

# **Transnational Organised Crime**

Perspectives on global security

**Edited by Adam Edwards and Peter Gill**

## Part I

# Origins of the concept

The three chapters in Part I question where the concept of transnational organised crime (TOC) came from, why it came to dominate official discourse on the contemporary security of Western social orders and what the consequences have been for the emergence of a 'global' law enforcement regime or, more provocatively, a global 'protection racket'.

Mike Woodiwiss's chapter distinguishes between 'limited' and archaic conceptions of TOC. Whilst the latter has a long historical provenance, in terms of governmental concerns over the smuggling of contraband and consequent circumvention of customs and excise duties, the former has its origins in more recent policy discourse on the perceived threat from 'Mafia-type organisations' to the integrity of Western political-economies. Woodiwiss traces the frenetic policy-making activity on this threat, which occurred in international fora such as the United Nations, G7/P8 and European Union over the past decade, back to the domestic security concerns of the US Federal Government after the Second World War. In the context of the pre-war New Deal, Roosevelt's administration had emphasised the opportunities for organised crime that were generated by poor corporate governance and the connivance of 'respectable society' and had, consequently, implemented reforms to reduce these opportunities. Post-war federal administrations, however, eschewed this focus on the inter-dependencies of licit and illicit business. Thus, in the context of McCarthyism, the focus of governmental discourse shifted to the threat presented by ethnic, 'un-American', outsiders, in particular from the Italian community, poisoning an 'otherwise satisfactory' political economy. The official imprimatur for this 'alien conspiracy theory' of organised crime was first given in the Kefauver Commission of 1950–1 and reiterated in subsequent Presidential Commissions on organised crime under Lyndon Johnson (1967) and Ronald Reagan (1983). Reagan's Commission adapted this official discourse to acknowledge the increasing problem of drug trafficking as the principal basis for organised criminal activity and broadened the list of outsiders to include Asian and Latin American 'cartels'. Throughout, the conceptualisation of organised crime as a problem of ethnic outsiders remained the same, as did the promotion

of law enforcement strategies as the most appropriate policy response. In addition to 'pluralising' the alien conception of organised crime, the Reagan Commission was notable for hypothecating US 'foreign assistance' policy to the control of organised crime and recommending that aid to drug producing and trans-shipment countries should be reviewed on an annual basis in terms of the extent to which these countries comply with US crime control strategy.

For Woodiwiss, the concept of transnational organised crime has its origins in this internationalisation of US law enforcement, a process that included the colloquium held at the Center for Strategic and International Studies in Washington, DC in September 1994 that included presentations from the Heads of the US Federal Bureau of Investigation, Central Intelligence Agency and Financial Crimes Enforcement Network (FinCEN) and gave birth to a 'new global pluralist' understanding of organised crime. Two months later this understanding underpinned the 'World Ministerial Conference on Organized Transnational Crime' convened by the United Nations in Naples, which propelled the threat of TOC to the forefront of the international and foreign policy agendas of Western liberal democracies. In these terms TOC is portrayed as a specifically American idea exported, with increasing global reach, by US law enforcement and intelligence agencies through the threat of reductions in foreign assistance to those countries failing to sign-up to the US agenda (see Nadelmann, 1993).

Yet, it was suggested in the ESRC seminar discussions provoked by this chapter and other contributions that the Naples conference represented a coincidence of interests between the US, the member states of the European Union and the internal politics of the United Nations itself. It was argued that, by 1994, EU member states had already been forging a common security agenda around the threat of TOC; in particular, concerns over cross-border crime were a key facet of the Third Pillar of the Maastricht Treaty on European Union, regarding issues of 'Justice and Home Affairs', including the establishment of the European Police Office (Europol), signed in 1992. The preoccupation of concerns over the threat of TOC to member states of the European Union was traced back further to debates over the criminogenic consequences of the removal of internal border controls in the Single Market; consequences that were anticipated in the establishment of the Shengen Group in June 1985, which, 'included measures on visa regime harmonization, hot pursuit and the establishment of a computerized data exchange system – the Shengen Information System (SIS)' (Benyon, 1996: 395). This 'Europeanisation of crime and police issues' has also been traced back further to the establishment of a number of 'security clubs' during the 1970s, such as Berne, Quantico, Vienna, Pompidou and TREVI, 'partly in response to American attempts to control Interpol', but also in response to 'fears about political violence and radical fundamentalism, tales of urban insecurity, and immi-

gration issues fused with concerns about the so-called “fourth freedom”: the freedom of movement’ (Bigo, 2000: 69–70). Thus, although there was resistance amongst EU policy elites to the simple adoption of US law enforcement strategies, their own perceptions of security led to broadly the same outcome.

