

Conceptualizing Criminal Governance

Appendix: What is Governed? Dimensions of Criminal Governance

Criminal governance varies in terms of what is governed, and where. Like rebel governance, criminal governance tends to occur in places where the state is weak. Yet whereas rebels challenge formal state power directly by providing thoroughgoing governance for the entire civilian population within a delimited region, criminal governance flourishes in the interstices of state power. These areas can be geographical, like the Sicilian hinterlands where the Mafia arose (?), but are often abstract, such as the “stateless areas” created by prohibition of economic activities (?). Thus the relevant dimensions of criminal governance can be narrow and discontinuous, with COs regulating specific illicit activities or informal economies but not others. When criminal governance extends over civilians, it often does so unevenly, prohibiting (say) property crime and contact with police but leaving other domains like interpersonal violence, dispute resolution, and electoral politics untouched. In short, COs can govern a lot or a little, along a host of dimensions.

This appendix enumerates the most important and widely observed dimensions of criminal governance, particularly over civilians. For each, I sketch an empirical range of variation from low to high levels of governance, based on extant research. I do not attempt to identify which scholars were the first to detect specific forms of criminal governance; rather I selected examples on a convenience basis for their illustrative qualities.

While some of these dimensions are clearly related—for example, prohibiting unauthorized homicide requires providing some sort of dispute-resolution mechanism—we should not assume that levels of governance across dimensions are correlated; this is an empirical question, and an

important avenue for future research. Similarly, observing low levels of governance along specific dimensions does not necessarily indicate that COs lack the capacity to govern more vigorously; they may simply choose not to.

Future researchers should add to and possibly reorganize this list. Building and refining a collective compendium of criminal-governance activities is critical to the evolution of this research agenda, because it helps researchers know what to ask about. For example, qualitative interviews in Medellín revealed the near ubiquity of small-scale loansharking known as *gota a gota* (“drip-drip”). This led me to ask about similar practices in Brazilian slums; although far less common, it does seem to occur in some communities. Yet even when we find no evidence of an item from the list, it is good to have asked. A confirmed zero is different than missing data, and researchers, by identifying what their cases are negative cases *of*, can better situate them in the broader universe of criminal governance. “Asking anyway” is particularly important where gang rule appears weak and constrained: verifying that gangs are *not* engaged in more sophisticated or resource-intense forms of governance is an empirical finding in itself.

For convenience, I group dimensions by governance function: policing, judicial, regulatory etc.. These are, as with state governance, interrelated and overlapping: regulation, for example, involves policing and punishing infractors. Within each group, dimensions are ordered roughly according to their prevalence in prominent cases. Figure 2 from the article summarizes this scheme, and is reproduced here.

0.0.1 Policing and Enforcement Functions

Prohibit theft, enforce property rights. A common and often critical component of “successful” gang governance is the prohibition of theft within communities. In favelas across Brazil, for example, property crime is rare, and residents regularly leave their doors unlocked. At low levels of governance, COs may simply post a prohibition on robbing within the community, but lack strong enforcement capacity; residents are likely to acknowledge the prohibition while noting that one must “keep ones eyes open” or “be wary” (particularly during economic downturns), and may even blame COs for poor enforcement. At medium levels, prohibitions on intra-community theft

Function Dimension	Degree of Governance		
	Low	Medium	High
Policing and Enforcement			
Prohibit theft / enforce property rights	Posted prohibition but weak enforcement	Effective prohibition; sense that property is secure	Ban theft in vicinity, storage of stolen goods in community; provide security for local firms
Prohibit sexual, domestic violence	Ban rape and pedophilia but weak enforcement	Effective ban on rape and pedophilia, perpetrators punished	Bans on domestic violence, sexual harassment, catcalling
Regulate homicide, interpersonal violence	Require notification	Require permission	Ban all unauthorized homicide
Law of silence (<i>omertà</i>)	Weakly enforced ban on going to police	Residents rarely go to police; general fear of being seen with police	Residents expected to actively protect gang members during police incursions
Control entrance, exit, and movement	Passive monitoring	Require identification on entry. Impose curfews.	Control outside movement; expel untrustworthy residents
Arms control	Only internal control	Civilian "registration" of arms	Regulate who may possess; requisition in times of war
Other public behavior	Regulate externality-producing behavior	Regulate clothes, colors, music referencing rivals	Regulate religious practice, sexual behavior, etc.
Judicial			
Dispute resolution	Only major or gang-related disputes; arbitrary process	Community disputes; two-person juries or institutionalized process	Multi-juror trials, "legal" precedents, public norms, appeals.
Trial & punishment; restorative justice	Only when directly gang-related	Limited involvement with civilians	Active investigation, recordkeeping
Debt collection and contract enforcement	Only gang-related	Enforce 3rd party debts and contracts	Elaborate record-keeping; "credit scores"
Fiscal			
Tax collection / extortion	Arbitrary, unpredictable	Regular payment schedule; fee-for-service	Receipts; mutual sense of what is being provided in exchange
Public goods and welfare provision	"Free": Coordination problems	"Cheap" services: e.g. clean streets, prune trees	"Expensive" goods: infrastructure, welfare, etc.
Micro-credit	Members	Non-member criminals	Civilians
Regulatory			
Illicit markets	Regulate drug consumption	Ban certain drugs or other activities	Tax criminal activity in area
Licit markets	Sell some legal goods	Tax some legal goods	Produce and monopolize legal goods; tax informal transport
Political:			
Electoral politics	Passively endorse candidates	Sell access to candidates; keep others out	Coerce voters, long-term relationship with candidates
Community politics	Participate	Try to coopt/penetrate	Actively destroy or dominate

