

***The UN Security Council Faces Organized Crime:
Enforcement Strategies, Fact-Finding and Regulation
Methodology and General Findings.***

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1. Methodology

Organized crime has emerged as a major factor in many contemporary and protracted crises, often exacerbating levels of violence, insurgencies and state fragility. Relatedly, the UN Security Council (the ‘Council’ or ‘SC’) has increasingly recognized the role that organized crime and illicit markets play in sustaining and fueling contemporary conflicts. I sought to analyze how the UN executive body has been dealing with this new challenge to international peace and security. In order to do this, I analyzed all SC resolutions from 1 January 2000 to 31 December 2019,¹ totaling 1219 resolutions, and, together with a small team of researchers,² coded them for references to any form(s) of organized crime discussed in the resolution. Resolutions from before the year 2000 were not used in this study. This because the analysis of the Council’s practice reveal that the issue of organized crime was irrelevant during the Cold War and considerably less significant in the period from 1 January 1990 to 31 December 1999.³ Hence, it was logical to focus the present study on the following twenty years. As a result, I created an original dataset comprised of all Council resolutions addressing the following criminal activities from 2000 to 2019: arms trafficking; drug trafficking; piracy; human trafficking; financial crime (including terrorist financing, money laundering and proliferation of weapons financing); human smuggling; pillage and trafficking of natural resources; goods trafficking; theft/armed robbery; kidnapping/abductions; wildlife trafficking.⁴

¹ All resolutions passed by the UN Security Council since 1946 can be found at: <https://www.un.org/securitycouncil/content/resolutions-0>

² The team was also composed by Dr. Stefano Silingardi (University of Modena and Reggio Emilia) and Mr. Alfonso Langastro.

³ An outstanding analytical tool that maps the growth of organized crime as featured by SC resolutions see also Global Initiative Against Organized Crime, ‘Organized Crime: A Growing Concern on the Security Council Agenda’ at: <https://globalinitiative.net/scresolutions/>. With some discrepancies, this regularly updated tool produces an interactive dataset similar to ours.

⁴ As widely known, the antagonism, which existed during the Cold War between the USA and URSS, substantially paralyzed the Security Council in that period. Noticeably, in the last thirty years (1990-2019), the Council has

There are some further methodological remarks I must make here. First, some clarification is required about the notion of ‘organized crime’ used for the purpose of my research. Organized crime is a fuzzy and contested umbrella concept that raises frequent doubts and disputes in security and criminal sciences. However, the introduction for the *Oxford Handbook of Organized Crime* starts with the proposition that ‘there are two main notions and types of organized crime: (a) a set of stable organizations illegal per se or whose members systematically engage in crime and (b) a set of serious criminal activities, and particularly the provision of illegal goods and services, mostly carried out for monetary gain.’⁵ The latter notion is closely reflected in the resolutions adopted by the SC. Whereas instances of the first type are indeed occasional in the Council’s practice, our data reveal that the UN executive body concentrates more on the *what* than on the *who* of organized crime and the array of criminal phenomena in its practice comprises a diverse array of activities which coincide with above-mentioned crimes. Thus, it is to these very activities that I tied the definition of ‘organized crime’ for the purposes of my research. Secondly, coding these very activities in SC resolutions was only one of the research methods used for this research. In order to verify the general outcomes of it, and with a view to understanding the Council’s resolution in their complexity, I then thoroughly analysed each and every relevant resolution with the help of the research team’s members. Thirdly, I observe that incidents of organized crime mentioned in SC resolutions were broken down by the typology of crime. On occasions, resolutions would imply an incident of organized crime, such as human trafficking, but not explicitly describe the incident as such. In recognition that these omissions are often the result of political influence and consistently with the notion of organized crime used in my study, I made an informed assessment on whether to include certain incidents based on the wording in the resolution, and on its applicability to the conventional UN definition of the crime type emerging from the