The evolution of policy responses to TOC in the European Union since the Naples conference is covered specifically in Martin Elvins’s chapter. He traces this evolution from the Dublin European Council meeting of December 1996, at which the threat of TOC was first defined as a policy issue for the EU in its own right, through to the publication in December 2001 of a joint Commission–Europol report, ‘Towards a European Strategy to Prevent Organised Crime’. The joint report built upon the EU’s New Millennium strategy for the ‘Prevention and Control of Organised Crime’, announced in May 2000, which Elvins identifies as containing, ‘the definitive account of how the threat from TOC is conceived at EU level’. Significantly the New Millennium strategy acknowledges an increasing threat from organised criminal groups ‘outside the territory of the EU’, but identifies EU nationals and residents as posing ‘a significantly greater threat’. Organised crime is portrayed more in terms of an enemy within rather than as an alien conspiracy. Nonetheless, the strategy perpetuates the focus, common to official narratives of TOC, on groups of individuals who collaborate for prolonged periods of time and who threaten – whether from within or without – an otherwise satisfactory political economy, given their pursuit of profit and political power. The New Millennium Strategy makes this conception explicit in its depiction of groups that are, ‘strengthening their international criminal contacts and targeting the social and business structure of European society’. In these terms organised crime is defined in *opposition to* ‘legit’ European society, rather than as *interdependent with* this society, thereby reproducing the dichotomy of licit and illicit corporations, or the ‘underworld’ and ‘upperworld’, that has been so deeply entrenched in popular and policy discourse on organised crime (Edwards and Gill, 2002b). The actual interdependencies between nominally licit and illicit entrepreneurs are examined in greater detail in subsequent parts of this text (see also Block, 1991; Edwards and Gill, 2002a; Ruggiero, 2000;) but what is of importance here is Elvins’s suggestion that the threat of TOC is really the latest episode in a longer-running discourse on the security and definition of what the European Union stands for as an emerging social order. In this discourse, TOC is defined as both an internal and external threat to the project of European political and economic integration. Apropos Bigo’s (1994) concept of the ‘securitisation process’, Elvins’s chapter identifies how the threat of TOC has been used by European political elites to fortify their vision of European integration and how this vision has been advanced through a policy-making process that subordinates issues of transparency, accountability and open democratic deliberation over alternative conceptions of

European social order and, *ipso facto*, the threats to this order (see also the chapters by King and Bogusz, Rawlinson and Goodey in Part III).

An implication of Elvins's argument is that the promotion of concerns over TOC at the Naples conference coincided with, and suited the purposes of, the extant security discourse of EU policy elites. The chapter by Sheptycki expands this thesis further by drawing on Charles Tilley's theory of 'state-making as organised crime'. It is argued that the threat of TOC has increased in salience for Western policy elites over the past decade because it provided a useful device for legitimating their project of building institutions for governing the globe, post-Cold War, in accordance with their commitment to neo-liberal principles of political economy. Given their failure to provide substantive evidence on the scope and impact of this threat, Sheptycki argues that it is difficult to support official narratives on the 'reality' of TOC and the consequent argument that the development of transnational policing strategies is simply an enlightened and necessary response to security threats that cannot be addressed by nation-state authorities alone. For Sheptycki, the absence of such evidence, or even more sophisticated methodologies and research programmes that could illuminate the threat of TOC, justifies a more sceptical interpretation of the real factors that are driving policies for the co-ordination of international security and intelligence operations. He suggests that the real agenda is akin to a 'protection racket' in which the project of building a new, neo-liberal, world order is legitimated by law enforcement agencies that are 'self-replicating and self-guiding' in manufacturing various threats of TOC against which they can provide the necessary security. This agenda is discernible in the promotion of new technologies of control, such as 'intelligence-led policing', and new targets of control, such as the confiscation of criminal proceeds. In articulating the threat of TOC in this way, law enforcement agencies and their neo-liberal political masters establish themselves as the expert centres of authority on issues of global security. As a consequence, alternative conceptions of global security, which emphasise 'the underlying conditions that produce crime in the first place', are discredited or simply excluded from policy debates (see Edwards and Gill, 2000b).

Such exclusion is facilitated by the democratic deficit in global governance, wherein the transnational policing enterprise is left unfettered by politically accountable policy-making processes. Were these present, Sheptycki argues, it would be possible to shift the ethos of policy discourse on security away from the self-indulgent scaremongering of the protection racketeers towards a concern with the real causes of insecurity and social harm in the world, which he sees as the failure of political authorities to address questions of social justice, human rights, the rule of law and respect for the environment on a global scale. Whilst the prospects for this shift are even bleaker in the current, febrile, context of global security, following the attacks on the Pentagon and World Trade Center of 11 Sep-

tember 2001, the nascent 'War on Terrorism' should not be allowed to preclude a more imaginative debate over security in the new world order.

