



## Implications for policy

The following discussion is aimed at investigating some of the broader implications of the descriptive work above. These are not “recommendations” *per se*. To provide recommendations would require a comprehensive review of the capacities of the affected states, the interventions attempted to date, and the impact of these interventions. Such a “needs assessment” should be undertaken, but would require a dedicated study, and is beyond the scope of the present work. Rather, the research above has revealed something about the nature of the threat confronted, and this allows some general conclusions about what is likely to work in reducing the threat.

The discussion above has demonstrated that cocaine trafficking is a key factor in the violence in the region, but it is not the only one, and eliminating the flow will not necessarily reduce the violence. Rather, the core causes of instability in parts of Central America and the Caribbean are weak states and powerful sub-state actors. Until these actors are subdued or co-opted, they will continue to contest the primacy of the state, they will continue to deal out arbitrary “justice,” and they will continue to use force and corruption to secure their authority.

The long-term goal is clearly to eliminate, through state building and development, the opportunities for these groups to thrive, allowing democratically elected authorities to govern. This will require finding the resources to build state capacity, construct infrastructure, professionalize the civil service, and reduce corruption. But achieving these goals is dependent on establishing order in the short-term, and that will require measures that reduce the capacity and incentives of sub-state actors to confront and subvert the state.

A comprehensive response needs to encompass both law enforcement and alternative means of disabling the sub-state organized crime groups. There are several ways the international community could support the countries in the region to establish order in the short-term and reduce violence in the long-term:

- Building and directly supplementing local law enforcement capacity;
- Creating national crime prevention strategies;
- Reducing the flow of contraband, particularly cocaine;
- Employing peace-building strategies.

The following discussion looks at the alternatives presented under each of these headings.

### Law enforcement

In the face of rising violence, the initial response of most countries in the region was to arrest a lot of gang members, the so-called “*mano dura*” approach. Unfortunately, this common sense approach failed, only entrenching the *mareros* in their opposition to the law, while violence levels continued to climb.

Despite this setback, the discourse has continued to focus on ever-tougher law enforcement, including bringing in the military. In just the last year, these countries have advanced the role of the military in a variety of ways:

- Several states of emergency were declared in Guatemala, where civil rights were suspended and the military deployed;
- The Salvadoran and Honduran governments recently replaced the entire command staff of their police force with career military officers;

- The military is being used in joint patrols and operations with the police in Guatemala, Honduras, El Salvador, Jamaica, and Trinidad and Tobago;
- In Panama and Costa Rica, once content to be de-militarized, there is talk about bringing back the military to address the crime problem.

This is an extraordinary development in a region that suffered under decades of military dictatorship, and it is worrying from a human rights perspective.

The desire to enlist the military is based in part on distrust of the police. While the military was involved in human rights abuses during the conflict, so were the police. Efforts since that time to reconstruct a democratic police service have been demonstrably inadequate. As a result, many people in this region have never known a functional police service, and view the military as a more efficient alternative to assuring security. In the public mind, the choice is between an under-resourced, often corrupt, civilian force and a military they know to be extremely efficient. With this background, their preference for the military is rational.

Given the problematic relationship between the state and the public in the region, however, it seems likely that the police of this region should not be militarizing, but rather moving in the opposite direction, toward growing civilianization. Militarized police forces around the world live in barracks, patrol in large groups, and are encouraged to see themselves as an arm of the state, independent of the populace. Democratic policing, in contrast, is about moving closer to the people, increasing accountability, contact, and individual interaction with communities. The “neighbourhood policing” of Nicaragua is an example of this. By giving officers a particular geographic region to understand and care for, community cooperation can be engendered.

Law enforcement remains a necessary component of any comprehensive approach. The most direct way of reducing the power of sub-state groups is to arrest and jail the members, and some of this will surely be necessary. But given limited resources, these arrests will have to be tactically selected and managed through the courts to ensure appropriate sentences are secured.

The need for a strong and independent justice system is paramount, but prosecutors cannot make bricks without straw. The poor investigative skills of the police also feed low conviction rates. And the whole system will fail without correctional facilities that produce more good than harm. The international community needs to help ensure that all these elements are in place.

