

FIGHTING INTERNATIONAL IMPUNITY

International criminal law, transitional justice, and transnational crimes have traditionally been approached as independent fields, something that has led to sectorized solutions clashing with each other and created an opportunity for impunity. In a bid to improve outcomes, Héctor Olasolo, professor of the Faculty of Jurisprudence at the Universidad del Rosario, proposes integrating a study of all three of these areas as one.

By Catalina Ochoa
Photos Alberto Sierra

Like a detective turning the pages. It was precisely in this way that a researcher from the Faculty of Jurisprudence at the Universidad del Rosario discovered a fissure in the field of law, one through which some of the world's big criminal organizations slip through. The crack found by Professor Héctor Olasolo is that the impunity related to many of the crimes committed by organized crime occurs because there are no studies that could comprehensively and interconnectedly shed light on international criminal law, transitional justice, and transnational crimes. What happens is that experts in each field only focus on their specialty, thus coming up with partial solutions that clash with the principles at work in other areas.

This led to the publication by Olasolo of his book *International Criminal Law, Transitional Justice, and Transnational crime: political dilemmas and regulations*. This graduate and doctor in Law from the University of Salamanca, holder of a Master's Degree in Law from Columbia University, and figure of much experience through his post as President of the Iberoamerican Institute of The Hague,



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Graffiti in
Calle 26, level
with Bogotá
Central
Cemetery,
Colombia.

hopes the book can be a pioneer publication on the subject, opening new pathways, and presenting certain initial hypotheses related to his studies, thus offering possible solutions to the question. “A version of the book in Spanish is already out there, and an English version is now ready for release this year,” the expert comments.

LEGAL STUMBLING BLOCKS

There are currently a number of important territories in different countries—especially in Latin America, Africa, and part of Asia—that are under the control of armed groups operating unlawfully or involved in transnational crime. These criminal groups take these areas in order to deal in illegal goods, and to this end they boast business structures, a network of points of contact, and people working within and outside the organization (even infiltrated into state and financial entities).

Although they tend to use violence right from the start, these criminal groups step up systematic acts of aggression when they face rivalry from other groups, or come up against obstacles to carrying out their activities, keeping control of their territories, or protecting their business interests. This is their way of stopping rival groups from establishing themselves, and they sometimes achieve

this with the help of the state’s own agents. Such violence then begins to involve the civil population living in these territories, with the aim of obtaining their loyalty and avoiding their working with the competition. In a nutshell, when such groups begin to use violence, it is a sign that they are facing difficulties, and this is normally when the violence reaches the level of a charge of crimes against humanity.

Transnational justice, on the other hand, enters the picture when this type of crime is committed and criminal responsibility emerges, not to the state in which they occur but before international society as a whole, which is what makes this type of crime neither free from prosecution nor subject to amnesties, being always triable and not limited to a prescripton period. But there is a problem, namely that on reaching a negotiation process to end serious situations of violence or armed conflict, the parties involved attempt to avoid their responsibilities, and they reach agreements that often clash with international regulations, allowing many of these crimes to go unpunished.

THE WEAK LINK IN THE CHAIN

Despite their importance in society, the pillars of justice are all the weaker for relying on slimmer resources, resulting in less strength

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The Center
for Memory,
Peace, and
Reconciliation,
a monument
situated in the
Colombian
capital city,
its walls
encrusted
with over 1000
testimonies
provided
by social
organizations,
victims, and on
human rights
and peace. It
aims to keep
the memory
alive.

and consolidation. “Take the case of the only United Nations organ charged with the job of handing out justice—the International Court of Justice (ICJ)—which receives less than one percent of the budget, so consequently it has little operational capacity,” explains Olasolo. Besides this, an important internal problem exists since many cases involve agents of the affected state, so investigation and judging processes hit stumbling blocks as the fact that prosecutors depend on the executive arm is taken advantage of. Then finally, when up against organized crime, the stronger the organization, the more difficult it is to arrest its members, especially if they have members of their group nested in the state or private firms in the sectors where they are operating.

With the aforementioned in mind, in addition to proposing that the three separate fields be studied as a whole, Professor Olasolo also suggests the building of knowledge through universities explaining existing standards for understanding whether the measures put into practice are the right ones.

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He also recommends that, on the other side, citizens themselves should get across their views on defeating impunity by means of peaceful demonstrations out on the streets, and through statements in the media, so that the crimes most seriously affecting the harmony of our societies do not go unpunished, thus strengthening the action of the system of justice. ■