

# **Transnational Organized Crime and International Security**

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## Abstract

In this essay, I examine the strength of the claim that transnational organized crime is a security threat, in a meaningful sense of the term. I review the claims that have been made regarding the status of transnational organized crime as a security threat, and in doing so suggest the characteristics which one might expect a priori of such a threat – that is, how do we know a security threat when we see one? In a second section, I examine the notion of transnational organized crime both conceptually and empirically, in order to present a clearer picture of the phenomenon and to assess the different manners in which its existence and activities present a potential menace to security. Lastly, I offer an evaluation of the degree to which the fears outlined in the first section are justified. I conclude by suggesting that while the threat to the nation state posed by criminal groups has been overstated in general terms, particularly with respect to short-term existential threats, the threat is very real for poorly institutionalized, non-democratic states and ultimately for the leading democracies. The threat which presents itself is a security threat in terms of the future democratic development and political stability of newly-democratizing areas.

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# I. Introduction

The end of the cold war brought with it a crisis of identity for the discipline of international relations, and in particular the subset of the field known as strategic or security studies. The growth of security studies in this century can be linked directly to the devastation of world war and the subsequent primacy of strategic politics in the nuclear age. While there was debate over the appropriate methods and activities required to achieve security in the face of existential threat in the postwar period, there was little need to question the importance of these matters. Nor, indeed, was there any reason to worry about defining the dependent variable. In the developed world at least, where those who published articles on these issues resided, security was above all the condition of being neither attacked by horrifically powerful weapons nor subjugated by a foreign power in lieu of such destruction.

The changes of the last decade have provoked two reactions in the study of security. On one hand, while not disputing the marked decline in strategic military competition amongst the great powers since 1990, some realist scholars have maintained that the study of security need not alter its focus, claiming that the dynamics which created and prolonged the cold war did not disappear along with the Soviet Union. Accordingly, while great power rivalry was at an ebb, the seeds of future systemic conflict were said to be evident in the unstable nature of regions newly released from the grip of bipolarity – regions such as eastern and central Europe.<sup>1</sup> A less abstract and more historically-grounded argument claimed (at least by implication) that fault-lines between a number of global “civilizations” ensured the continuing relevance of security studies as constituted since 1945.<sup>2</sup> Either way, the relevance of models which depicted security as dependent on state-to-state military competition was assumed to be enduring.

On the other hand, suspicious that such claims of continuity were either empirically wrong or the result of intellectual inertia – or both – others strove to assess the relevance of security studies in an era where the traditional version of security, sought at such cost in the past half-century, was now relatively assured.<sup>3</sup> It was argued that for most states, especially the wealthiest, territorial integrity and economic-constitutional makeup were no longer under threat, and the lives of their citizens no longer in serious danger, in any broad sense. However, new problems were identified as having created new insecurities in place of nuclear or ideological threats. Issues not typically associated with security in the cold war context were “securitized,” as security expanded from simply meaning safety from military danger to a broader sense of survival across a number of dimensions. The prime example of this is perhaps the study of environmental security, in which threats to the species posed by environmental degradation, and conflicts springing from those threats, are posited as analogous to more traditional dangers.<sup>4</sup>

The focus of this paper is instead on another of the so-called “non-traditional” threats to security which have recently emerged on the security studies agenda: namely, transnational organized crime. In recent years, the transnational character of organized crime has been remarked upon repeatedly and identified as a worrying trend. Traditionally the province of criminologists, lawyers and sociologists, the enormous profits and power said to accrue to today’s leading criminal organizations and networks have brought crime onto the curricula of political science and economics. This is the “dark side” of globalization, where criminal organizations are said not only to have benefited from the increasingly open global economy, but to have developed powerful tools, techniques and relationships to thwart state

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<sup>1</sup> John J. Mearsheimer, “Back to the Future: Instability in Europe after the Cold War,” *International Security* 15: 1 (Summer 1990).

<sup>2</sup> Samuel P. Huntington, “The Clash of Civilizations,” *Foreign Affairs* 72 (Summer 1993).

<sup>3</sup> See in particular the collection of essays around this topic in Ronnie D. Lipschutz (ed.), *On Security*, Columbia University Press: New York, 1995.

<sup>4</sup> On the theoretical and political undercurrents surrounding the introduction of non-traditional security threats, see Ole Wæver, “Securitization and Desecuritization” in Lipschutz (ed.), *On Security*, pp.46-86. The concepts of securitization and the multiple dimensions of security originate with Barry Buzan. See Buzan, *People, States and Fear: An Agenda for Security Studies in the Post-Cold War Era* (2<sup>nd</sup> edition), Lynne Rienner: Boulder, 1991.

attempts at controlling their activities. These activities are those of traditional organized crime – violence, intimidation, extortion, and corruption – only on a larger scale; for some observers, transnational criminal organizations now pose a threat to the nation-state.

In this essay, I examine the strength of the claim that transnational organized crime is a security threat, in a meaningful sense of the term. Several steps are necessary in order to draw any conclusions in this area. In the first section below, I review the claims that have been made regarding the status of transnational organized crime as a security threat, and in doing so suggest the characteristics which one might expect *a priori* of such a threat – that is, how do we know a security threat when we see one? In a second section, I examine the notion of transnational organized crime both conceptually and empirically, in order to present a clearer picture of the phenomenon and to assess the different manners in which its existence and activities present a potential menace to security. Lastly, I offer an evaluation of the degree to which the fears outlined in the first section are justified. I conclude by suggesting that while the threat to the nation state posed by criminal groups has been overstated in general terms, particularly with respect to short-term existential threats, the threat is very real for poorly institutionalized, non-democratic states and ultimately for the leading democracies. The threat which presents itself is a security threat in terms of the future democratic development and political stability of newly-democratizing areas.