adopted 1857 resolutions, nearly three times as many as during the Cold War. 758 resolutions were adopted under Chapter VII of the UN Charter, whereas in the previous 43 years the Council adopted only 22 resolutions under this chapter. In the context of these resolutions there was virtually no reference to transnational criminal networks or illicit markets. If we turn the focus on the ten year from 1 January 1990 to 31 December 1999, we do not note that a significant change in importance of organized crime in the Council’s practice. In this respect, I note that the present study is just one of the outcomes of a wider research I undertook in 2016 with a view to unveiling the dissonance inherent in the fact that a body like the UN Security Council, which is created and built to deal with State actors, increasingly takes measures which target, rather than only impact, individuals and collective entities *per se*, even when they cannot be linked to State action. This research, matured from a painstaking review of the bulk of the SC resolutions, elaborated on a dataset including all resolutions adopted under Chapter VII over the last thirty years (1990-2019) – also available at: (<https://didattica.unibocconi.it/mypage/index.php?IdUte=49517&idr=14940&lingua=ita>) confirms that, at least in quantitative terms, organized crime was not a primary issue in the context of collective security.

⁵ L. Paoli, ‘Introduction’, in Id. (ed.) *The Oxford Handbook of Organized Crime* (Oxford: OUP, 2014), 1 at 2.

practice of the Council itself (as of 2019).⁶ Probably, the most glaring example concerns the recruitment and use of child soldiers in conflict. These conducts are often not labelled as human trafficking in the resolutions, but are labelled as such in my dataset. To locate these incidents of organized crime, instead of using search terms, once again, I preferred to thoroughly analyze each and every resolution. Fourthly, when a resolution addressing organized crime is labeled as a ‘Chapter VII-Resolution’ it means that the SC has indeed acted under Chapter VII of the UN Charter *specifically* to address the crime considered in the resolution. Thus, after initial coding, we thoroughly examine the text of the relevant resolutions with a view to verifying that, when only a part of them is adopted under Chapter VII, this part actually addresses the issue of organized crime. In the opposite scenario, the relevant resolutions are not counted as Chapter VII resolutions. Fifthly, since certain coercive measures (*e.g.* specific economic embargo or targeted sanctions) may address organized crime *together with other* critical issues fueling the crisis under the attention of the Council, I made an informed judgment on whether to include those measures as a measures imposed by the SC under Chapter VII *unambiguously* to address organized crime. As a result, only coercive measures that – either expressly or effectively – are imposed by the Council to tackle organized criminal activities are counted in our elaboration as instances of (forcible or non-forcible) coercive measures under Chapter VII of the UN Charter. Finally, as it is known, SC resolutions often begin by referencing relevant previous resolutions. In order to avoid duplications in the dataset, in such instances, we did not include the content of the referenced resolutions as elements of the resolutions under consideration.

2. Search Terms

For the initial coding, I elaborated and expanded on the search terms for crime types identified by the Global Initiative Against Organized Crime.⁷

Crime Type	Search Terms
Human Trafficking	Trafficking, human, trade, sale, sell, children, recruitment, slavery, women
Human Smuggling	Flow(s), movement, border, smuggling, Illicit, Migrants

⁶ The same methodological approach is used by the Global Initiative Against Organized Crime, *supra* note 3.

⁷ These terms are available at: <https://globalinitiative.net/wp-content/uploads/2018/03/SC-Resolution-Search-Terms.pdf>