Figure 2. What is governed? Dimensions of Criminal Governance, by Function.

are widely observed and residents report that their property is secure. Some COs also recover stolen goods, usually as part of dispute-resolution services (see below). At higher levels of criminal governance, COs may prohibit robbery in adjacent non-slum areas, provide informal security for licit firms operating within areas of gang influence, and ban use of community areas for storage of stolen goods (especially vehicles).

Prohibit sexual and domestic violence, regulate sexual behavior. Almost all gangs with a capacity for violence assume responsibility for preventing and punishing rape and sexual abuse, especially of children. Indeed, communities without gangs often take on this role spontaneously in vigilante fashion, and residents seem to demand of local governing groups swift punishment for sex crimes (?). One São Paulo public prosecutor explains: “Why doesn’t the mother of a rape victim go to the police and instead goes to the PCC? ... Because she would go to the police station, file a report, and three years later a sentence will be handed down. [She and her daughter] want quick justice” (quoted in ?).

Less frequently, at higher levels of governance, some COs prohibit or restrict domestic violence; prohibitions of this sort are more likely to apply to non-members than members. In one Rio favela, for example, a local women’s-rights activist told me that women could effectively complain to local traffickers about abusive partners only if those partners were not gang members.¹ In Medellín, domestic-violence regulation varies by slum. In one, “if a man is beating his wife, no, they don’t get involved... that’s seen as an internal family problem;” in another, “say a husband went and hit his wife today, then it is the [gang members] who will go talk to him, not Family Services [laughs]”. In a third, residents reported that the local gang would intervene in domestic violence cases if called, but charges both partners a fee for each intervention.²

COs may also enforce broader rules around sexual behavior and sexual harassment. A trafficker in Recife, Brazil, for example, reported that among the “laws” his gang posted in his community was “Don’t look at someone else’s woman, even if it’s not a gang member’s, just a resident’s.”³

¹Visit and interview, June 27, 2013. All visits, interviews, and focus groups are the author’s.

²Interviews and field visits, 2017.

³Interview, June 18, 2005.

Female residents in Natal, Brazil reported that after a prison gang had subsumed all the local street gangs under its banner, rules against catcalling had been imposed, making it much easier for them to transit freely.⁴ The PCC and other Brazilian gangs enforce a strong prohibition on *talaricagem*, dating or sleeping with the girlfriend or wife of an inmate.

Regulate homicide and interpersonal violence. Many COs ban or limit forms of interpersonal violence—especially public brawls or duels—that might attract police attention or disrupt illicit economic activities like drug trafficking. On the other hand, interpersonal violence that is kept private, including domestic violence, is often treated by gangs as a private matter.

Homicide is perhaps the most problematic form of interpersonal violence for COs. It can disrupt community life, provoke spirals of retaliation, and draw sustained police attention. At the same time, crimes of passion, blood feuds, lynchings, and revenge killings among community members are difficult for COs to regulate; preventing a homicide seen by those governed as justified or “nobody’s business” can provoke resistance. For this reason, prohibition or strong regulation of homicide probably requires some form of judicial mechanism for hearing out cases; some COs may simply choose not to get involved.