### Capacity building

At present, it appears that the criminal justice systems of the worst affected countries are not up to the challenge of resolving these issues on their own. The word most commonly employed to describe the problem is “impunity”.

Criminals in some Member States know that their chances of being jailed are slim, and this surely affects their willingness to offend.

The weakness appears to extend through the entire process: the number of recorded crimes that result in an arrest is small, the number of arrests that result in a conviction is small, and a small share of those convicted face substantial periods in prison. Data on criminal justice performance in many countries is hard to come by, but based on figures from UNODC’s Survey on Crime Trends and Operations of Criminal Justice Systems, the share of cases brought to the court that result in a conviction has ranged from 2% to 42% in the past. In some countries, even murder cases are rarely cleared up. The international community should help these Member States improve on this performance.

At present, even if convictions were to be secured, there is no place to put the convicts. In the correctional context, lack of capacity literally means lack of capacity – there is simply no physical room for expanding enforcement efforts. Aside from Belize, every corrections system in Central America is overcrowded. In some cases, the majority of these inmates are in pre-trial detention. The extended incarceration of people whose guilt has not been established is an often untallied cost of an inefficient justice system, and, given the conditions in many of these overcrowded prisons, could represent a source of human rights violations. The United Nations standards and norms in crime prevention and criminal justice aim to prevent such violations and need to be implemented.

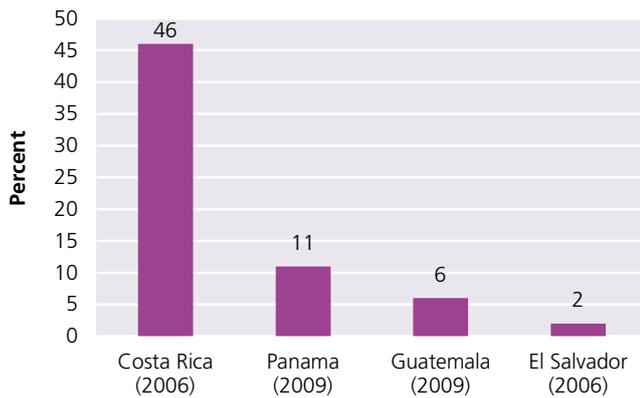
There are no easy ways to quickly correct these problems. Prisons take years to construct, and they are actually the easiest-solved aspect of the problem. Rather than waiting years for capacity building efforts to take effect, the international community should help guide the countries of the region to make optimum use of the limited available resources to address the sub-state groups. Two sub-state groups in particular need to be targeted creatively: the *maras* and the territorial organized crime groups.

### Against maras

In the past, the anti-crime programmes of some Central American countries have simply been anti-gang programmes, and it was in the gang context that the term “*mano dura*” emerged. Many have argued that the *mano dura* crackdowns on gang members have been counterproductive. Gang leaders continue to give orders from behind bars, enabled by the contraband cellphones tolerated by corrupt wardens. Joint incarceration allowed disparate cliques, unrelated except by the abstraction of their *mara* affiliation, to find common causes and form practical networks.

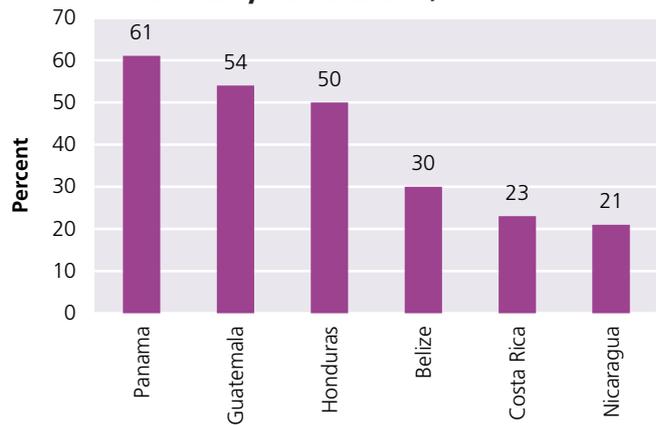
Gang members are not deterred by the threat of incarceration. The drama of crime and punishment is the central thread that gives meaning to their lives. In fact, jail plays a paradoxical role for gang members: imprisonment insulates

