que dificulta o seu controlo através dos mecanismos tradicionais do direito penal. Além disso, identificou-se que, embora existam instrumentos e políticas penais internacionais para o combater, persistem limitações na sua implementação e na cooperação efetiva entre os Estados. Por último, concluiu-se que é necessário reforçar os quadros jurídicos, promover a coordenação internacional e adoptar abordagens abrangentes que abordem tanto a repressão como as causas estruturais do fenómeno, de forma a melhorar a eficácia das respostas estatais.

Palavras-chave: Crime organizado, Crime transnacional, Política criminal, Cooperação internacional

Introduction

Transnational organized crime has emerged as one of the most complex and pressing challenges confronting contemporary States, largely as a consequence of globalization. While globalization has facilitated the movement of goods, capital, and people, it has simultaneously enabled the expansion of criminal networks that operate beyond national borders. Consequently, crime can no longer be understood solely as a domestic phenomenon but rather as a global threat requiring coordinated international responses. As Ruidíaz García (2007) argues, globalization has created new opportunities for criminal organizations, expanding their operational capacity while reducing the effectiveness of traditional legal mechanisms designed to combat them.

The relationship between globalization and criminal law therefore raises significant challenges regarding the capacity of legal systems to respond effectively to increasingly dynamic and transnational criminal organizations. Champo Sánchez (2006) maintains that criminal law, historically grounded in the principle of State sovereignty, encounters substantial limitations when addressing organizations that operate across multiple jurisdictions and exploit regulatory disparities between legal systems. This reality highlights the need to rethink

existing legal frameworks from a more flexible and integrated perspective capable of responding to emerging forms of transnational criminality. Accordingly, the transnational dimension of organized crime requires a reassessment of traditional legal concepts such as jurisdiction, territoriality, and international judicial cooperation.

Moreover, the complexity of organized crime extends beyond its geographical scope to encompass its organizational structure and the wide range of illicit activities it conducts. Falconi Ayón et al. (2024) emphasize that organized criminal groups are characterized by their remarkable adaptability, hierarchical or network-based organizational structures, and their ability to infiltrate legitimate economies as well as public institutions. Their criminal activities encompass a broad spectrum of offenses, including drug trafficking, human trafficking, money laundering, and illicit arms trafficking, thereby generating profound social, economic, and political consequences. Similarly, Vizcarra, Bonilla, and Prado (2020) argue that organized crime has evolved into increasingly sophisticated forms by exploiting technological advancements and institutional weaknesses within States.

Against this backdrop, a central challenge lies in the limited effectiveness of governmental responses to transnational organized crime. Despite significant legislative reforms and the implementation of various public policies, the results achieved in many jurisdictions have remained insufficient, highlighting the need to reassess existing strategies. Fraser (2012) argues that contemporary frameworks of justice frequently fail to correspond to the scale of global problems, creating gaps in both the protection of fundamental rights and the effective enforcement of the law. This disconnect between the transnational nature of organized crime and predominantly national institutional responses has contributed to the persistence—and, in some cases, the strengthening—of criminal organizations.

Furthermore, these institutional shortcomings extend beyond the legal sphere to encompass broader public policy and social justice dimensions. Basombrío (2022) contends that the lack of effective coordination between State responsibility, social assistance, and distributive justice limits the capacity of governments to address the structural causes of organized crime. In many contexts, socioeconomic inequality, social exclusion, and institutional fragility create favorable conditions for the emergence and consolidation of criminal networks. Consequently, an effective response requires a comprehensive approach that goes beyond punitive criminal law by incorporating preventive policies, institutional strengthening, and sustainable social development.

From this perspective, analyzing transnational organized crime through the lens of contemporary criminal policy requires acknowledging the need for multidimensional and coordinated responses. Such responses include strengthening international cooperation, promoting the harmonization of legal frameworks, and implementing joint strategies among States. They also require greater coordination among the institutions that comprise the criminal justice system, together with the adoption of advanced technological tools for criminal investigation, intelligence gathering, and law enforcement. Only through an integrated and internationally coordinated approach will it be possible to effectively address the multifaceted challenges posed by transnational organized crime.