## II. Crime and Security: Knowing a Threat When We See One

At first blush it seems strange to consider organized crime in the context of international security studies, a domain more regularly associated with deterrence theory, nuclear proliferation, and other subjects having primarily military associations. There are two initial objections one might make to its inclusion. First, while organized criminal groups are often the instigators of sensational violent episodes, such as occur in conflicts over the control of geographic markets in the drug trade, these events may be construed merely to punctuate what is in most cases a fundamentally economic exercise: that is, organized crime exists almost entirely for the purpose of making money outside the confines of legally acceptable behaviour. If this is the case then the primary risk for other actors is not to their physical security but rather to their economic well-being, as a consequence of the economic distortions resulting from activities such as extortion, fraud, and smuggling.

A second possible objection relates to the essentially economic nature of the phenomenon. If criminal organizations are successful in eluding authority in the jurisdictions in which they operate, and are able to run their various operations in a profitable fashion, it is logical to assume that rather than acting as a destabilizing force, they will behave like any profitable business and seek to support the administrative status quo under which they have prospered. The history of organized crime in the United States suggests that *laissez-faire* and even symbiotic relationships between criminal organizations and governing authorities, as in mid-twentieth century Chicago, may be as common as conflictual relationships.

Taken together, these arguments – that crime is an economic activity, and that it is not necessarily incompatible with the political status quo – would suggest from the beginning that transnational organized crime is “low politics,” a topic best suited for disciplines such as economics or criminology, and should not concern national security planners or students of international security. The null hypothesis, in other words, has much to recommend it. In working to resolve this issue, a number of questions must be asked and answered. First, what do we mean when we talk about security? Second, in which ways *might* the global activities of criminal organizations threaten the values inherent in our definition of security, if they did so at all? Third, is there anything particularly *international* or *transnational* about these activities which should draw the attention of those studying international relations and international security over and above students of particular domestic societies?

***Security***

The question of security provokes a series of sub-questions: security of what? security from whom? whose security? As Barry Buzan has pointed out, security is anything but a constant, whether one approaches the question from a traditional positivist view or from the standpoint of constructivism. In a society of states, with the state still overwhelmingly the device by which we define our membership in the global community, the notion of security is self-defined and highly flexible. If a hypothetical society of states was characterized by relative openness in military affairs, exhibiting common institutions, shared information and technology, and overlapping command jurisdictions, we would expect a reduction in the salience of military security questions across the system; if that same society were composed of primarily autarchic states, we would expect the opposite. In our own century we can see examples of both the former (e.g. Western European or North American military cooperation) and the latter (Asia or the general industrialized world after 1945). Moreover, Buzan argues that military affairs are only one realm in which security concerns are felt, as political, societal, economic and environmental concerns also have the capacity to induce fears over national, state, or international security: thus, similar dynamics would obtain in each of these realms with respect to relative openness and closure.<sup>5</sup>

Buzan's arguments regarding securitization represent a substantial move away from traditional security studies with its near-exclusive focus on military threats, accented by his claim that security in the world's "core" regions will exhibit a set of security concerns that are largely economic, societal and environmental, with military security confined to relations with and amongst the periphery. The question which arises is why we should bother cataloguing a whole series of new concerns, to be christened "security issues," when such a practice may render our use of the term so loose as to make it meaningless. Why not simply state that security issues promise to be increasingly minimized amongst the core states? For the traditionalist, if one adds the contribution to this debate of Ole Waever, for whom the securitization of non-military issues seems closer to a subjective manipulation of language rather than the objective emergence of new threats to core values comparable to previous military threats, the picture becomes even muddier, and may raise the suspicion that security is now what one makes of it.<sup>6</sup>

But if the challenge of the traditionalist would be that security as found in the most catholic of recent approaches is a variable and subjectively-defined phenomenon, the best response would be to agree. Security has never been about objective criteria that have remained immutable over time. Whether one adopts an historical-empirical or a constructivist approach to the question, the evidence is persuasive that we as a species have at different times considered very different issues to be matters of core survival, worth defending or prosecuting vigorously and often to the death.<sup>7</sup> The trend line of issue primacy in security matters (that is, what we have fought over or feared fighting over) in the last two millennia is, roughly speaking, territorial → religious → dynastic → economic → socio-economic. If the historical practice in the security "market" has been that of fighting, the use of military force to defend or achieve particular objectives within each of these realms, the currency of that market has changed repeatedly, and has included the most tangible and intangible of threats, goals, and motivations.

Thus if the first characteristic of security that we can identify is that it is a commodity or condition over which violent dispute is a significant possibility, the second characteristic is that the condition of being secure is one with variable content. It may be enough to say that the maintenance of the core values of a society, and the freedom of its population from grave or existential threats, comprise the bulk of what is meant by security. But what those values are (beyond territorial control) and what form those threats take, is in large measure a matter of historical accident.

This last point brings us to a further issue: about whose security are we speaking? With respect to levels of analysis, there are at least three main meanings of the term, as embodied in national, global

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<sup>5</sup> Barry Buzan, "Security, the State, the 'New World Order' and Beyond," in Lipschutz (ed.), *On Security*, pp.205-209.

<sup>6</sup> Waever, "Securitization and Desecuritization," p.76.

<sup>7</sup> For a traditionalist approach which reaches this conclusion regarding the issues leading to war in the history of the Westphalian states system, see Kal Holsti, *Peace and War: Armed Conflicts and International Order 1648-1989*, Cambridge: Cambridge University Press, 1991.

and individual security. In the past half-century, the most common (and given the state-to-state contest of the Cold War, the most logical) definition in everyday usage was that of *national* security. That is, security was measured as a function of the nation-state's ability to preserve the core values of its society, its territorial integrity and the physical safety of its citizens – at least as much as those characteristics were defined by the ruling elite. More recently, approaches concerned with human security at the individual level, and global and environmental security at the systemic level, have directed attention away from state attributes and towards the well-being of individuals or the species as a whole.