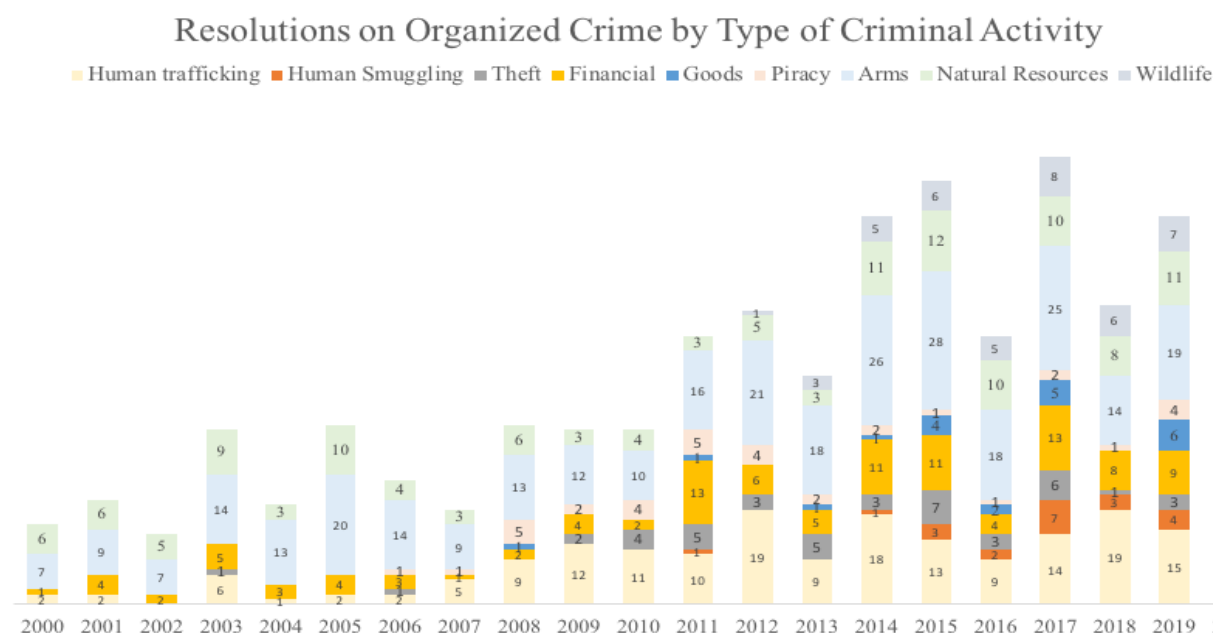
Drug Trafficking	Drug(s), narcotics, traffic
Arms Trafficking	Arms, armed, transfer, flow(s), illicit weapon, sale, traffic, trade, small, light
Resource Trafficking	Resource, water, minerals, timber, charcoal, wood, ivory, gold, oil, diamond, petrol, timber, ivory, illegal, exploitation
Armed Robbery/Theft	Theft, robbery, steal
Piracy	Piracy, maritime, armed robbery, sea
Wildlife Trafficking	Wildlife, poach, fish, illegal, exploitation, natural, resources, poaching
Goods Trafficking	Goods, artefacts, art, cultu(e/al)
Financial Crime	Money, laundering, terrorist, financing, fund, financial, fraud
Cyber Crime	Internet, online, cyber, tech, communications
Terrorism	Terror, armed groups, Al Qaeda, Da(')esh, foreign, fighter, terrorist(s)
Kidnapping	Kidnap(ping), abduct(ion), hostage, ransom

3. General Findings

By analysing the Council resolutions in the twenty years from 2000 to 2019 and coding them for references to any form(s) of organized crime discussed in the relevant act, we find that out of the 1219 SC resolutions passed in the period 489 resolutions (40.1%) addressed or discussed (these forms of) organized crime in relation to a situational crisis or a generalized threat (**Figure 1**).⁸

⁸ Other 75 resolutions addressed forms of organized crime with reference to a generalized threat (*e.g.* terrorism, proliferation of nuclear weapons) or in the context of thematic deliberations by the Council (*e.g.* proliferation of small and light weapons; children in armed conflict; violations of international humanitarian law).