Accordingly, the present study aims to analyze the principal legal challenges posed by transnational organized crime and to examine the responses developed within the framework of contemporary criminal policy. Drawing upon an international doctrinal review, the study seeks to identify the limitations of current approaches while proposing strategic directions that may contribute to more effective, coherent, and internationally coordinated responses. In doing so, this research intends to advance the understanding of a phenomenon whose complexity, transnational scope, and evolving nature make it one of the most significant challenges confronting legal systems in the twenty-first century.

Methodology

This study adopted a qualitative research approach based on a systematic review of the legal and doctrinal literature on transnational organized crime. This methodological approach made it possible to identify, analyze, and synthesize the principal theoretical and normative contributions related to the phenomenon under investigation. According to Pereira Poças (2020), legal research requires the careful selection and systematic organization of sources to ensure the coherence, rigor, and validity of research findings. Accordingly, explicit inclusion and exclusion criteria were established to identify relevant sources, giving priority to academic publications, institutional reports, and legal instruments. In addition, the temporal relevance and scientific quality of the selected publications were considered throughout the review process.

The literature search was conducted using international sources, including major academic databases, peer-reviewed journals, and official documents issued by multilateral organizations. A systematic search strategy was implemented to identify studies addressing transnational organized crime and contemporary criminal policy. Espinoza Freire (2020) emphasizes that the systematic retrieval of scientific information constitutes a fundamental stage of the research process, as it provides access to reliable and up-to-date evidence. Consequently, predefined keywords in both Spanish and English, together with Boolean operators, were employed to optimize the search strategy and ensure comprehensive and relevant coverage of the research topic.

The collected evidence was subsequently examined through a comparative legal approach, enabling the analysis of different legal and policy responses adopted by various jurisdictions to address transnational organized crime. This comparative analysis facilitated the identification of convergences, divergences, and best practices in criminal policy, thereby contributing to a more comprehensive understanding of the phenomenon. Batista Hernández et al. (2021) argue that comparative analysis constitutes an effective methodological tool for evaluating the transparency and effectiveness of public policies, particularly in complex regulatory environments. Accordingly, this approach provided an interpretative framework that integrates diverse legal perspectives and international experiences.

Furthermore, legal interpretative methods were applied to examine statutory provisions, international treaties, and doctrinal contributions relevant to the study. Adame Goddard (2020) argues that legal interpretation is indispensable for understanding the scope and meaning of legal provisions, particularly in transnational contexts where multiple legal systems interact. Accordingly, the selected sources were subjected to a critical and analytical reading to identify both their theoretical implications and their practical significance. This interpretative process made it possible to examine in greater depth the legal challenges posed by transnational organized crime and to assess the responses proposed within the framework of contemporary criminal policy.

Finally, the research was conducted in accordance with fundamental principles of research ethics, ensuring academic integrity and respect for intellectual property throughout the investigation. Ethical standards are essential in legal and scientific research because they promote transparency, honesty, and the credibility of scholarly work. Consistent with these principles, all sources were properly acknowledged in accordance with the APA citation guidelines, thereby preventing plagiarism and recognizing the intellectual contributions of the authors consulted. Moreover, the analysis was undertaken from a critical, objective, and responsible perspective, ensuring the methodological rigor, reliability, and academic integrity of the study.

Development

Concept of Organized Crime

Organized crime constitutes a complex phenomenon whose definition has been the subject of extensive debate within contemporary criminal law scholarship. Broadly speaking, it refers to criminal activities carried out by structured groups acting in a coordinated manner to obtain economic benefits or consolidate power. Rodríguez (2016) argues that defining transnational organized crime remains particularly challenging because of its dynamic nature and the wide variety of forms it assumes across different legal and geopolitical contexts. Likewise, Sánchez Escobar (2014) emphasizes that organized crime encompasses not only the commission of criminal offenses but also the existence of an organization characterized by continuity, internal hierarchy, and coordinated action. Along the same lines, Malamud Herrera (2016) proposes a more precise conceptual framework based on both the structural and functional characteristics of criminal organizations.