It would certainly be possible to make the case that transnational organized crime impacts human security directly at the individual level in particular national, regional or local contexts. The predicaments of many residents of Colombia, Nigeria, Russia and large parts of Indochina, for example, are well-known. However, such a conclusion would not be particularly interesting or useful for those convinced that state actions, powers, attributes, and weaknesses are still the principal stuff of international politics. An examination of transnational organized crime as a security issue, finessed by reference to security as a self-defined and evolving concept which eludes the boundaries of traditional concepts of state security, would be in serious danger of predetermining its own conclusion. Instead, I seek to understand the threat to security posed by transnational organized crime in the same terms we have employed to approach security issues in the past several decades.

This approach reflects the fact that it is precisely on these terms that the matter of transnational organized crime has been raised in security dialogues. In the last few years, a number of authors have argued that criminal organizations are particularly well-positioned to exploit the opportunities of an opening global economy, the break-down of political barriers, and the communications revolution. Moreover, it is argued that the combined and often cooperative activities of many of the leading criminal organizations are by nature borderless operations, running counter to and often directly threatening the interests – and the security – of states, who seem powerless to slow (much less reverse) the growth of criminal activity. One encounters the following, fairly unequivocal, statements in the literature:

[Transnational criminal organizations] pose serious threats to both national and international security, and are extremely resistant to efforts to contain, disrupt, or destroy them.<sup>8</sup>

Transnational organized crime has been a serious problem for most of the 20<sup>th</sup> century, but it has only recently been recognized as a threat to the world order. This criminality undermines the integrity of individual countries, but is not yet a threat to the nation-state. Failure to develop viable, coordinated international policies in the face of ever-growing transnational criminality, however, may undermine the nation-state in the 21<sup>st</sup> century.<sup>9</sup>

Transnational crime is now emerging as a serious threat in its own right to national and international security and stability.<sup>10</sup>

There is no attempt in these statements to suggest that it is simply the security of individuals that is in danger as a consequence of criminal activities. On the contrary: the authors allege that transnational organized crime is a direct threat to the state. Beyond this, it has been claimed that the degree of integration and cooperation amongst criminal groups has been increasing, leading some to speak of a

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<sup>8</sup> Phil Williams, "Transnational Criminal Organizations and International Security," *Survival* 36: 1 (Spring 1994), p.96.

<sup>9</sup> Louise I. Shelley, "Transnational Organized Crime: An Imminent Threat to the Nation-State?" *Journal of International Affairs* 48: 2 (Winter 1995), p.463.

<sup>10</sup> John McFarlane and Karen McLellan, "Transnational crime: the new security paradigm," Strategic and Defence Studies Centre WP 294, Australian National University: Canberra, 1996.

“global Mafia,” the “ultimate terrorists of our time” against which the deepening and integration of national security and intelligence infrastructures is a necessary step.<sup>11</sup>

As R.T. Naylor and others have pointed out, it would be unwise to accept such statements uncritically.<sup>12</sup> The evidence given to date is primarily sensational, anecdotal, or both. Moreover, without subscribing to elaborate conspiracy theories it is difficult to imagine how one might map the fluid networks of organized criminality with the degree of confidence one would think necessary to pronounce the existence of a global Mafia, or to portray these criminal organizations and their practices as “the new Communism, the new monolithic threat.”<sup>13</sup> While there is certainly enough evidence to suggest that crime poses a considerable challenge for the developed democracies and an even greater hurdle for many regions of the developing world, and while the globalization of the world economy has necessarily seen crime take on a transnational character, casting this threat as an economic, political, security, or social threat has significant implications for policy. In particular, the joining of law-enforcement, foreign policy-making and the security apparatus represents a mixture of executive powers with which democracies have traditionally been uncomfortable.<sup>14</sup>

Therefore the question is the standard against which these claims are measured. This we must construct, as it is not made explicit in any of the works cited above. Drawing on and augmenting remarks made earlier, I would venture that security, in the sense of “national” or “state” security, has in the late twentieth century the following characteristics:

- the maintenance of the core values of a society;
- the freedom of that society’s population from grave or existential threats;
- the maintenance by constituted authorities of control over the legitimate use of force; and,
- the maintenance by constituted authorities of control over defined national territory.

Further, as suggested above, security as traditionally understood has been a commodity or condition whose maintenance has implied the potential use of military force, whether actively or as a deterrent to encroachment by others. However, I will not include this as a criterion here. While it is certainly possible to imagine circumstances where criminal behaviour warrants a military response – and imagination is not required, given the US-Panamanian confrontation over the trafficking activities of General Manuel Noriega – it is also possible to conceive of security threats where traditional military responses may be inappropriate, clumsy or counterproductive. Here one might consider the actions of domestic grassroots terrorist organizations. In Ireland, Israel and more recently the United States, small groups with limited bases of support have shown they are able to inflict considerable damage in terms of lives, structures, and civilian morale. By contrast, military responses have provoked a stalemate at best in these locales. It may well be that for centuries, the most effective way to increase your own security at the expense of others was through force of arms. There is no reason *a priori* to expect this state of affairs in the next century, especially in light of the apparent inability of modern democracies – so proficient at waging war – to suppress challenges from within.<sup>15</sup>

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<sup>11</sup> Claire Sterling, *Thieves World*, New York: Simon and Schuster, 1994, pp.219-220 and *passim*. A critical review of the hyperbole found in the early literature on transnational organized crime can be found in R.T. Naylor, “From Cold War to Crime War: The Search for a New ‘National Security Threat,’” *Transnational Organized Crime* 1: 4 (Winter 1995), pp.37-56. Naylor argues that poorly-developed paranoid models of Russian-inspired criminal networks, a holdover from hawkish Cold War analyses of terrorism, have been warmed over by Sterling and others to “the applause of the remains of the Cold War establishment.”