At minimal levels of governance, COs may require that they be informed of a planned homicide, and that measures be taken to minimize police attention. At medium levels, COs may require previous permission, though they must still deal with crimes of passion and unauthorized homicides on a per-case, often arbitrary basis. At higher levels of governance, all non-authorized homicides may be explicitly banned; this requires, almost by definition, a mechanism for authorizing “deserving” homicides. An ideal-typical example is the PCC’s prohibition of unauthorized homicides in São Paulo: apparently a deliberate attempt to reverse the spiral of homicidal violence that drove rising homicide rates in the late 1990s, the PCC imposed a “law of crime” that required extensive trials before juries of imprisoned members via cell phone. The ban is public knowledge and is widely seen as contributing to a staggering decline in homicides throughout the state (??). By contrast, in one PCC-controlled favela in Fortaleza, Ceará state, no such ban was in effect, with previous

⁴Focus group, August 29, 2018.

permission “recommended, depending on who you want to kill.”

Law of silence (*omertá*). The flip side of COs’ “law”-enforcement activities is a prohibition on passing information to, or cooperating with police and other state authorities. For CO members and non-member criminals, “squeaking” is the ultimate affront to criminal codes of honor, and makes an informer a pariah whose murder could bring glory to the perpetrator. Eliciting *omertá* from civilians is also critical for COs, turning communities into “safe havens” (? , 193); nonetheless, its reach can vary significantly. At low levels of governance, the ban may be partial or notional; residents may understand that more serious situations can be reported to the police, especially ones the gang has been unable to resolve. At medium levels of governance, the law is widely observed, and residents are fearful of being seen or associated with police. At high levels, citizens are expected to actively help the gang evade police repression, especially hiding gang members or their matériel during police incursions.

Control entry, exit, and movement outside. COs that govern civilian communities vary in their degree of territorial control. In Rio de Janeiro, it is common for COs to erect physical barricades to control the entry and exit of vehicles; in other Brazilian cities with less militarized COs, the rule is “lower your windows and turn off your headlights”. Even at low levels of governance, COs generally monitor who comes in and out of their territory, often via lookout. At medium levels, they require identification on entry and may turn back civilians from communities controlled by rivals. They also may impose curfews during times of inter-gang conflict. At high levels, COs exert strong territorial control, expel residents suspected of sympathy with or ties to rival gangs, and may also prohibit residents from visiting rival territory, though this is not always easy to enforce. When COs are small and turf areas fragmented, these regulations can be incredibly burdensome for residents, who may often be cut off from family members and friends. Slum residents of Medellín were subject to such “invisible borders” for many years. Generally speaking, prohibitions on movement are strongest for gang members, non-member criminals, and civilians who might potentially be or become gang members (especially young men).

Arms control. Most COs regulate the possession and use of firearms by their own members to some extent. Less organized COs may simply have rules around when members may shoot; more organized COs have centralized arsenals out of which guns are loaned to on-duty members, and regulate use by carefully rationing and monitoring ammunition. Traffickers in São Paulo and Recife, Brazil, for example, explained that at the end of their shifts, when returning their loaner guns to their managers, they would have to justify any used ammunition (Anonymous).

At low levels of governance, regulations apply only to CO members. At medium levels, COs may prohibit open carry and even possession of more powerful weapons like automatic rifles by non-members. At high levels, COs may actively regulate ownership in general. For example, in Rio de Janeiro, gang leaders discourage arms ownership except by residents who need them for work, such as security guards. Residents are required to “register” their arms with gang members, so that the gang can sequester the guns if needed for a military action. In these settings, civilian ownership of firearms is usually rare, since civilians fear being associated with COs by police (Anonymous).

Public behavior. Even at low levels of governance, COs frequently lay down and enforce norms and rules around externality-producing public behavior, such as loud music, motorcycle use, trash dumping, and other bugbears of community life: one CV controlled favela in Fortaleza, Brazil, a warning painted on a wall read “each group of gossipers = 10 beatings.”⁵ More invasive is the prohibition of behaviors that reference rival COs, including wearing certain colors, singing or playing certain songs, using certain expressions, or making certain hand signs; increasingly these prohibitions apply to civilians’ activities on social media as well. At high levels of governance, COs may regulate more private behavior such as sexual or even religious practice—though of course many COs seem to have little interest in doing so. Nonetheless, while apparently rare, such governance can be quite oppressive. In Rio de Janeiro, for example, the Terceiro Comando Puro drug syndicate has prohibited Afro-Brazilian religions like Umbanda and Candomblé, with violent attacks on priests and houses of worship filmed and circulated online by syndicate members (?).

⁵Visit, August 23, 2018.