Among its defining features, organized crime is characterized by the systematic planning of illicit activities, the distribution of specialized roles among its members, and the implementation of mechanisms designed to evade law enforcement and judicial intervention. Hefendehl (2004) argues that the growing threat posed by organized crime has frequently served as a justification for the expansion of criminal law toward more punitive approaches, including elements associated with the "enemy criminal law" (Feindstrafrecht) doctrine. Similarly, Mendoza (2021) observes that criminal organizations have evolved into increasingly flexible and adaptive structures capable of responding rapidly to changing socioeconomic conditions while making extensive use of advanced technologies. These characteristics help explain why organized crime represents a substantial threat to public security, the rule of law, and the effective functioning of legal institutions.

Transnational Dimension

The transnational dimension of organized crime is reflected in the ability of criminal organizations to operate across multiple jurisdictions by exploiting weaknesses in domestic legal systems and disparities among national regulatory frameworks. Raffo-López and Gómez-Calderón (2017) explain that contemporary criminal networks are increasingly organized through decentralized structures that facilitate their international expansion while making their detection and dismantling considerably more difficult. In this regard, Linares Hamann (2008) identifies these transnational networks as one of the principal threats to international security, particularly in the geopolitical landscape that emerged after the Cold War. The growing interconnectedness of the global economy has enabled these organizations to conduct increasingly sophisticated operations that transcend national borders and challenge conventional law enforcement mechanisms.

One of the principal operational domains of transnational organized crime is illicit trafficking, encompassing activities such as drug trafficking, arms trafficking, and the illegal trade in cultural property. Echeverry Andrade et al. (2023) argue that illicit drug trafficking constitutes one of the most significant challenges to maritime security because of the extensive use of international shipping routes and increasingly sophisticated technological resources. Likewise, Askerud and Clément (1999) emphasize the importance of preventing the illicit trafficking of cultural property, which not only undermines the cultural heritage of nations but also provides financial resources for other forms of organized criminal activity. These dynamics illustrate the complexity and multidimensional nature of transnational organized crime and underscore the necessity of coordinated international responses.

International Legal Instruments

In response to the expansion of transnational organized crime, the international community has developed a broad range of legal instruments aimed at its prevention and suppression.

International conventions constitute one of the principal mechanisms for establishing common legal standards and promoting cooperation among States. Palacios Zuloaga (2005) argues that these instruments have progressively evolved to incorporate cross-cutting approaches, including gender perspectives, into strategies for combating organized crime. Similarly, Maier (2007) notes that international treaties embody the commitments undertaken by States to strengthen the protection of fundamental rights while enhancing the investigation and prosecution of serious criminal offenses.

International judicial cooperation represents another essential component of the global response to transnational organized crime. Tirado Estrada (2017) highlights the importance of procedural tools such as videoconferencing in facilitating cooperation among judicial authorities while safeguarding due process guarantees. Likewise, Alonso Moreda (2012) examines the role of Eurojust in coordinating cross-border criminal investigations within the European Union, illustrating the growing importance of supranational judicial cooperation. Such mechanisms help overcome the jurisdictional limitations of national legal systems and significantly enhance the capacity of States to investigate and prosecute criminal activities that extend beyond their territorial borders.

State Responses

State responses to organized crime are primarily articulated through criminal policy frameworks developed within the broader context of public policy. Binder (2010) argues that criminal policy should be understood as a comprehensive strategy integrating preventive, punitive, and social reintegration measures. Likewise, Zipf (2018) emphasizes the importance of a rational, evidence-based criminal policy aimed at safeguarding fundamental legal interests. Accordingly, these policies seek not only to punish criminal conduct but also to address the structural conditions that facilitate the emergence and persistence of organized crime.