**Figure 75: Convictions as a share of all cases brought before the court, 2006 or 2009**



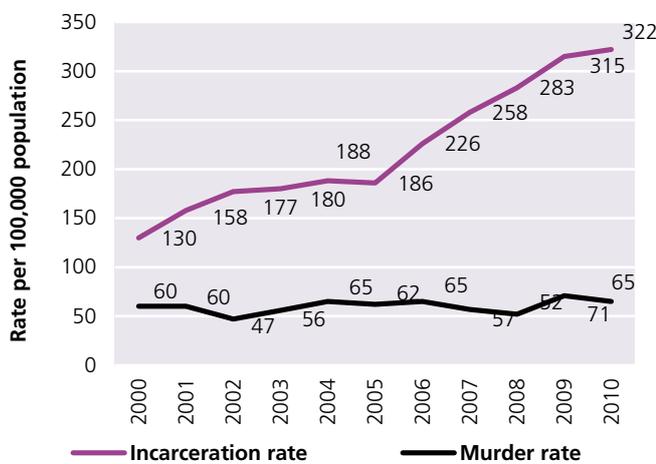
Source: UNODC Crime Trends Survey

**Figure 77: Share of prisoners who are on remand/awaiting trial, 2010 (or most recent year available)**



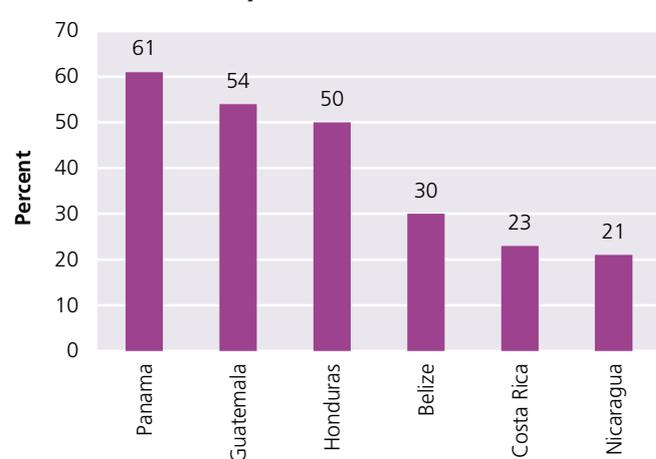
Source: International Centre for Prison Studies

**Figure 76: Number of prisoners and number of murders per 100,000 population in El Salvador, 2000-2010**



Source: ILANUD, UNODC Homicide Database

**Figure 78: Rate of overcrowding in Central American prisons, 2010 (or most recent year available)**



Source: International Centre for Prison Studies

them from common responsibilities that they are ill-equipped to handle.

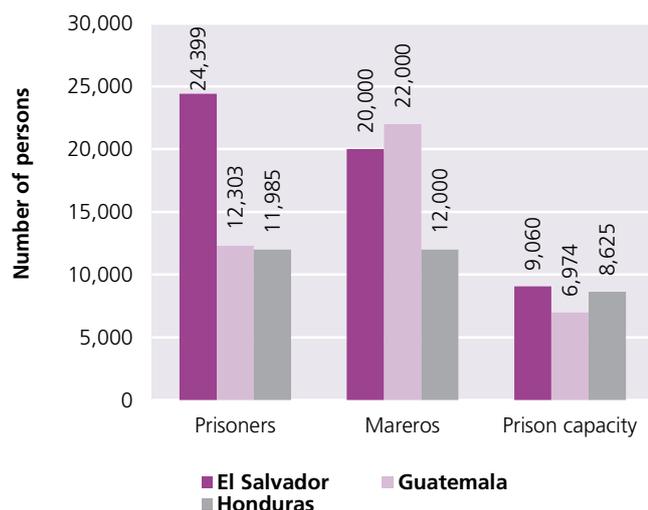
There are more than 50,000 *mareros* in the Northern Triangle alone, which is more than the total number of inmates currently incarcerated, and far exceeds local prison capacity. Laws banning gang membership cannot be fully enforced, because there is simply no place to put them all.