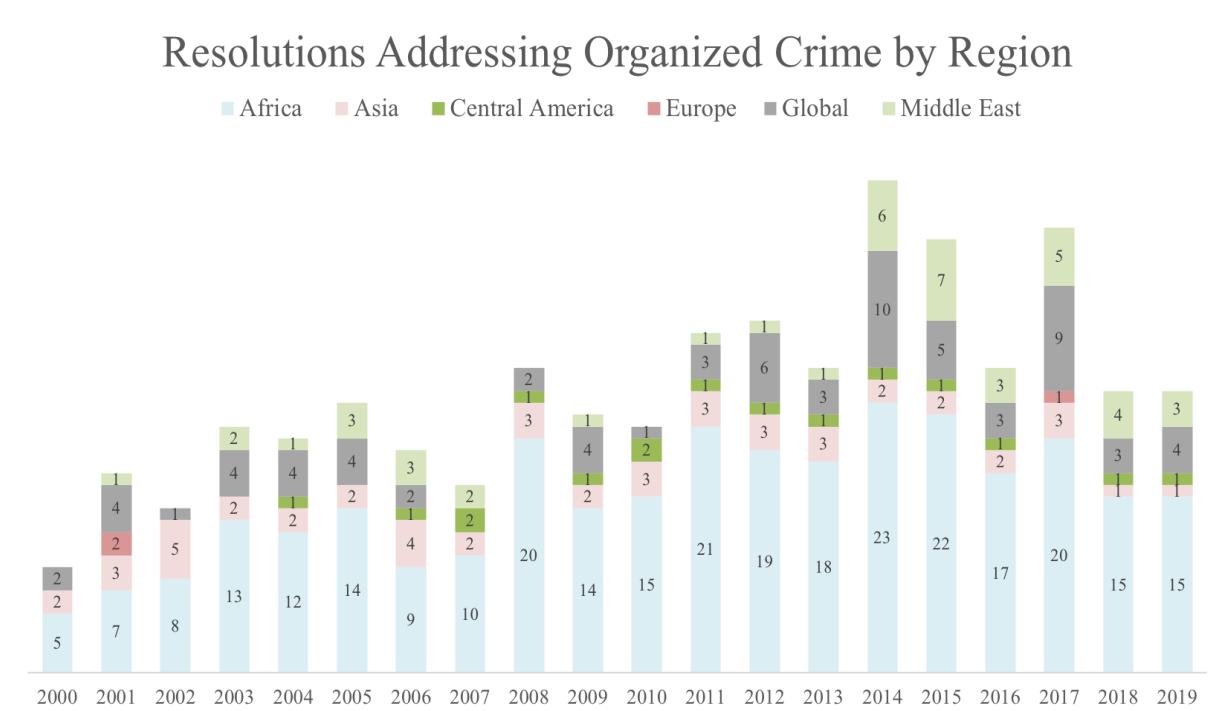
Figure 1



Of those resolutions, 61% (299) concerned a country or region in Africa (**Figure 2**). References to organized crime peaked in 2014 and 2017, when, respectively, more than 67 % (42) and 61% (38) of the SC resolutions referred to organized crime. These represented a confluence of conflicts in Africa, the Middle East and the Americas, and reflected the Council’s agenda dominating concern with the crime–terror nexus.⁹

⁹ On this nexus see SC Res. 2482 (2019), which specifically addresses the relationship between organized crime and counter-terrorism.