With regard to enforcement strategies, States have developed specialized mechanisms to combat organized criminal organizations, including intelligence units, inter-agency cooperation, and the use of advanced technological resources. Merino Herrera (2015) argues that the criminal prosecution of terrorist financing requires highly specialized approaches because of the complexity of transnational financial networks. Similarly, Tudela Canaviri (2015) highlights the importance of criminal intelligence and evidence-based policing strategies in enhancing the effectiveness of governmental action against organized crime. Together, these mechanisms strengthen institutional capacity and improve the efficiency of criminal justice responses.

Contemporary Challenges

Despite significant advances in criminal policy, the fight against transnational organized crime continues to face substantial challenges. One of the most significant is corruption, which undermines institutional integrity and facilitates the operation and expansion of criminal organizations. Zuluaga Nieto (1996) warns that corruption can permeate the social fabric, weakening State legitimacy and eroding public trust in democratic institutions. In the same vein, Carbonell (2013) characterizes corruption as a pervasive social scourge with profound political, economic, and social consequences.

Another major challenge is money laundering, which enables criminal organizations to legitimize illicit proceeds and integrate them into the formal economy. Reggiani (2013) explains that money laundering constitutes a fundamental component of organized crime because it ensures the financial sustainability of criminal enterprises. Likewise, Uribe (2003) argues that the evolution of money laundering typologies has compelled States to adopt increasingly sophisticated financial regulatory and supervisory mechanisms. These challenges underscore the need to strengthen institutional capacities while promoting more effective international cooperation in financial crime prevention and enforcement.

Taken together, the theoretical framework highlights both the complexity of transnational organized crime and the diversity of legal and policy responses developed to address it. Characterized by its adaptability, transnational scope, and organizational sophistication, this phenomenon requires comprehensive strategies integrating legal, political, institutional, and social instruments. Effective coordination between national authorities and international organizations is therefore essential for designing sustainable policies capable of mitigating the impact of organized crime on contemporary societies.

Discussion

The analysis of the theoretical framework demonstrates that transnational organized crime cannot be adequately understood through traditional criminal law approaches, as its complexity extends beyond the conventional concepts of criminal conduct and territorial jurisdiction. In this regard, Rodríguez (2016) argues that the absence of a universally accepted definition hinders the development of coherent and effective legal strategies, while Malamud Herrera (2016) emphasizes the importance of clearly identifying the structural elements of organized crime to reduce legal ambiguity. This conceptual uncertainty has contributed to the adoption of fragmented national responses, thereby limiting the effectiveness of contemporary criminal policy. Consequently, the findings suggest the need for a more widely accepted conceptual framework capable of supporting coherent and coordinated international responses.

Furthermore, the transnational nature of organized crime presents significant challenges to both State sovereignty and international cooperation. Linares Hamann (2008) argues that transnational criminal networks represent one of the principal threats to international security because of their ability to operate simultaneously across multiple jurisdictions. Similarly, Raffo-López and Gómez-Calderón (2017) observe that these organizations rapidly adapt to changing political, economic, and regulatory environments by exploiting institutional weaknesses and disparities among legal systems. This reality demonstrates that isolated national responses are insufficient and reinforces the need for stronger and more effective mechanisms of international cooperation. Nevertheless, political, legal, and economic differences among States continue to impede the development of fully coordinated strategies.

Regarding international legal instruments, although they have contributed significantly to the establishment of common regulatory frameworks, their practical implementation continues to present considerable challenges. Palacios Zuloaga (2005) argues that international conventions reflect important political and legal commitments but do not always translate into effective domestic implementation. Likewise, Tirado Estrada (2017) notes that international judicial cooperation frequently encounters procedural and technical obstacles that may affect the protection of due process guarantees. These findings indicate that, beyond adopting international legal instruments, States must strengthen institutional capacities and ensure their effective implementation. Accordingly, the success of international cooperation depends not only on political commitment but also on the progressive harmonization of legal systems and procedural standards.