<sup>12</sup> *Ibid.*

<sup>13</sup> John Kerry, *The New War: The Web of Crime That Threatens America’s Security*, New York: Simon and Schuster, 1997.

<sup>14</sup> Naylor, *op. cit.*, p.52, notes that “while perhaps crime is now sufficiently international as to require some sort of political response, it is important to caution that when law enforcement and foreign policy are mixed together, on the ideological justification of meeting a new threat to national security, all too often the first gets twisted to serve the independently-derived requirements of the second.”

<sup>15</sup> Michael Mann, in the first volume of his *Sources of Social Power*, lays out some interesting, speculative arguments regarding the development of different power sources over time, in the face of autransnational

Following this definition, if transnational organized crime is genuinely a threat to state security it should have the capacity to challenge at least one of the four characteristics of national security outlined above. In the following paragraphs I suggest what the observer might look for as confirmation of this claim.

### ***Threats to Core Values***

By core values I mean the basic principles around which any society is ordered, socially, politically or economically. In the case of an advanced liberal state, such as Canada, these might include such attributes and behaviours as the rule of law, the unrestricted access of the mass of the population to democratic political mechanisms, and the existence of a fair and open marketplace – what might be termed a “way of life.” In the Cold War, it was threats (perceived or real) to these values which promoted the initial phases of acute hostility between East and West. Here we are not speaking of minor or incremental challenges which might reasonably be subsumed under the heading of peaceful change: instead, for security to be compromised we must look for major disruptions in market access and practices, and/or significant erosion of the political autonomy of constituted governments, in such a manner as to significantly reduce the quality of life in the society affected.

### ***Freedom From Grave or Existential Threats***

In previous decades the threats faced by many states and their national security planners were often extreme, as the phrases “massive retaliation” and “mutual assured destruction” would imply. While there may never be a criminal threat of the same magnitude as the nuclear arsenals of the superpowers, it is fair to draw comparisons with more conventional military dangers, be they invasion, bombardment, the use of gases and chemicals, the introduction of noxious biological compounds, and so forth. Crime, of course, has always contained a component of violence, and we must distinguish the normal physical dangers posed by criminal activity from a broader, systematic threat. Here we must look for a *coordinated* pattern of behaviour which places human lives or well-being at risk in sufficient numbers as to cause significant disruption in the ordinary functioning of a society.

### ***Control Over the Use of Force***

Weber viewed the control of coercive techniques as one of the principal hallmarks of the modern state: the state alone defends territory, apprehends and punishes criminals, and disarms those posing a threat to its monopoly. Today the characteristics of “strong states” are said to include this characteristic, while “weak” or “quasi” states have at best a partial grip on the use of force. Here we must look for situations where criminal groups, alliances or networks have produced a parallel and/or competing coercive infrastructure, such that the state is regularly unable to enforce its own laws in particular regions, within certain social groupings, or concerning particular issues. In these contexts, the state’s authority must be compromised to the extent that it is not, functionally speaking, the ultimate arbiter of disputes.

### ***Control Over Territory***

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organized crimeracies or theocracies keen to aggregate and monopolize power and unbound by democratic niceties. Mann argues that within existing power networks there exist “interstices,” unanticipated gaps in the exercise of control through which new challenges may arise and against which existing authorities are powerless – for example, the rise of bourgeois economic power in the towns of early modern Europe, unanticipated by landed elites and ultimately far too much for them. See Michael Mann, *The Sources of Social Power: A History of Power from the Beginning to AD 1760*, Cambridge: Cambridge University Press, 1986, pp.15-19.

The territorial nature of the modern state system is both an historical artifact, as suggested by John Ruggie, and an increasingly sacrosanct attribute of sovereignty in the postwar era, as pointed out recently by Robert Jackson and Mark Zacher.<sup>16</sup> Violation of a state's control over its internationally-recognized territory, as Iraq found out to its cost in the 1991 Gulf War, is increasingly considered one of the most egregious violations of sovereignty and verges today on the taboo. In the case of criminal threats, the test is simply whether duly constituted authorities have been forced to cede *de facto* jurisdiction over state territories in such a manner as to render the region beyond effective state control – a matter clearly linked to the exercise of legitimate authority outlined in the previous point.

With this set of standards, it is now appropriate to pursue the issue of transnational organized crime as a potential or actual threat to state security. In the following section, I outline the phenomenon of transnational organized crime as it has come to be understood. I attempt to develop a framework to better understand the threats posed by transnational criminal organizations – inasmuch as they exist – and explore the counter-measures available to states, together with the consequences of both.

### III. Transnational Organized Crime: Structure and Immediate Threats

#### *Transnational organized crime*

The nature of criminal activity in the international arena varies along a number of axes. The World Ministerial Conference on Organized Transnational Crime held in Naples in the fall of 1994 developed a series of characteristics typical of transnational organized crime, which while not a definition sheds light on the dominant activities of these groups. These characteristics included:

- group organization to commit crime;
- hierarchical links or personal relationships which permit leaders to control the group;
- violence, intimidation and corruption used to earn profits or control territories or markets;
- laundering of illicit proceeds both in furtherance of criminal activity and to infiltrate the legitimate economy;
- the potential for expansion into any new activities and beyond national borders; and
- cooperation with other organized transnational criminal groups.<sup>17</sup>

This listing bears some relation to the context in which the meeting took place, as the set of relationships describes more closely those criminal groups based on the personalistic Mafia model than it does others, for instance the *Boryukudan* of Japan. Nevertheless, most of the key elements of a useful definition of transnational organized crime are there, including groups organized through personal relationships; the regular use of violence, fraud or corruption to gain illegal access to various goods, assets, control of markets, etc.; and the subsequent reintroduction or integration of criminal assets into the legal economy.