0.0.2 Judicial Functions

Dispute resolution. Dispute resolution is one of the most common services provided by COs. As with punishing sexual violence and protecting property rights, it seems to be both supply- and demand-driven. On the supply side providing dispute resolution benefits COs: it prevents residents from going to the police, and helps COs gather information about residents. More broadly, dispute resolution may reinforce deference to the administering authority (?). Indeed, all sorts of armed groups compete with the state for dispute-resolution provision: the Taliban, for example, was known for its “mobile courts”, providing rough but quick justice in Afghan war zones (?). On the demand side, just as many unaligned or anti-Taliban Afghans still availed themselves of its services, many slum residents seek out resolution services from COs, whose proximity and responsiveness often outstrips the state’s. As one Medellín resident put it, “Say someone steals your moto. If you call the police, it will take hours, if they even come. The [gang members] are right there.”⁶

That said, COs vary in the range of disputes they will get involved in, even when they have the capacity. For example, the Compensa favela of Manaus, Brazil is a major stronghold of the Família do Norte (FDN) prison gang, likely the third most powerful CO in Brazil, with drug operations spreading from Colombia to Atlantic ports. Its dominance over Compensa is unquestioned, yet residents told me that the FDN only gets involved in “very serious fights, or if it involves somebody from the drug trade,” and that in general, “People resolve things on their own, or go to the police. The [FDN] doesn’t care.”⁷

COs also widely vary in the sophistication and institutionalization of their dispute-resolution mechanisms. At one end of the spectrum, a single local boss (or designated subordinate) may hand down decisions. At a middle level of sophistication, COs may require that two or more members be involved, as a check on arbitrary or biased decisions. At higher levels, institutionalized trials with three or more respected members acting as juries apply standardized norms and even “legal”

⁶Interview, January 28, 2019.

⁷Visit and interviews, August 13, 2017.

precedents. ?, for example, report a case in which a PCC jury restrained an imprisoned member from killing his ex-girlfriend's new boyfriend upon release, issuing a decision that ex-girlfriends are not subject to the *talaricagem* ban.

While we might expect COs with more sophisticated justice-provision mechanisms to get involved in a wider array of cases, effective dispute-resolution services can create excess demand, as the case of the PCC's "overflowing" wiretaps suggests. Apparently, this led PCC leaders in some areas to restrict its dispute-resolution services to "those who identify as being from the world of crime", but this has proven quite controversial among residents (?, 175).

Investigation, punishment, and restorative justice. Linked to dispute resolution and policing functions, COs may take an active role in conducting investigations, arranging trials, and carrying out the "sentencing" of members, non-member criminals, and non-criminal civilians for infractions minor and major. Sentences often have a "restorative" quality: recovering stolen items, forcing infractors to pay damages or "make things right" with the community. For example, one Medellín resident reported that "you see people... picking up trash and sweeping the streets, it's because they screwed up, and the neighborhood [gang members] make them do it; when they don't give them a beating they make them do community service." In some cases, COs may allow or compel victims to carry out physical punishments against their aggressors; the PCC, for example, is known to authorize vengeance killings by successful plaintiffs (?, 67-8). That COs—who are often deeply embedded in tight-knit communities—frequently implement restorative forms of justice constitutes a fascinating avenue of future research.

At low levels of governance, COs only exert this sort of effort for cases directly involving gang members; at medium levels they show greater willingness to get involved in non-members' concerns. At high levels of governance, these functions are consistently available to the population, and may also include a recordkeeping component: the PCC, for example, maintains detailed personnel files on members and affiliates that include details of past infractions and punishments received (Anonymous).

Debt collection and contract enforcement. COs infamously collect their debts; at medium levels of governance they may also provide debt-collection and contract-enforcement services to third parties, often for a fee (e.g. ?). In Medellín, third-party debt collection is a major source of revenue for high-level *razon* COs; one incarcerated *razon* leader claimed this activity made up for as much as 30 percent of his revenue.⁸ At high levels, debt-collection is bureaucratized: the PCC, for example, carefully tracks the overdue debts of members and affiliates whether they are owed to the organization or to third parties; negotiates repayment schedules; and keeps elaborate records of debtors' previous late payments.

0.0.3 Fiscal Functions

Tax collection / extortion For many scholars, taxation is the foundation and driving purpose of state-formation (???). In empirical analyses, tax revenues often proxy for state capacity, “revenue collection” being “the next best thing” to a “perfect barometer of state power.” (? , 35). Taxation is far less universal among criminal organizations, even among those providing significant governance services. Of course, protection rackets charge for “protection”, hence their similarity to states (?)⁹; but many COs are not protection rackets. In general, the more that COs earn from illicit market transactions (especially the drug trade), the less they rely on direct taxation, whether of members, non-member criminals, or residents. Taxation varies critically in who must pay—it is more common to tax local businesses than residents—and whether COs charge flat fees or attempt to implement a “progressive” (i.e. price-discrimination) scheme based on residents' income or businesses' profits. One interesting middle-ground arrangement is fee-for-services. For example, in at least one Medellín neighborhood, the local gang could be called upon to settle domestic disputes, but with the understanding that each partner would be charged a fee. Protection rackets also vary considerably in their level of organization: at low levels, they may demand payment at irregular times, or of differing amounts, and there may be confusion around who has already paid or not. At medium levels payments are more predictable and better tracked. In more sophisticated operations,

⁸Interview, 2018.