Moreover, although State criminal policies have achieved notable progress, they continue to exhibit significant limitations. Binder (2010) argues that criminal policy should be fully integrated into broader public policy frameworks, addressing not only criminal repression but also the structural causes of organized crime. However, in practice, many governmental strategies remain primarily focused on increasing criminal penalties while giving comparatively less attention to preventive and social interventions. Zipf (2018) warns that an unbalanced criminal policy may ultimately prove ineffective and, in some circumstances, counterproductive. These findings therefore highlight the need for comprehensive approaches that combine legal, social, economic, and institutional measures to combat organized crime in a sustainable manner.

Finally, contemporary challenges such as corruption and money laundering continue to undermine the effectiveness of State responses to organized crime. Zuluaga Nieto (1996) argues that corruption weakens institutional legitimacy and facilitates the expansion of criminal networks, whereas Reggiani (2013) identifies money laundering as a central mechanism supporting the consolidation and long-term sustainability of organized criminal organizations. These findings demonstrate that combating organized crime cannot rely exclusively on criminal law enforcement but instead requires comprehensive institutional reform and strengthened governance. Consequently, the discussion underscores the urgent need to enhance transparency, reinforce financial oversight systems, and promote more effective, coordinated, and sustainable international cooperation in addressing transnational organized crime.

Conclusions

Transnational organized crime represents a dynamic and highly complex phenomenon that exceeds the traditional capacities of criminal law, thereby requiring a more precise conceptual and legal framework. Its structured, adaptive, and globalized nature underscores the need for comprehensive approaches that extend beyond purely punitive responses and integrate preventive, institutional, and international dimensions.

Furthermore, the findings indicate that the transnational nature of organized crime significantly limits the effectiveness of isolated State responses, making enhanced international cooperation and greater regulatory harmonization indispensable. Nevertheless, persistent political, legal, and institutional obstacles continue to hinder the development of effective and coordinated transnational strategies.

With respect to international legal instruments, although they have established an important normative foundation for combating transnational organized crime, their effectiveness ultimately depends on successful domestic implementation and the strengthening of institutional capacities. The gap between international legal commitments and their practical enforcement remains one of the principal challenges facing contemporary criminal justice systems.

Moreover, contemporary criminal policy should adopt a comprehensive framework that combines prevention, criminal enforcement, and interventions addressing the structural drivers of organized crime. The findings suggest that strategies relying predominantly on punitive measures have proven insufficient when confronting increasingly sophisticated and adaptable criminal organizations.

Finally, corruption and money laundering continue to constitute critical factors that undermine the effectiveness of State responses to organized crime. Addressing these challenges requires multidimensional, coordinated, and sustainable strategies capable of strengthening institutional integrity, improving financial oversight, and enhancing international cooperation. Consequently, only through coordinated action grounded in the principles of good governance, transparency, and institutional resilience will it be possible to effectively confront the evolving threats posed by transnational organized crime.

Study Limitations

This study is subject to several limitations. First, its predominantly doctrinal and documentary design precluded the incorporation of direct empirical evidence, limiting the ability to evaluate the practical effectiveness of existing criminal policy measures. Second, the uneven availability of recent and high-quality sources across certain regional contexts may have constrained the comparative scope of the analysis. Finally, given the dynamic and continuously evolving nature of transnational organized crime, it was not possible to

encompass all of its manifestations. Accordingly, the findings should be interpreted within the specific analytical framework adopted in this research.

Future Research

Future studies should incorporate empirical methodologies and comparative case studies to evaluate the effectiveness of criminal policy strategies across different legal and institutional contexts. Further research is also warranted to examine the impact of emerging technologies on the evolution of transnational organized crime, as well as to assess innovative mechanisms of international cooperation, intelligence sharing, and cross-border law enforcement. Advancing these research agendas will contribute to a more comprehensive, evidence-based, and practically relevant understanding of this increasingly complex phenomenon.

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Declaration of Conflict of Interest

The author declares that there are **no conflicts of interest** related to the design, conduct, analysis, or publication of this study. Furthermore, the author confirms that no personal, professional, or financial relationships have influenced the findings or their interpretation.

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