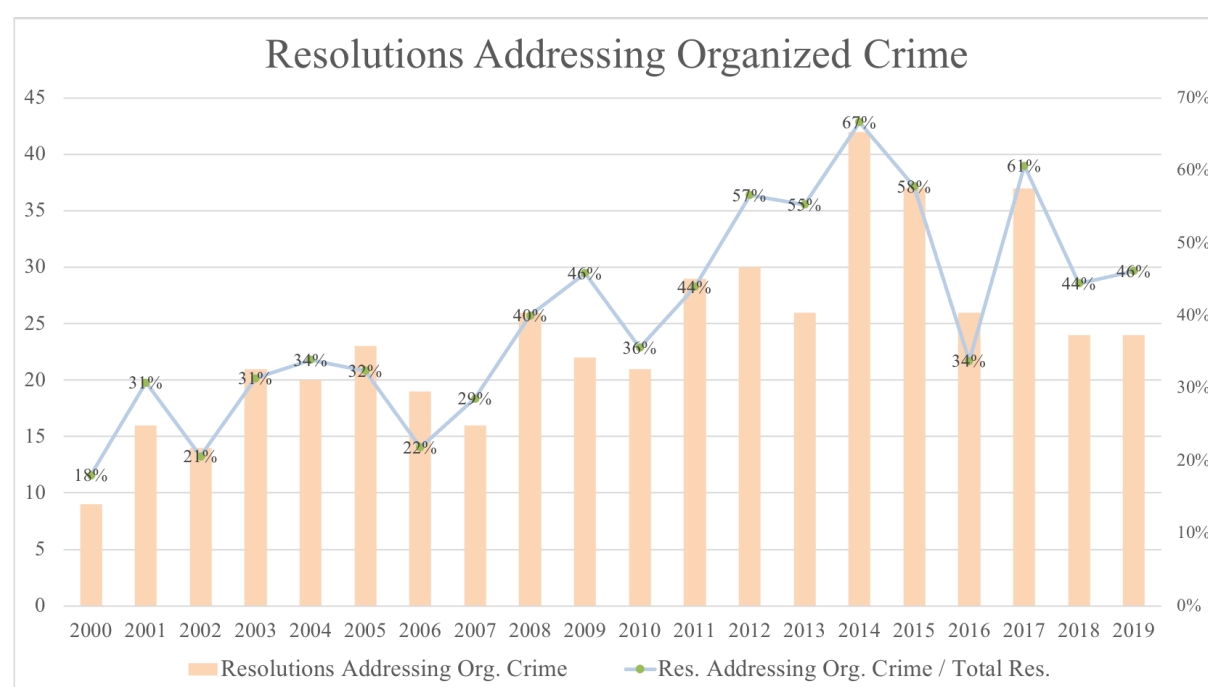
Figure 2



Overall, the total percentage of resolutions addressing organized crime relative to the annual SC resolutions adopted since 2000 have stayed well above 30% except for only 2000, 2002, 2006 and 2007 when this percentage was 18%, 21%, 22% and 29%. Moreover, since 2008 this percentage has consistently stayed above 40% except only for 2010 and 2016. Such trend continued on track through 2019, when 24 of the 52 SC resolutions (46%) referred to some form of organized crime, further confirming its significant role despite a decrease in the absolute number of mentions in 2019 (**Figure 3**). Again, African countries were the centre of attention in almost two-thirds (62%) of resolutions referencing a form of organized crime in the same year. Although references to organized crime in its resolutions are, of course, no proxy for the scale of the related conduct, nor do these resolutions necessarily mirror the real-world nature of conflicts on the ground, the Council’s sustained recognition of the role of organized crime and illicit markets does not come as a surprise. A growing body of literature indicates that illicit networks play a role in all stages of conflicts – from the motivations behind their onset, to entrenched dynamics of violence, such as the financing of armed groups, and complications in ensuring a sustainable solution. Criminal interests have been extensively identified as a major hurdle for peace processes. With its resolutions, the SC has recognized

this growing convergence of criminal activity, illicit markets and conflict, by encouraging new approaches to the changing face of modern conflicts and drawing repeated attention to the need to integrate crime-prevention and control initiatives into peace processes, sanctions regimes and UN peace operations.