The contributions to Part I and the seminar discussions provoked by them differ in attributing the origins of TOC to: the hegemonic influence of US domestic and foreign policy concerns; the process of European political and economic integration; the construction of a new, neo-liberal, world order; and even the utility of this threat for key actors within the United Nations, who were seeking to advance their own bureaucratic interests in increasing the profile of crime control on the UN's policy agenda during the 1990s. Common to these interpretations, however, is scepticism about official narratives of the threat posed by TOC and the efficacy of those policing strategies entailed in these narratives. As Sheptycki argues, to be sceptical is not to deny the social harm that can be caused by the illicit activities that have been conflated into the idea of TOC, such as trafficking in drugs, people, nuclear materials and body parts. But we must also acknowledge the social harm caused by other practices, such as the dumping of toxic waste, insider dealing, tax evasion, fraud and the systematic corruption of state 'kleptocrats', that have, hitherto, been absent from policy discourse on the threat of TOC to global security. To recognise this broader repertoire of social harm and to acknowledge the possibility of governmental interventions that transcend the self-referential appeal for more refined law enforcement is to understand that global security is fundamentally a question of political deliberation, not technical expertise. Subsequent parts to this book examine the contribution that social scientific research on TOC can make to this deliberation.

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# 1 Transnational organised crime

## The global reach of an American concept

*Michael Woodiwiss*

Transnational organised crime, in a literal sense, has a history as old as national governments and international trade. Piracy, cross-border brigandage, smuggling, fraud and trading in stolen or forbidden goods and services are ancient occupations that increased in significance as nation states were taking shape. Piracy and cross-border brigandage have now been banished to parts of the world where state authority is weak. However, the other occupations have flourished in recent years in most parts of the world, irrespective of the strength or weakness of the authority of individual states or the collective efforts of the international community.

Transnational organised crime in the limited sense that most commentators and policy-makers use has a much more recent history. Since the early 1990s, it has usually been used as a synonym for international gangsterism in general or the 'Mafia' or Mafia-type organisations, in particular. In this sense, 'transnational organised crime' has become a term that is now an integral part of the vocabulary of criminal justice policy-makers across the world. Many governments are in a continuous process of devising new ways to combat what for most is a newly discovered problem. Multilateral treaties, United Nations conventions and transnational law enforcement institutions are proliferating and intelligence agencies once fully employed in Cold War activities now take on such presumed entities as the 'Mafia', the 'Camorra', the 'Yakusa', the 'Triads' or any others that may be given a Mafia label as identification. These groups, according to experts cited in a 1993 United Nations discussion guide, effectively constitute organised crime since it 'consists of tightly knit, highly organised networks of operatives that pursue common goals and objectives, within a hierarchical power structure that spans across countries and regions to cover the entire world' (United Nations, 1993).

This chapter presents a brief outline of American efforts to conceptualise organised crime and transnational organised crime. It argues that the USA has successfully exported its analysis of organised crime problems despite evidence of its inadequacy.

Organised crime first became the subject of academic and professional study in the 1920s and 1930s. It is important to note, however, that



organised crime was not such a loaded term then as now. The phrase was usually understood literally as 'systematic criminal activity' or as being synonymous with 'racketeering' and was not chiefly associated with specific criminal groups. The word 'racket' was by then well established as meaning an illegal business or fraudulent scheme and it followed that racketeering was understood to refer to such activities as dealing in stolen property, insurance frauds, fraudulent bankruptcies, securities frauds, credit frauds, forgery, counterfeiting, illegal gambling, trafficking in drugs or liquor, or various forms of extortion. It was also generally understood that criminal networks could and often did include the active involvement of police, politicians, judges, professionals, such as lawyers and accountants, and ostensibly legitimate businessmen. Indeed, as an early definitional article by Alfred Lindesmith (1941: 119) put it, 'organised crime . . . requires the active and conscious co-operation of a number of elements of respectable society'. Most serious commentators also understood that fundamental political, legal and economic changes were necessary at local, state and national levels to reduce the damage done by organised crime.

The work of Raymond Moley, August Vollmer and most city or state crime surveys of the period made it clear that, as long as corruption and ineptitude existed in the law enforcement and criminal justice systems, organised criminal activity would flourish. For these commentators, therefore, successful organised crime control depended on the honest and efficient administration of justice (Moley, 1926; Vollmer, 1936).

Towards the end of the 1920s more commentators began to see Prohibition and other aspects of America's moral reform programme as significantly exacerbating the problem of organised crime. According to E.W. Burgess in the Illinois Crime Survey of 1929, there was 'no blinking the fact that liquor prohibition has introduced the most difficult problems of law enforcement in the field of organized crime' (Friedman, 1993: 340). Others extended the point to cover the anti-gambling, drugs and prostitution laws. The work of Frank Tannenbaum, Henry Barrett Chamberlin and many others made it clear that unenforceable laws governing personal behaviour provided the financial basis for much successful organised crime activity (Chamberlin, 1931–2; Tannenbaum, 1936).