⁹The case of “pure” extortion, absent any real protection of other positive governance activities, falls outside the scope conditions of criminal governance proposed above.

COs provide receipts and “customer service” such as a hot line to call in times of need.

Public goods and welfare provision. Many COs provide additional public goods beyond basic social order and property rights. The degree of governance along this dimension can be conceived of as COs’ cost of provision. At low levels, COs can—essentially for “free”—solve coordination problems like deciding where to locate a trash dump or a motor-taxi stand. At medium levels, they may provide “cheap” goods that mostly require labor, like street-cleaning and tree-cutting.¹⁰ Higher levels involve more resource-intensive goods, like building sports and recreational facilities or basic infrastructure like drainage and public illumination. Many COs also provide welfare benefits for the needy, often in the form of food staples and medications for those who cannot afford them. Some public-goods provision requires outlays but nonetheless yield direct benefits to COs: in Rio de Janeiro, it is common for drug syndicates to throw weekly *bailes*, dance parties with DJs or live bands—an important source of entertainment in neighborhoods bereft of cultural options—at which they socialize and sell drugs (?).

Credit. Many COs provide financial credit services at all three levels of Figure ???. In Brazil, the PCC’s vast drug distribution business operates on a consignment basis, with an extensive network of both members and non-member affiliates obtaining merchandise on credit, to be paid back within strictly defined time periods. The *combos* of Medellín, meanwhile, virtually all engage in the business of high-interest micro-credit loans to residents known as *gota a gota*.

0.0.4 Regulatory Functions

Illicit-market regulation. COs’ regulation of non-member actors in criminal markets—especially the market for illicit drugs—is likely the modal form of criminal-market governance. Even when COs try to monopolize drug sales in the area they control, they still are likely to impose rules on which drugs can be consumed where. More sophisticated COs, especially ones engaged in wholesale drug trafficking, may simply regulate the retail market, imposing rules on which drugs can be bought and sold, and where. COs may also regulate criminal activities beyond those they are

¹⁰Visit, October 21, 2017.

directly involved with. For example, Rio's drug syndicates often prohibit car thieves from bringing stolen vehicles into their territory for disassembly.

Licit-market regulation. Some COs tax or even directly participate in markets for legal goods, especially “universal” goods like cooking gas, cable TV and internet, and food staples. In Medellín, *combos* are increasingly getting involved in the distribution and sale of food staples like *arepas* (tortillas), dairy products, and even livestock. At higher levels of governance, this may involve production as well: in 2018 police seized an *arepa* factory built by the sophisticated Los Triana *razon*. In Rio de Janeiro, a government study found that more than three quarters of *milícia* paramilitary groups operated forced monopolies on gas and cable TV, and actively regulated and taxed networks of informal transportation (?).

0.0.5 Political Functions

Coercive electioneering. COs vary greatly in their engagement with electoral politics. Many simply ignore this realm, or indicate a preferred candidate without active involvement. At medium levels of governance, COs may act as brokers, selling candidates physical access to the areas they control and prohibiting others from entering. At high levels, COs may use threats to intimidate voters, and even round them up and bring them to the polls, as was common in Medellín in the early 2000s when paramilitary groups dominated slum neighborhoods.¹¹ Variation likely depends on COs' general approach to politics. In Rio, for example, drug syndicates usually sell access to the highest bidder, without active coercion, while police-linked *milícias* strike long-term agreements with politically allied candidates and actively coerce residents. That said, in the run-up to the 2018 presidential election, the Comando Vermelho drug syndicate in Ceará prohibited campaigning by right-wing populist Jair Bolsonaro and his party's candidates in slums under their control.

Community politics. COs may also get involved in community-governance institutions both formal and informal. At low levels, such efforts may consist in little more than participation, while at medium levels, COs coopt community leaders; at high levels, COs fully dominate or neutralize

¹¹Field visits and interviews, October 2007.

local governance institutions. There can be overlap with electioneering when community associations are subject to local elections, which are generally easier for COs to compete in. In Rio, for example, drug-trafficking COs often elect members or allies to local Residents' Associations elections (e.g. ??), while simply selling campaigning rights to the highest bidding candidates in city- or state-wide elections.

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