Figure 3



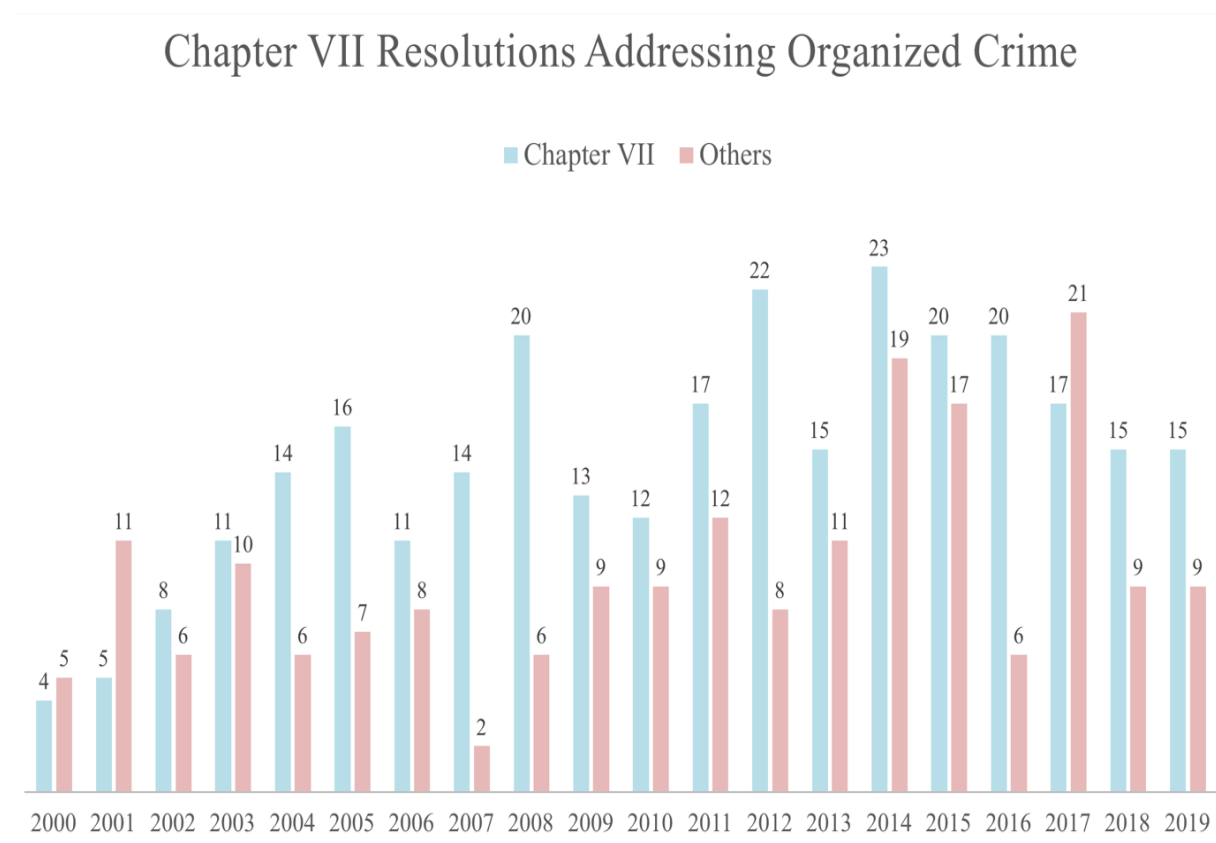
We turn now to the substance of the Council's resolutions addressing organized crime. Importantly, in a considerable number of cases, measures were taken under Chapter VII of the UN Charter (**Figure 4**). Within this group, the Council has only occasionally authorized the use of forcible measures by UN members (*e.g.* against piracy and armed robbery in Somalian territorial waters,¹⁰ and in order to tackle the trafficking of migrants in the Mediterranean Sea¹¹). Most importantly though, the mass of its resolutions has regarded the imposition/modification of sanctions and UN peace operations (**Figure 5**). Our data show that in many of the major recent and ongoing conflicts in which forms of organized crime have emerged, targeted sanctions are often complemented by embargos on specific commodities (*e.g.* arms; gold, metals, stones, minerals, wildlife and other natural resources, etc.) as a way to apply pressure on conflict groups by cutting off their source of financing and weapons. Sanctions are also used as a control mechanism *ante delictum* and a preventive tool of policy.

¹⁰ SC Res. 1816 (2008); SC Res. 1851 (2008).

¹¹ SC Res. 2240 (2015); SC Res. 2312 (2016); SC Res. 2380, (2017).