Gang membership provides meaning to lives that would otherwise feel meaningless, and drawing *mareros* away from this lifestyle will not be easy. The church, or other alternative systems of belonging, will surely play an important role, particularly given MS-13's use of religious imagery. Support for traditional families and provision of employment are also key, allowing the young men to step up to their role as fathers and providers with dignity. There is also a need for prison alternatives for those without the skills and maturity to fully assume adult responsibilities, like a youth service corps or other public works programmes that provide a surrogate home environment.

Those who have fallen into addiction need access to rehabilitative services, and may be best treated through specialized drug courts. Drug use surveys in Central America are out of date, and it is unclear how much drug use has been affected by the increased flow through the region. Crack cocaine in particular is highly associated with violent crime. The growth of addiction must be carefully monitored and treatment options expanded accordingly.

Of course, where *maras* members commit serious offences, they cannot be spared criminal sanction, but rounding up young people simply due to an alleged affiliation is deeply counterproductive. It consolidates nascent gang identities, facilitates networking, and apparently has little effect on command structures. There may be a technological quick fix for some of this – devices to block cell transmissions in the prisons themselves – but so long as there is corruption among the prison staff, messages will continue to be passed. In the end, it is impossible to incapacitate all potential gang members, so jail time should be reserved for those known to be guilty of a serious offence.

**Figure 79: Prison population, *mareros*, and prison capacity in the Northern Triangle in 2011**



Source: ILANUD, law enforcement interviews, World Prison Brief

The ultimate solution to the gang problem is to make the *barrios* safe places to live. Many if not most gang members join as a defensive measure, to place themselves in the role of predator rather than prey. Some non-members may be assumed to be *mareros* by the police and other gangs based on their residence and age group, so joining up at least allows them to take advantage of the benefits that accompany this stigma. Gang membership allows them to provide protection to their loved ones against real threats from rival neighbourhoods and at home. To truly address the causes of gangs, general security must be established, eliminating the need for informal community safety structures.

#### Against territorial groups

The other key organized crime structures – the territory-dominating drug trafficking groups – are less amenable to social interventions. Their involvement in crime is not the product of disadvantage and loss of direction. They are, in fact, quasi-governmental actors, whose power feeds their wealth and whose wealth allows them to extend their power.

Unlike street gangs, which have spread into even the smallest Central American village and comprise a significant share of male youth, the personnel of these drug trafficking groups are limited in number. Thus, with some prioritization, room could be made for them – all of them – in the criminal justice system. What is lacking is the wherewithal to do so.

For putting transnational organized criminals away, specialized units have had spectacular success in some countries. These groups often involve teams of investigators and prosecutors working together from the outset of an investigation, ensuring that the correct evidence is gathered to ensure a conviction in court. These units are considered elite, and so draw on the very best talent the system has to offer. They can also be overseen by international advisors,

adding credibility and global best practice to the initiative. Arrests and prosecutions will have to be selective, targeted for maximum impact, and pursued by all involved until a conviction is secured.

In Guatemala, for example, the groups involved are well known, as are their property holdings. There have already been some impressive high-level arrests, but these can be dangerous, due to the succession struggles and power plays they engender. Each group should be assessed carefully for its weaknesses, and a strategic sweep made that attacks the organization at every level.

#### Direct supplementation

In the long term, of course, the goal is to build criminal justice capacity, allowing these countries to respond appropriately to all the crime they face. But until this is possible, the international community has a responsibility to help. With the cooperation of the affected states, the international community could directly intervene in a number of ways.

The United Nations has, in the past, assembled groups of experts or created other agencies to help Member States investigate matters too sensitive to be broached locally. These experts have issued detailed reports on everything from human rights violations and prison conditions to arms trafficking and natural resource exploitation. They have not shied away from declaring official involvement in criminal and corrupt activity. These reports are not legal indictments, but they can be used as the basis for policy.