The growing borderless-ness of organized crime is reflected in the Naples Declaration's discussion of these groups having the potential to expand their activities beyond state boundaries, and of the existence of cooperative relationships between criminal groups in different countries. Structurally,

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<sup>16</sup> John Gerard Ruggie, "Territoriality and beyond: problematizing modernity in international relations," *International Organization* 47: 1 (Winter 1993); Robert H. Jackson and Mark W. Zacher, *The Territorial Covenant: International Society and the Stabilization of Boundaries, Working Paper No. 15* Vancouver: Institute of International Relations, University of British Columbia, July 1997.

<sup>17</sup> This list can be found in the "Naples Political Declaration and Global Action Plan Against Organized Transnational Crime," Section II, Subsection A, Paragraph 12, contained in *The World Ministerial Conference on Organized Transnational Crime*, United Nations Crime Prevention and Criminal Justice Newsletter, Nos. 26/27, Vienna, November 1995.

criminal groups have been able to exploit the institution of state sovereignty in a variety of ways to conduct their activities beyond the reach of the authorities, whether as a consequence of legal loopholes, the lack of extradition agreements and other mutual assistance, or as a result of the sheer difficulty of coordinating investigative techniques internationally.

But the exercise of defining transnational organized crime opens a Pandora's box of variables which complicates the task of this paper. The first problem is that there are crimes which are transnational but not organized, and likewise crimes which are organized but not transnational. In the first instance, one might consider the individual smuggling of valuables for personal gain; in the second, the traditional control of criminal markets in prostitution by city-based crime groups operating exclusively within national boundaries. For the purposes of this analysis, these categories of crime can be ignored as having little potential to result in anything resembling a security threat.

A second more substantial issue is that of the actors involved. Typically, the groups mentioned in the literature on transnational organized crime include the Triad gangs of Hong Kong, China and various overseas ports; the *Boryukudan* (*Yakuza*) of Japan; the Sicilian Mafia, the *Cosa Nostra*, Italian-American criminal groups and their offshoots; the "cartels" of the Colombian cocaine exporting regions and their North American and European distribution networks; the collection of gangs and criminal organizations known collectively as the Russian *mafia*; and Nigerian criminal groups. Encountering a list like this, as one does repeatedly, suggests the existence of a set of powerful non-state actors bound in cohesive units and readily identifiable as criminal organizations, a kind of pluralistic world of crime bosses. But this image does not mesh with the more monolithic view of transnational organized crime put forward by the American senator John Kerry and the late Claire Sterling, both of whom depict a coordinated network linking reactionary and dissatisfied elements in the former East bloc, international terrorists and avaricious criminal groups worldwide.<sup>18</sup>

Nor does it mesh with a third possible model, that of a more fluid set of relationships, loose contacts and *ad hoc* interactions within and amongst criminal groups. Given the necessity of anonymity and secrecy in criminal behaviour, and the unforeseen nature of many criminal opportunities, cell-based relationships and impromptu, one-off deals and arrangements seem equally plausible. For instance, while the Mafia model popular with students of American organized crime depicts a tightly knit, hierarchical "family" structure in which loyalty to specific family "dons" is sworn and adhered-to on pain of death, Japanese studies of organized drug smuggling reveal an extremely high degree of anonymity, to the extent that in some cases neither the top or the bottom of the hierarchical *boryukudan* is aware of the other's identity or activities.<sup>19</sup>

A third problem complicates the matter further. The actors involved and the basic structure of organized transnational criminal activity may change with the crime being committed. The network of relationships required in the cocaine trade, for instance, is significantly different from that employed in arms trafficking. In the first case, a cooperative structure of growers, refineries, "mules," transshipment middlemen, wholesalers and street-level distributors is required to deliver the product from the point of origin to that of consumption, a process of coordination rendered more difficult by the difficulties of transporting the product across state boundaries. Subsequently, complex and unique networks for laundering drug profits are brought into play, involving laundering specialists, offshore and domestic financial institutions, real firms and shell companies, and other actors. By contrast, arms traffickers rarely deal in the production of the commodity, and as their clientele are often state-backed (or national) armed groups, the problems of detection are regularly less than that of the drug smuggler, despite the unwieldy nature of the commodity. The purchase of arms in the former Soviet Union on the black market, and subsequent resale in the Middle East, for example, presents a challenge which has more to do with

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<sup>18</sup> See above, fn. 12 and 14.

<sup>19</sup> Tomoko Akane, "Effective Countermeasures Against Drug Trafficking: Specifically Anti-Money Laundering Legislation and Practices by Law Enforcement," paper given at the *Tenth Regional Seminar on Effective Measures for Combatting Drug-Related Crimes: Money-Laundering and Difficulties of Prosecution and Proof*, San Jose, Costa Rica, August 1997, pp.23-25; in addition, personal communication with the author.

identifying supply and demand than avoiding vigilant authorities, and thus the complexity and size of the cooperative network may be considerably smaller.

Other variables are perhaps less problematic but still warrant discussion. The role of states in certain spheres of criminal activity is well-known, whether as part of the covert activities of security forces (for example, the role of the CIA in the Iran-Contra affair during the 1980s, or the sale of weaponry by the Russian military) or as a result of direct or tacit government involvement in criminal activities (e.g. facilitating the practice of money laundering by known traffickers, the turning of a blind eye to international prostitution or pedophilia rings, or the refusal to participate in extradition processes or to sign extradition treaties where a state is known to be harbouring persons guilty of major crimes). Thus the transnational nature of much criminal activity is not merely the extension of criminal activity beyond the boundaries of the nation-state to which cooperative international responses must be developed. In some cases that cooperation itself is the primary obstacle, rather than the criminal behaviour.