Commentators such as Murray Gurfein, Walter Lippmann, Gordon Hofstetter and others suggested that organised crime was one of the unfortunate products of unfettered capitalism. They realised that more rigorous business regulation was necessary to lessen the opportunities for successful organised crime in legal markets. Gurfein's definitional essay in the 1931 edition of the *Encyclopaedia of the Social Sciences*, for example, listed the following characteristics of the American business system as key to the problem of organised crime: 'the pegged market in stocks, the manipulation of subsidiary companies, the reckless puffing of securities, the taking by corporate management of inordinately large bonuses, the rather widespread evasion of taxes, the easy connivance of politicians in

grabs.’ Had he added the shredding of documents, he might have been commenting on the recent Enron/Anderson scandal (Gurfein, 1967: 186–7; Woodiwiss, 2001: 150–2)!

During times of prosperity and complacency these insights about the nature and causes of organised criminal activity might have been lost, but they were made during America’s Great Depression, aptly depicted as a time when capitalism faced its most serious crisis of the twentieth century. Franklin Roosevelt took office as President in 1933, informed by the expertise and judgement of many of the commentators mentioned already in this chapter and committed to take radical action to restore people’s faith in the American system. During his first two administrations, government action at local and federal level not only ensured the conviction of large numbers of gangsters and at least some of their political and police protectors, but much more significantly it also reduced the opportunities for successful organised criminal activity. Roosevelt introduced a ‘New Deal’ for the American people and began an intense period of legislative and executive activity. Roosevelt’s reforms saw a decline in the corporate employment of gangsters in labor-management disputes and made large-scale fraud, tax evasion and embezzlement more difficult and risky. To take the banking industry as an example, the pre-Roosevelt regulatory void allowed crooks to operate freely in many state systems, as indicated by the many scandals of the 1920s and early 1930s. Post-Roosevelt federal regulatory activity at least brought a measure of stability to American banking by reducing opportunities for fraud and protecting the savings of ordinary Americans (Dawley, 1991: 348).

US government wisdom about organised crime was short-lived, however. Instead of pursuing policies that reduced opportunities for successful organised crime activity, the USA redefined the problem and opted for an approach based on breaking up criminal conspiracies. The body of professional theory about organised crime became locked in an analysis that whitewashed a regulatory and criminal justice system that was still flawed and justified the retention of gambling and drug prohibition laws that were as easy to exploit as alcohol prohibition.

This new analysis de-emphasised the part played by ‘respectable society’ and suggested that a conspiracy of Italians known as the ‘Mafia’ dominated most organised crime in America. It was first given undeserved respectability by Estes Kefauver’s Senate investigating committee in 1950 and 1951, which depicted the Mafia as a coherent and centralised international conspiracy of evil. In this view the Mafia had poisoned an otherwise satisfactory system – the Mafia was a threat to America’s political, economic and legal systems and needed to be countered by any means necessary. The Mafia, according to this line, also dominated gambling and drug trafficking in the United States – it lurked behind every neighbourhood bookie and drug pusher and therefore weakened the ‘vitality and strength of the nation’. And, as Robert Kennedy put it in a book called

*The Enemy Within* (1960), 'If we do not on a national scale attack organized criminals with weapons and techniques as effective as their own, they will destroy us' (Kennedy, 1960: 253; Woodiwiss, 2001: 227–312).

Politicians, public officials and journalists endlessly used the phrase 'organised crime' as a common noun with a meaning far removed from its earlier use. As President Johnson's Crime Commission defined it in 1967:

Organized crime is a society that seeks to operate outside the control of the American people and their governments. It involves thousands of criminals, working within structures as complex as those of any large corporation, subject to laws more rigidly enforced than those of legitimate governments. Its actions are not impulsive but rather the result of intricate conspiracies carried on over many years and aimed at gaining control over whole fields of activity in order to amass huge profits . . .

(President's Commission on Law Enforcement and the Administration of Justice, 1967: 187)

By the end of the 1960s, as a result of the constant repetition of the idea, most people understood organised crime as a hierarchical, centrally organised criminal conspiracy. This conspiracy threatened the integrity of local government. It infiltrated legitimate business. It corrupted police officers and lawyers. This new conceptualisation of 'organised crime' thus got officialdom and 'respectable society' off the hook.

In 1969 President Nixon added his weight to this line of analysis to support new legislation that increased federal jurisdiction over criminal activity to unprecedented levels. He warned that the Mafia's influence had 'deeply penetrated broad segments of American life' and announced a series of measures designed 'to relentlessly pursue the criminal syndicate'. In 1970 Congress supported this line and passed the Organized Crime Control Act. This and other legislation gave federal law enforcement and intelligence agencies an unprecedented array of powers – they could now more easily use wiretapping and eavesdropping devices, cultivate informants, secure convictions that would result in long sentences and seize the financial assets of their targets. This amounted to a major alteration in constitutional guarantees – it was compared to a grenade attack on the Bill of Rights – and it was all justified by the belief that organised crime was a massive, well-integrated, international conspiracy. The balance in America was tipped towards a much stronger, far richer and far less accountable policing presence.