The International Commission Against Impunity in Guatemala (CICIG) took this thinking a bit further. Founded out of the recognition that international assistance was required to overcome those who were manipulating the political system to achieve their criminal objectives, the Commission independently gathers evidence about Guatemalan crime problems, including those too sensitive for local authorities to address alone. The Guatemalan government has recently renewed CICIG's mandate, signaling the country's commitment to the process and the value of the work being done.

This kind of assistance allows the countries concerned to benefit from the expertise of international investigators and to circumvent corruption. It also creates pressure at a higher level, as corrupt officials know that independent eyes are reviewing the facts. And in the end, these efforts recognize that crime is a problem for the whole of society, not something to be blamed on the police and courts.

In addition to independent investigators, the United Nations deploys police contributed by Member States to post-conflict countries all over the world. The purpose of these deployments is manifold, and varies depending on the circumstances of the host country. Initially, these missions were limited to observation and monitoring, providing a

less obtrusive presence than military observers. But over time, police mission mandates have become more robust, in recognition of the fact that domestic police services are often decimated by war, and that re-establishing the rule of law requires a strong police presence. It is possible that an international deployment could provide both supplemental capacity and guidance to the countries of the region.

The bottom line is that the people of Central America and the Caribbean need to believe state institutions can deliver justice and security. Improving local capacity is a long-term project, while the need for security is immediate. If requested by national governments, an international police deployment is one way the international community could help fill the security gap in the interim.

### Alternative means to peace

Crime is a product of a range of complex social dynamics. Rapid urbanization, unemployment, the fragmentation of families and communities, population displacement, inter-group tensions, income inequality, evolving gender relations, and many other issues can influence crime rates. Understanding these dynamics and designing interventions to ameliorate their impact on crime should complement the expertise of law enforcement officials. Creating strategic solutions will require intense inter-agency collaboration.

To create a national crime prevention strategy, a super-ministerial secretariat should be founded, housed perhaps in the office of the President. This office must have the resources and the authority to convene consultations at the highest level and to coordinate technical cooperation work across government agencies. It should be able to mobilize the resources needed to test and implement interventions it determines to be essential. Government agencies often see themselves at odds with one another, each working off a different scorecard, and none receiving points for collaborating across chains of command. The crime prevention secretariat must have the ability to change that, to recognize and reward inter-agency cooperation.

The kind of programmes that such an agency could coordinate are as varied as the crime problems themselves. For example, one way of thwarting the machinations of territorial groups is to clear up questions of land tenure. The easiest way for an organized crime group to gain control over territory is to buy it, and they exploit the fact that the land deeds systems in countries like Guatemala and Honduras are in need of repair. Many are engaged in a systematic campaign to acquire ownership over vast tracts of strategically placed property. With international assistance, the state could review land ownership claims, documenting the results and seizing all properties that are linked to drug trafficking. Communities legally rooted in the soil would stand a better chance of resisting future incursions.

Of course, much of what fuels local crime problems lies not only outside the control of the national law enforcement agencies, but also outside the control of any national government. Contraband flows are transnational, usually trans-regional, and thus strong intervention in one part of the trafficking chain merely displaces the flow somewhere else. For this reason, international cooperation under the United Nations Convention against Transnational Organized Crime and its Protocols and the Convention against Corruption is critical. These conventions provide a platform for cooperation that is essential to address issues of supply and demand that span the globe.

To address these problems requires something very much like a national crime prevention secretariat, but at an international level. Of course, the barriers to international cooperation are even more formidable than those within a government, and there is no supra-national authority to which to appeal. But these issues are of sufficient import to motivate extraordinary measures, and the United Nations is one vehicle through which such cooperation could proceed.

Contraband moves from suppliers to consumers tugged by the power of the market. What appear to be massive conspiracies are often simply the actions of unrelated players all responding to a common incentive structure. Reducing these flows will require changing the incentive structures.

The methods for changing incentive structures depend on the dynamics of each contraband flow, and determining these methods will require considerable thought and planning. The specificities of each flow must be considered with respect to the commodity concerned and the geopolitical context in which it is traded. In some cases, the solution will involve manipulating supply; in others, the mechanics of trafficking or the subtleties of demand.