There is also the problem of predicate and secondary crimes. Predicate crimes are those initial activities (for instance, the acts of selling drugs or smuggling illegal aliens) which generate profit. Secondary crimes, by which we generally mean the laundering of the proceeds of crime, are those practices which, while in other circumstances would be legal, allow the proceeds of crime to be used by the criminal organization. They fundamentally involve economic transactions in which the participants conduct business with the knowledge that the assets in question are criminally-derived. The problem arises in that the former are far more visible and tangible than the latter, although it is the secondary level of criminal activity that allows the first level to continue. The participants in most laundering operations – bankers, accountants, investment brokers – are usually well-integrated into the legal economy, and their crime is often one of omission or deliberate oversight. The problem of identifying the particular criminal actors extends well into the realm of the economy considered legitimate, and drawing conceptual lines between members of criminal groups and non-members is consequently extremely difficult.

Thus to sum up these points, the gaps in our knowledge surrounding the nature of criminal organizations and their involvement in the spectrum of organized transnational crime leave us with significant difficulties in developing a coordinated response to this problem. There may be a set of discrete criminal groups on whom we may focus, there may be strategic alliances amongst criminal groups as among firms, there may be a globally-coordinated network of these groups; or, conversely there may be a looser, more *ad hoc* set of affiliations amongst criminal groups.<sup>20</sup> In turn, any of these models may be more or less correct in particular realms of crime. States may have a variety of different roles with respect to criminal activities: victim, prosecutor, passive witness, or active accomplice. Finally, the initial commission of crimes is simply the more visible component of an infrastructure which (to whatever degree of coordination) silently conceals and reintroduces vast sums into the legal economy with the active participation of many of its leading institutions.

These problems suggest the considerable value of a threefold typology of crimes, criminal groupings, and state roles in fighting and/or abetting crime. There is not the space for this exercise here, although I hope to develop such a typology in the near future. In the absence of this knowledge it is difficult to gain the measure of the opponents of state security hypothesized by the authors cited above. However, it may be possible to gain an understanding of the degree of threat posed by transnational organized crime to state security by casting attention on the outcomes of criminal activities, rather than by mythologizing the danger posed by the existence of the actors themselves (however sketchy the data).

### ***Criminal threats***

Although not an exhaustive list, the following activities comprise the majority of serious crimes with transnational implications perpetrated by criminal organizations, as reflected in the approaches taken by leading international organizations focusing on crime:

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<sup>20</sup> On the subject of strategic alliances amongst criminal organizations, see Phil Williams, “Transnational Criminal Organizations: Strategic Alliances,” *The Washington Quarterly* 18: 1 (Winter 1995), pp.57-72.

- trafficking in narcotic drugs and psychotropic substances;
- trafficking in conventional arms;
- trafficking in nuclear materials;
- trafficking in women and children;
- smuggling of illegal aliens;
- large-scale car theft;
- trafficking in body parts;
- money-laundering;
- tax evasion; and,
- corruption.<sup>21</sup>

The reader will note immediately that I have excluded terrorism from consideration, though it is often included and is currently under discussion as part of the United Nations *Draft Treaty on Transnational Organized Crime*.<sup>22</sup> Allegations of organized criminal involvement in terrorist activities are not new, and to a certain extent need not be disputed. But criminal motivations and terrorist motivations are, in general, economic and political respectively. There is little to be gained by including terrorism under the rubric of transnational crime except a step-level increase in definitional difficulties. To the extent that criminal groups may contribute to terrorism as practiced by the IRA, ETA, Hamas, and others, their contribution may be gauged under the subjects of arms trafficking, alien smuggling and other more strictly criminal activities.

Of the things we may say of this list, first is that the effect of “globalization” is seen in that few of these activities are confined to specific areas of the globe; that is, much crime has become *transnationalized*. In the drug trade, for example, the global aspect mirrors the global division of labour found in other economic realms, where production in developing areas has risen to meet demand in advanced industrial states. Other regions, in particular the Caribbean, are central to the secondary stage of laundering drug money. There are few realms of organized criminal activity where it is possible to suggest that the problem is contained beyond one’s own borders.

Second, there are two basic axes of *complexity* to transnational criminal activity. The first is the requirement in terms of actual personnel. Some crimes, for instance automobile smuggling rings, involve logistical challenges in coordinating the theft, stripping, packaging, shipping, import, and resale of vehicles, which necessitate cooperative relationships between criminal groups based in different locales.<sup>23</sup> Such a situation requires a network of groups, as I have termed it. Other crimes, for instance money-laundering, can be accomplished with three or fewer individuals participating, with those numbers diminished further by the advent of on-line banking.<sup>24</sup> The second axis of complexity is that of the timing, coordination and danger involved in committing the crime. Here drug smuggling, because of the high cost of apprehension and the vigilance of state authorities in many market states, requires considerable innovation and risk; the trade in body parts is complex due to the rapid deterioration of the commodity, and thus requires the open cooperation of the medical community. On the other hand, auto theft and arms trafficking tend to operate in such a fashion as to remove products from high-vigilance

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<sup>21</sup> See the list developed in “Problems and Dangers Posed by Organized Transnational Crime in the Various Regions of the World,” a background paper developed for the Naples Ministerial Conference of November 1994, reproduced in Phil Williams and Ernesto Savona (eds), *The United Nations and Transnational Organized Crime*, a special issue of *Transnational Organized Crime* 1: 3 (Autumn 1995).