The FBI's investigations of the twenty-plus Italian–American crime syndicates that undoubtedly existed has shown that many of them swear blood oaths of allegiance, form inter-state or regional alliances to try to regulate competition and use murder and intimidation to protect territory, markets and operations. But the evidence also showed the limits of

Mafia power. The trials of 'Fat Tony' Salerno and Tony 'Ducks' Corallo in the mid-1980s, for example, proved that these old men met in New York social clubs and could approve new Mafia members and try to resolve some of the conflicts amongst their associates. But the evidence also indicated that they could not direct or control criminal activity in New York, let alone nationally. They were certainly powerful gangsters but definitely not part of a tightly-knit, all-powerful national syndicate. FBI evidence has shown that these gangsters were only participating in an environment that was particularly conducive to crime, not controlling it.

In the 1980s the Reagan administration thought it necessary to appoint a Presidential Commission to investigate organised crime – a problem that had clearly not been solved despite a great deal of government expense and effort. At the Commission's first public hearing no doubts were expressed about the essential correctness of the law enforcement approach to organised crime control based on long-term investigation, undercover operations, informants, wiretaps and asset forfeiture. Successes against 'traditional organized crime' and the need to 'stay in front' of the emerging 'cartels' were emphasised throughout. Drug trafficking was identified as the most profitable organised crime activity and speakers stressed that this was the problem that most needed addressing (President's Commission on Organized Crime, 1983).

After three years' selective investigation of its identified problem areas of drugs, labour racketeering, money laundering and gambling, the Commission added very little to the government line outlined at the first hearing. Mafia mythology was adapted to a new age, through the assumption that, although the Mafia had once been the dominant force in US organised crime, it was now being challenged by several crime 'cartels', 'emerging' amongst Asian, Latin American and other groups. As Gary Potter argues in *Criminal Organizations*, this was an adaptation of the alien conspiracy interpretation rather than an overhaul in official thinking about organised crime. The argument remained the same: forces outside of mainstream American culture threaten otherwise morally sound American institutions. Potter describes the new official consensus as the 'Pluralist' revision of the alien conspiracy interpretation (1994: 7).

Despite the evidence of continuing failure, the Commission did not challenge the essential correctness of the law enforcement analysis and eventually concluded that the government's basic approach to the problem was sound but needed a harder line on all fronts: more wiretaps, informants and undercover agents in order to get more convictions which would require more prisons. Witnesses who might have pointed out the deficiencies of this approach were not consulted. The wisdom of prohibiting activities such as gambling and drugs was implicitly accepted throughout the hearings. Corruption within the law enforcement and criminal justice systems was scarcely considered during the three-year duration of the Commission.

Little noticed at the time were the Commission's recommendations on 'Foreign Assistance' which are worth quoting at length. They amount to a clear statement that the USA intended to internationalise drug prohibition as a response to its own organised crime problems. According to the Commission:

Because drug trafficking and production are threats of such magnitude to the stability of existing democracies, a primary goal of the U.S. and its allies should be to enhance the security of drug producing and transshipment regions.

As part of its international responsibilities, the National Drug Enforcement Policy Board should participate in the President's annual decision whether to suspend aid to drug producing or transshipment countries . . .

The willingness of a country to engage in and actively implement drug-related extradition and mutual assistance treaties should be a primary consideration in the ultimate U.S. policy decision regarding foreign assistance to that country.

The Departments of State and Defense should continue their programs of economic and security assistance with emphasis on assisting those foreign governments making concerted efforts to control their drug problems.

The U.S. should continue to help producer and trafficking nations develop prevention and education programs aimed at drug abuse within these countries.

*(Narcotics Control Digest, 1986)*

The Commission's understanding of organised crime was representative of a pervasive 'dumbing down' since the first conceptualisations of the problem. These had focused on defects in American laws and institutions and found them responsible for America's organised crime problems. Reagan's group focused on different groups of criminals and found them responsible for America's organised crime problems. The Reagan group's restricted understanding of organised crime allowed the Commission to avoid confronting faults in American laws and institutions, leaving only recommendations of tougher and more intrusive policing of unworkable laws. The implications of the Presidential Commission's recommendations on domestic and foreign policy responses to organised crime were clear: a harder line on all fronts at home combined with increasing efforts to spread the American gospel on drug control abroad.

The Commission's recommendations on 'Foreign Assistance' are clearly part of what Ethan Nadelmann has called the "Americanization" of International Law Enforcement'. In *Cops Across Borders* (1993) he has traced the dominant part played by the United States in the harmonisation of national criminal justice systems in the past few decades. According to Nadelmann:

The modern era of international law enforcement is one in which U.S. criminal justice priorities and U.S. models of criminalization and criminal investigation have been exported abroad. Foreign governments have responded to U.S. pressures, inducements, and examples by enacting new criminal laws regarding drug trafficking, money laundering, insider trading, and organized crime and by changing financial and corporate secrecy laws as well as their codes of criminal procedure to better accommodate U.S. requests for assistance. Foreign police have adopted U.S. investigative techniques, and foreign courts and legislatures have followed up with the requisite legal authorizations. And foreign governments have devoted substantial police and even military resources to curtailing illicit drug production and trafficking. . . . By and large, the United States has provided the models, and other governments have done the accommodating . . .