For example, many policy decisions outside the criminal justice field could affect the demand for migrant smuggling. Demand has, in fact, been reduced by the economic downturn. Programmes to support investment in *maquiladoras* or to reduce agricultural subsidies abroad could help keep workers at home. Expansion of guest worker programmes could provide an alternative to irregular migration. Loosening visa standards could allow the labour to enter without the risks of land transit. The solutions to trafficking problems can come from many unexpected places, and these should be explored in parallel to the criminal justice response.

### Demand reduction

Demand reduction is an attractive approach to disabling contraband markets, but it is often fiendishly difficult to achieve. These markets exist in the first place due to demand so resilient that consumers are willing to break the law. Changing their opinion about what they want is not easy to do, but once accomplished, the market simply disappears.

For example, exotic pets are a luxury item, and a specialized

one: there are a limited number of dealers and venues for purchasing live animals. A targeted public relations campaign in consumer countries could highlight the damage being done to these animals and their environment by traffickers. The anti-fur campaign managed to make wearing mink unfashionable in the United States, drastically reducing the number of mink farms in the country.

The problem is that it does not always disappear all at once, and the severity of the issues associated with the market are not always determined by its scale. Even a relatively small incentive can motivate people to behave in anti-social ways, particularly when the alternative is poverty. For example, cocaine demand in the United States has been declining for years. This has not reduced the violence associated with this market outside the United States. In fact, in some instances, declining demand simply serves to increase competition – a fat market allows many players to comfortably operate side-by-side. The market only becomes cutthroat when one's gain is another's loss.

For this reason, simplistic solutions to these complex problems should be avoided. Strategies aimed at taking down markets must be based in the understanding that change produces stress, and that people denied livelihoods or cut off from sources of great wealth will not simply fade away. This is why any interaction with these markets needs to be globally planned, or one country's success could produce another's downfall.

### Peacebuilding

The original purpose of the United Nations was to build peace, and in this it appears to have broadly succeeded. Since its inception, the number of wars between states has plummeted, and the civil wars that followed have also declined. Since Kofi Annan's pivotal statement *In Larger Freedom*, it has been recognized that a new series of threats to international stability have emerged. Among these is the threat of transnational organized crime.

These new threats are not so different in character - there are many ways the lessons of international peace building can be applied to the problems associated with transnational organized crime. In both cases, the goal is to get groups of armed men to lay down their arms and return to socially beneficial activities. Like antagonists in war, those involved in criminal violence may be eager for peace, but need help in finding their way. A peace process has already been initiated with the *mareros* of El Salvador, and while it is not clear where this experiment will lead, there is interest in its potential in Guatemala and Honduras.

To participate, offenders must see that there are alternatives to the jailhouse, the hospital, and the prison. It is possible to promote peace using carrots as well as sticks. Extensive support is often required to allow combatants to reintegrate in society, and even with this, some will fall back into their old ways. For these, the criminal justice system remains.

In some jurisdictions, individual criminals are often granted lighter sentences or even immunity from prosecution in exchange for cooperation and testimony. Protection for cooperating witnesses can be extended to families, and may even involve comprehensive resettlement. With due regard to the rights of the victims, the needs of justice can be balanced with the needs of crime prevention.

Since many territorial groups enjoy a measure of community support, it is important that the vacuum be filled when these groups are removed. Asset forfeiture provides one vehicle to ensure that communities benefit from the state's attention. Seized land and livestock can become the basis for farming cooperatives. More than anything else, strong communities provide a bulwark against the incursions of transnational organized crime.

### Global solutions to global problems

In the end, the main organized crime problem afflicting Central America – cocaine trafficking – does not originate within the region at all. The drug is produced in South America and consumed in the richer countries to the north. Central America is literally caught in the crossfire, a victim of its geographic placement.

To resolve issues spanning continents requires international cooperation. A global strategic approach to these contraband flows is required. The platform for this work lies in the United Nations Convention against Transnational Organized Crime and its Protocols and the United Nations Convention against Corruption. These treaties provide the basis for international cooperation and so are critical to addressing transnational trafficking. It is essential that all the nations concerned fully implement these international agreements so that cooperation on these issues can advance.