<sup>22</sup> Markku Liukkonen, “Motor Vehicle Theft in Europe: International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles,” HEUNI Paper No. 9, The European Institute for Crime Prevention and Control, Helsinki, 1997.

<sup>23</sup> Report of the Secretary-General on the Question of the Elaboration of an International Convention Against Organized Transnational Crime, United Nations Office at Vienna, Document E/CN.15/1997/7/Add.1, Vienna, 1997.

<sup>24</sup> See, for instance, the British Virgin Islands’ invitation to anonymous business and banking on their government website (<http://www.bviibc.com>).

settings and introduce them to places where authority is considerably more lax and the receiving state possibly disposed in favour of the activity.

Third, there is a degree of *state complicity* in five of the ten areas listed. That is to say, in these cases it is not meaningful to describe a global situation in which states attempt to counter threats posed by transnational criminal groups. It is more reasonable to suggest that in these realms, some states find themselves opposed to a range of criminal behaviours by these groups which are either tolerated or on occasion directly supported by foreign governments. The issue then becomes less one of enforcing global norms, and more one of regime-building to establish those norms in the first instance.

Fourth, it is hard to see much evidence of a general threat of violence emanating from transnational organized crime; that is, *direct, large-scale coercive threats are rare*. There are some exceptions to this conclusion. Drug trafficking, particularly in the South American context, has led in this decade to significant armed confrontations between the private forces of the traffickers and host governments, and provoked the US coup (ultimately bloodless) in Panama. Coercive prostitution and sex slavery, as visited most visibly on Asian women and children, can be cast as violence in the sense of assault, and in places such as Thailand and the Philippines may be said to have significant ill effects for the quality of life of large numbers of inhabitants. Trafficking in arms and nuclear materials, while *per se* a commercial activity, has obvious knock-on effects in terms of “potential energy” for violence, whether of the state or of the terrorist variety. But in general, the violence associated with criminal behaviour appears more as a sporadic transaction cost in a realm of activity beset with risks, dangers, and a lack of trust. Organized coercive threats are rare, at least in the sense in which we have used these terms in security studies, and vary across crime types in terms of the threatened group or parties, the nature and public/ clandestine characteristics of the threat, means of coercion, and so on.

Fifth, in terms of economic impact, the picture is considerably different from that of violence: the *economic impact of transnational organized crime appears to be severe*. Although the economic effect of criminal behaviour varies across crime type, in several areas the impact in both global terms and in affected states is significant. UN estimates suggest that in the case of the drug trade, revenues accruing may surpass US \$400 billion annually, placing drugs between the auto and oil industries in the global pecking order.<sup>25</sup> Obviously, little if any of this money is reported to taxation authorities. In more general terms, with respect to tax evasion, IMF estimates suggest that funds worth more than three times that amount are absent from global accounting records.<sup>26</sup> At the state level, in particular cases the impact is more extreme. For example, through networks of money-laundering, most probably through the Caribbean, vast sums have been pillaged directly or indirectly from the public purse throughout Latin America. In Peru this decade, IMF loans of over US \$1 billion have disappeared from government accounts with little or no evidence of corresponding public expenditure. In Mexico, one estimate places the ratio of tax revenue actually collected to that justified by the national income structure at only 20%.<sup>27</sup> Unfortunately, while these figures are impressive, reliable comparative data is hard to come by, especially in circumstances where agencies responsible for tracking financial flows are themselves in the partial control of those with something to conceal.

Sixth, the *social impact of criminal activity is concentrated* in particular states, even more so than the economic impact. Unlike many environmental issues such as global warming or overfishing, where seemingly innocuous local practices may aggregate to create significant global threats, the impact of crime is usually felt in a more severe fashion at the point of activity than in the general community. While the cocaine trade in the Americas touches Latin American, Central American, North American and Caribbean countries, the social impact is felt primarily in consumer states and some producer states. In the former its effect is usually highly concentrated. Heroin and cocaine use in New York, Vancouver or

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<sup>25</sup> *The World Ministerial Conference on Organized Transnational Crime*, United Nations Crime Prevention and Criminal Justice Newsletter, Nos. 26/27, Vienna, November 1995, p.22.

<sup>26</sup> *Ibid.*

<sup>27</sup> Remarks by Jack A. Blum, *op. cit.* The Mexican tax estimate received open support in the author’s subsequent interview with the Director-General of the Mexican Public Ministry.

Geneva may be a significant social problem and yet be relatively invisible to most of the inhabitants of those cities. Those regions serving as transshipment or laundering points feel first an economic effect: the social impact, while not negligible, is diffuse rather than concentrated.

#### IV. Security Threats in the Longer Term

In an effort to steer the debate away from sensationalism, I would like to propose that the short-term security threat posed to the modern nation state or society of states is – in terms of evidence of direct, violent coercive challenges to state control of population and territory – a relatively sporadic and systemically insignificant phenomenon. Even in those few states where organized criminal groups pose a direct threat to state control, this threat is localized and issue-specific. In states such as Nigeria, Laos, or Russia, the problem is exacerbated by the relative weakness of the state and low level of political institutionalization in general. It is not only criminal groups, but other anti-system groups which occupy a void as much as they present an independent threat. The security of established, institutionalized nation states is not challenged in the short term by transnational organized criminality, at least in terms of the four criteria outlined above. There are good reasons for this: those groups involved in perpetrating violence or eroding state control are interested in violence, control of territory etc. only inasmuch as those activities are necessary for continued profitability of their activities. Their direct goal, despite nefarious “SMERSH”-like characterizations, is not the disruption of society or of economic prosperity per se, unlike the goals of a hostile state. Criminal actors benefit from stability and general prosperity no more or less than other economic actors; as such, it should not be a surprise that direct attacks on state sovereignty are the exception rather than the rule.