(1993: 469–70)

Nadelmann also stresses the dominant role that drug enforcement has played in the evolution of US international law enforcement since the 1960s. Drug trafficking is only one of several illegal activities that transcend national boundaries, but the American war on drugs has ‘provided the crucial impetuses for a host of actions and agreements that otherwise would never have occurred’ (ibid.: 466–70).

Alongside the ‘Americanisation’ of national criminal justice systems, there has been an ‘Americanisation’ of the international community’s response to drugs built around the framework established by United Nations conventions. The 1961 Single Convention on Narcotic Drugs was followed by the 1971 Convention on Psychotropic Substances and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. These were all established largely as a result of intense and long-term US pressure. The third Convention called on party states to take specific law enforcement measures to improve their ability to identify, arrest, prosecute and convict those who traffic in drugs across national boundaries. Such measures include the establishment of drug-related criminal offences and sanctions under domestic law, making such offences the basis for international extradition between party states, and providing for mutual legal assistance in the investigation and prosecution of covered offences, as well as the seizure and confiscation of proceeds from and instrumentalities used in illicit trafficking activities (ibid.: 389–91). All of these measures are clearly in line with American diplomatic objectives as outlined in the ‘Foreign Assistance’ recommendations of the Reagan Organized Crime Commission.

The war on drugs, however, was continuing to fail. In 1992 the UN itself noted that ‘the illegal use of drugs has grown at an alarming rate over the past twenty years, crossing all social, economic, political and

national boundaries' (United Nations, 1992: 7). Commenting on this legacy of the 1961 Convention, Anthony Henman asked, 'How is it that an instrument designed to reduce the use of illicit drugs can ultimately have ushered in an age when the consumption of these substances has increased beyond even the most alarmist projections?' 'Is it not obvious,' he continued, 'that the misconceived obsession with extirpating the use of certain drugs – those deemed illicit – greatly increases the profitability of their production?' (1985: 157–8). And, as money laundering scandals continue to show, the massive profits available from the distribution as well as production of illegal drugs has encouraged the development of significant international criminal associations and networks amongst professionals, such as lawyers and accountants, corrupt officials, career criminals and simple opportunists.

At the same time as the international war on drugs was being so comprehensively lost, American politicians, government officials, journalists and academics were seeking ways to reduce the world's complexities to the same type of 'good versus evil' propositions that served so well during the Cold War itself. In the immediate post-Cold War era, intelligence and national security agencies also needed to justify the high level of expenditures for their services. The menace of transnational or global organised crime not only helped explain away the failure in the drug war but was also as easy to communicate as Containment.

A Washington, DC conference of high-level American law enforcement and intelligence community personnel led the way in September 1994 by reflecting a new global pluralist understanding of organised crime. According to the executive summary of the conference:

The dimensions of global organized crime present a greater international security challenge than anything Western democracies had to cope with during the Cold War. Worldwide alliances are being forged in every criminal field from money laundering and currency counterfeiting to trafficking in drugs and nuclear materials. Global organized crime is the world's fastest growing business, with profits estimated at \$1 trillion.

(Raine and Cilluffo, 1994: ix)

The keynote speaker at the conference, FBI Director Louis Freeh, stressed that 'the ravages of transnational crime' were the greatest long-term threat to the security of the United States and warned that the very fabric of democratic society was at risk everywhere. He was followed by CIA Director R. James Woolsey, who noted that 'the threats from organized crime transcend traditional law enforcement concerns. They affect critical national security interests ... some governments find their authority besieged at home and their foreign policy interests imperiled abroad' (ibid.). This new global threat of organised crime required a tougher and

more collaborative international response; more specifically it required more thorough information sharing between police and intelligence officials in different countries and improved methods of transcending jurisdictional frontiers in pursuing and prosecuting malefactors (Naylor, 1995: 38).

Two months after the Washington conference, the United Nations held the World Ministerial Conference on Organized Transnational Crime in Naples, which provided an international forum for the global pluralist theory of organised crime. The rhetoric and analysis at Naples was essentially the same as that employed by the representatives of the FBI and the CIA at the Washington Conference. According to the UN's press release, participants at the conference recognised the growing threat of organised crime, with its 'highly destabilizing and corrupting influence on fundamental social, economic and political institutions'. This represented a challenge demanding increased and more effective international co-operation. 'The challenge posed by transnational organized crime,' the document continued, 'can only be met if law enforcement authorities are able to display the same ingenuity and innovation, organizational flexibility and cooperation that characterize the criminal organizations themselves' (United Nations, 1994a). This was essentially the same line as that articulated by American politicians and federal officials from the middle of the twentieth century onwards and given presidential support by Richard Nixon in the early 1970s.