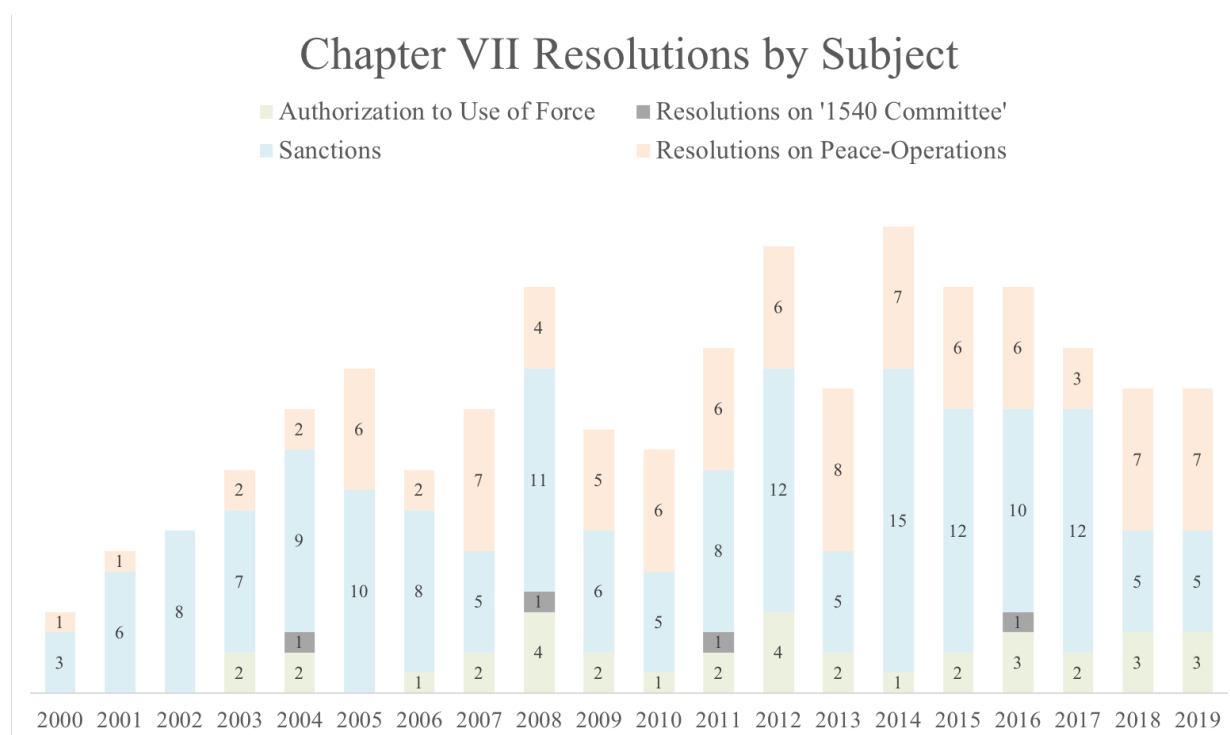
As to peacekeeping, the evolution of contemporary practice shows that policing components have played an important role in UN peace operations dealing with organized crime. However, policing functions within such operations are focused more on investigations and the provision of public order than on military operations against organized crime groups.¹²

Figure 4



¹² The few exceptions have included the Special Trafficking Operations Program (STOP) established by the UN International Police Task Force within United Nations Mission in Bosnia-Herzegovina (UNMIBH) in 2001 to deal with human trafficking; more recently, a revised mandate for the UN Stabilization Mission in Haiti (MINUSTAH), which aimed to upgrade its crime prevention capacities, particularly its ability to deal with gangs, drugs, and arms trafficking; and the operations by the Force Intervention Brigade charged by the SC with neutralizing M23, an armed group in the eastern DRC that was involved in illicit resource trafficking.

Figure 5



Non-chapter VII resolutions have played a comparatively less meaningful role in dealing with organized crime. There are of three main types (**Figure 6**). First, the so-called ‘thematic resolutions.’ These are resolutions of general scope, concerned especially with the protection of civilians in armed conflicts, particularly with vulnerable persons such as women and children. Other resolutions of this type deal with certain generalized threats, such as the illicit transfers of weapons and are mainly concerned with ‘standard setting’ in promotion of existing international law (*e.g.* for the protection of cultural heritage).¹³ Interestingly, there are also recent tendencies towards the adoption of ‘guidelines’, for example on non-payment of ransom to terrorist groups;¹⁴ or on the cooperation between the State and the private sector on weapons.¹⁵ Second, there are resolutions containing recommendations on the fight against crime and terrorism. Salient features in this context are the growing cooperation called for with the private sector, as evidenced, for example, in the Kimberley Process Certification Scheme (‘Kimberley Process’)¹⁶ on diamonds, as well as the interaction of this tool with sanctions imposed under article 41 of the UN Charter. Third, there is an assorted group of

¹³ See SC Res. 2347 (2017).

¹⁴ See SC Res. 2133 (2014).

¹⁵ See SC Res. 2370 (2017).

¹⁶ SC Res. 1459 (2003).

organizational/operational resolutions, which are either limited to the temporal extension of existing sanction regimes and peace operations, or regard political missions, arguably established under Chapter VI of the UN Charter, tasked with the observation and verification of peace processes and post-conflict transitions, as well as providing programs of technical assistance.

Figure 6