However, this is not to say that we should dismiss outright the claims made by the authors cited earlier in this paper regarding the threat posed by transnational organized crime. Instead, the distinction is one between short-term and long-term dangers to security. Whereas the former may not be present in any meaningful, general manner – certainly not with respect to Cold War standards – the long-term structural damage to our security interests may be of greater significance than is currently accepted. The erosion of the rule of law in international financial networks, at the interface between transnational criminality and the legitimate, productive global economy, may present more significant concerns than any direct, short-term existential threat.

The significance of this longer term threat, however, may be muddled as long as the focus of concern rests primarily on cataloguing and confronting a world of organized crime which, it is often alleged, is dominated by a number of key organized groups responsible for a series of nefarious behaviours. The Japanese *yakuza*, Chinese triads, Russian *mafija*, Italian and American mafias, and Colombian “cartels”, along with others, are often highlighted as the key actors in a web of criminal behaviour in which the actors, relationships and hierarchies involved are often seen as far more organized and coherent than is probably warranted. There is no denying the existence of these groups, and it would not be of use to underestimate their impact. However, their status as bogeys may be misleading for several reasons.

First, whether due to the pervasive influence of “mafia models” of organized criminal behaviour, or to other factors, there are few common denominators to these groups beyond their existence as criminal entities. Some are relatively tightly-knit actors, based on kinship, internal group morality and closely-monitored hierarchy along the model of Italian-based organized crime. Others are looser collections of criminal gangs, with little binding the group or perpetuating its existence beyond immediate criminal opportunity and contingency, as in the Russian situation. Still others are vague, enduring networks in which loyalty is important but where greater social distance and insulation exist between the various parts of the hierarchy, as in the model of the Japanese *boryukudan*. Global criminal organizations vary in terms of their cohesion, their longevity, their degree of hierarchical control, their size, their degree of penetration and acceptance within legitimate society, making comparison or general statements regarding

the direct threat posed by these actors per se to be extremely difficult, and most probably misleading. This point is underscored by a second: that there are many criminal activities linked to our normal conception of organized crime which are performed in a “one-off” or unstructured manner by other actors (for instance, money-launderers) and yet which perpetuate the activities listed above. Third, there are a variety of criminal activities which are unrelated to “classic” organized crime, but which operate at times through similar conduits and have many similar effects in terms of the focus of this paper. Tax evasion, misappropriation of government funds, profits from corruption, and other primarily individual criminal acts involve substantial amounts of capital and rely on and promote the same illegalities in international financial networks and business relationships as do the laundering activities of major drug traffickers, arms traders, and other organized groups.

Ultimately, these activities are best conceptualized from a policy viewpoint (and arguably from a conceptual viewpoint as well) in terms of their effects, rather than their predicate nature. These effects must surely include a long term economic threat with respect to the rule of law in financial networks, which in turn has significant implications for democratic institutionalization, a grave policy concern for those amongst the developed democracies with trading, human rights, and political interests in the newly democratizing economies of Asia and the former Soviet Union.

This threat may be stated in dramatic terms, but it is in the longer term where significant dangers lie. The Russian situation is clearly a current cause for concern. The degree to which criminality has pervaded the political, institutional and financial infrastructure of the post-Soviet apparatus has done much to undermine the fragile democratic institutionalization of the past decade. In China, where governing and regulatory eyes are trained hard on the Russian experience given Chinese moves towards economic deregulation, the problems of financial fraud (of many kinds) and misappropriation of public funds are currently experiencing exponential growth rates, abetted by the introduction of new information technologies.<sup>28</sup> In Japan, an advanced democracy whose political system is nonetheless currently in flux due to a repeated series of scandals involving ruling groups, the current financial crisis has been exacerbated by the degree of *yakuza* penetration of the banking sector.

What is true for Russia and China (if less so for Japan) is also a problem for other leading economies in the newly-democratizing regions: the degree of economic advance and growth currently outstrips the degree of democratic institutionalization and the sophistication of regulatory controls over financial networks. The first states to experience the step-level increase in financial sophistication wrought by the information revolution were those states already possessing a well-institutionalized banking and supervisory system. The states currently undergoing the transition to this degree of sophistication have not had the advantage of a pre-existing, sophisticated regulatory structure. Thus for example China does not yet have in place a money-laundering law, and the problem of regulating suspicious or illegal financial transactions is simply awesome in an economy which is not only huge, but is primarily cash as opposed to credit based.

This problem is compounded by duality of interest within the leading democracies, where efforts to control the flow of criminal assets are of necessity a threat to the ability of members of more privileged groups in those societies to exploit discrepancies in international financial regulations for personal gain vis-à-vis taxation. The United Kingdom’s own counter-money-laundering regime is of a high degree of sophistication; however, this is a hollow victory when one considers that Westminster is ultimately responsible for the nature of financial regulations in the Channel Islands, the Isle of Man and much of the Caribbean.

If there is a long term threat to security which flows from transnational criminality, it is from erosion of faith in democratic institutions in societies where criminality of the organized, governmental and individual varieties is facilitated by international financial regulatory discrepancies and opportunities. The activities of members of the Peruvian government, of persons in the Russian governmental hierarchy, of the Salinas brothers in Mexico, of corrupt officialdom in China, and elsewhere, pose a greater threat to

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<sup>28</sup> cf. remarks by the Chief Justice of the Shanghai High People’s Court, Address to the International Centre for Criminal Law Reform, Vancouver, September 22, 1997.

stable global democratization than perhaps any other current set of activities. If the current short-term concern for state control and stability is confined to a few localized problems in the developing world, the long term threat presents itself at the doorsteps of the leading democracies and their financial policy-makers, and is exacerbated by inconsistencies within ruling elites in these societies vis-à-vis the desirability of plugging leaks in international financial regulatory networks.