United Nations Secretary-General Boutros Boutros-Ghali set the tone of the conference when he told delegates:

Organized crime has . . . become a world phenomenon. In Europe, in Asia, in Africa and in America, the forces of darkness are at work and no society is spared . . . [T]raditional crime organizations have, in a very short time, succeeded in adapting to the new international context to become veritable crime multinationals. Thus, illegality is gaining inexorably. It is corrupting entire sectors of international activity. . . . The danger is all the more pernicious because organized crime does not always confront the State directly. It becomes enmeshed in the institutional machinery. It infiltrates the State apparatus, so as to gain the indirect complicity of government officials . . .

(United Nations, 1994b)

Boutros-Ghali was followed by a series of speakers echoing similar themes: the threat posed by organised crime to societies and governmental institutions across the globe and the need for more international co-operation to meet this threat. The seriousness of the perceived threat was emphasised in the language of many of the speeches. For example, Elias Jassan, Secretary of Justice in Argentina, described organised crime as 'a new monster' and Silvio Berlusconi, Prime Minister of Italy, described crime



organisations as 'armies of evil' who could be defeated 'only by international collaboration' (United Nations, 1994c).

Many speakers at Naples implicitly or explicitly emphasised the success of US-approved organised crime control strategies. This deferential consensus was most clearly reflected in a background document for this conference which singled out the 1970 Racketeer Influenced and Corrupt Organizations (RICO) statute as an example of 'dynamic' legislation able to 'adapt itself to ... developments.' The document then elaborated further:

In the United States, the RICO statute is generally considered to be the starting point of a new process of awareness of organized crime by the United States Government and its criminal justice system. Its effectiveness has been demonstrated in the many indictments and convictions of members of organized crime groups that have resulted since the legislation was passed.

(United Nations Economic and Social Council, 1994)

US Attorney-General Janet Reno reiterated this theme in her speech to the conference. She suggested that her fellow leaders should identify the strategies and tactics that contributed to recent successes against organised crime. Other governments should, she continued, 'pledge to expand the implementation of such useful measures in their own legal systems and ensure that their recommendations were quickly put into place' (United Nations, 1994c). The language was carefully chosen to avoid sounding too arrogant but it can be safely assumed that she was mainly referring to American successes against such gangsters as 'Fat' Tony Salerno, Tony 'Ducks' Corrallo, John Gotti and others associated with America's Cosa Nostra crime families. It can also be assumed that the useful measures she was referring to included American organised crime control measures such as laws facilitating the use of covert methods to obtain evidence and the seizure of assets belonging to suspected or convicted criminals.

The main result of the conference was to put the elaboration of an international Convention against Transnational Organized Crime at the centre of discussion. In December 2000, representatives of more than a 100 countries met in Palermo, Sicily, and signed the Convention. It is now going through the ratification process and it is hoped that it will come into force by the end of 2003. It took the relatively short time of two years to draft the Convention which indicates a high degree of consensus on the meaning of organised crime. The Convention defined an 'organized crime group', as 'a structured group of three or more persons existing for a period of time and having the aim of committing one or more serious crimes or offences established in accordance with this Convention in order to obtain, directly or indirectly, a financial or other material benefit ...' (United Nations,

2000). Top of the list of serious crimes, according to an attachment to a draft of the Convention, was the 'Illicit traffic in narcotic drugs or psychotropic substances and money-laundering, as defined in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988' (United Nations, 1999: 52). When US Assistant Secretary of State Rand Beers announced that the convention would go to the Senate for review and ratification in February 2001, he also made it clear that the new convention was a 'follow-on' to the 1988 drug convention (US Department of State, 2001). Thus, among other things, it was hoped that the Convention would finally make global drug prohibition effective.

As in the case of the Mafia conspiracy theory and its American pluralist offspring, some evidence does support the new global pluralist theory articulated at the Washington, Naples and Palermo conferences. No one disputes the existence of gangster groups all over the world. Enough serious research has been conducted in the United States and elsewhere to reveal at least some of the ways various Triads, Mafiosi, Camorrista and other groups have survived and adapted to intermittent enforcement efforts and more frequent periods of internecine bloodshed. More recent groupings of Colombian and Mexican drug traffickers have proved just as likely to use violence and intimidation in the pursuit of business activities that are often damaging and destructive in themselves.

There are, however, problems with the global pluralist theory of organised crime. One of these is that Mafia-type groups only *participate* in illegal markets; they rarely, if ever, control them, despite countless claims to the contrary. Instead, as most conscientious researchers have confirmed, fragmentation and competition characterise drug and other illegal markets rather than monopolisation. Looking at the European situation, Vincenzo Ruggiero and Nigel South found, for example, that flux is the norm in illegal markets which 'seem populated by small firms, some of which are peripheral and ephemeral, in a highly mobile and active scenario' (Ruggiero and South, 1995: 86). Peter H. Smith's study of the Mexican situation found more rivalry than co-ordination among drug trafficking syndicates. Leaders in these syndicates 'have little connection with (or respect for) counterparts in other organisations – they are ruthless and relentless, and they readily resort to violence . . .' (Smith, 1999: 199).

Governments, whether individually or jointly, would have few problems combating organised crime if it really was dominated by a relatively small number of supercriminal organisations. They would eliminate the leadership of these organisations and that would be the end of the problem. However, as the Americans have found, orchestrating the downfalls of Al Capone, Lucky Luciano, Tony Salerno, John Gotti and the rest did not see the end of the messy reality of American gangsterism, let alone the much more pervasive and multifaceted problem of organised crime.

Another problem with the global pluralist theory is that, like the Mafia

conspiracy theory, it uses semantics to camouflage the involvement of respectable institutions in organised criminal activity. Throughout Boutros-Ghali's speech in Naples, for example, the implication was always that respectable institutions were threatened by organised crime. Organised crime, he said, 'poisons the business climate', it 'corrupts political leaders', it 'infiltrates the State apparatus'. Understood in this way, the only response to the organised crime 'forces of darkness' is a harmonised international effort on behalf of 'legitimate society'. The history of organised crime in the United States has demonstrated the interest-serving inadequacy of this type of analysis. Organised criminal *activity* was never a serious threat to established or evolving economic and political power structures in the United States, but more often a fluid, variable and open-ended phenomenon that complemented rather than conflicted with those structures (Woodiwiss, 2001). Seen in this light, the wisdom of using the pretext of organised crime control to give extra powers to the officialdom that supports these structures should at least be questioned. The American concept of organised crime as a threat to legitimate society simply gives other governments ways of formulating organised crime control policy without fully examining past and current evidence of government, corporate or professional involvement in systematic criminal activity.

A final problem with the global pluralist theory is the oft-repeated corollary to it that suggests that American organised crime control methods are the answer to transnational organised crime. 'The United States,' according to Rensselaer W. Lee III, 'has largely contained or marginalised its organized crime problem' (Lee, 1999: 11). Although Lee is simply reflecting the conventional wisdom on US organised crime control, evidence continues to accumulate that contradicts such judgements. Undercover policing operations, witness protections programmes and asset forfeitures have made US organised crime problems more complex but they have not come close to solving them. As the Savings and Loans scandals of the 1980s and the more recent Enron/Anderson revelations have shown, high-level politicians and respectable members of business and professional communities gain more from criminal activity than other groups. Countless more localised scandals have indicated that the bribe and the fix are still features of the American criminal justice system, and the problem of police corruption is as acute as it ever was. Rackets of every variety continue to proliferate at every level of society and even inside the prisons, gangs compete for commercial dominance in systems based on corruption and brutality. After decades of intense effort against gangsters, US organised crime control measures have done little to control organised crime activity in either legal or illegal markets.

The US organised crime control strategy of targeting and immobilising specific criminals or criminal networks has already been successfully exported to many parts of the world and will continue to provide short-term successes for diligent policing and prosecuting agencies. This will

certainly ensure sensational arrests and convictions of major international crime figures, but this strategy is hardly adequate to address the problems of international organised crime in the twenty-first century. These problems have not increased in recent years, because of 'some master plan by arch criminals'. Instead, as David Nelken has explained, the internationalisation of organised crime has been

in response to technological advancements in communications and transportation; to market adaptations resulting from the internationalisation of investment capital, financial services and banking; to the internationalisation of manufacturing and increased segmentation and fragmentation of production; and, to the increased emphasis on unrestricted trade across borders.

(Einstein and Amir, 1999: 469)

Today's illicit global economy involves trading in anything from hazardous waste to human body parts and the Internet has multiplied opportunities for fraud. Faced with the task of controlling organised crime in a world where opportunities are proliferating, governments might do better to limit the field of battle by replacing international drug prohibition policies with more pragmatic regulatory policies, aimed at taking the profit out of trafficking.

The world now needs a comprehensive and objective inquiry into criminal problems associated with both legal and illegal markets rather than the assurances of world leaders that the Transnational Organized Crime Convention is a thought-through framework for international co-operation. 'Intelligent action requires knowledge,' as an American Presidential Commission put it in 1931, 'not, as in too many cases, a mere redoubling of effort in the absence of adequate information and a definite plan' (Smith, 1991: 140). Urged by the Americans, however, world leaders are much more likely to follow the path of least resistance and help in the construction of a twenty-first century criminal justice equivalent of those labyrinthian traps for rats built by 1930s psychologists to learn whether and how soon the rats can escape from them.

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