Transnational Organized Crime: Multilateral Responses to a Rising Threat

Coping with Crisis
Working Paper Series

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Foreword

Terje Rød-Larsen
President, International Peace Academy

The International Peace Academy (IPA) is pleased to introduce a new series of Working Papers within the program *Coping with Crisis, Conflict, and Change: The United Nations and Evolving Capacities for Managing Global Crises*, a four-year research and policy-facilitation program designed to generate fresh thinking about global crises and capacities for effective prevention and response.

In this series of Working Papers, IPA has asked leading experts to undertake a mapping exercise, presenting an assessment of critical challenges to human and international security. A first group of papers provides a horizontal perspective, examining the intersection of multiple challenges in specific regions of the world. A second group takes a vertical approach, providing in-depth analysis of global challenges relating to organized violence, poverty, population trends, public health, and climate change, among other topics. The Working Papers have three main objectives: to advance the understanding of these critical challenges and their interlinkages; to assess capacities to cope with these challenges and to draw scenarios for plausible future developments; and to offer a baseline for longer-term research and policy development.

Out of these initial Working Papers, a grave picture already emerges. The Papers make clear that common challenges take different forms in different regions of the world. At the same time, they show that complexity and interconnectedness will be a crucial attribute of crises in the foreseeable future.

First, new challenges are emerging, such as climate change and demographic trends. At least two billion additional inhabitants, and perhaps closer to three billion, will be added to the world over the next five decades, virtually all in the less developed regions, especially among the poorest countries in Africa and Asia. As a result of climate change, the magnitude and frequency of floods may increase in many regions; floods in coastal Bangladesh and India, for example, are expected to affect several million people. The demand for natural resources—notably water—will increase as a result of population growth and economic development; but some areas may have diminished access to clean water.

Second, some challenges are evolving in more dangerous global configurations such as transnational organized crime and terrorism. Illicit and violent organizations are gaining increasing control over territory, markets, and populations around the world. Non-state armed groups complicate peacemaking efforts due to their continued access to global commodity and arms markets. Many countries, even if they are not directly affected, can suffer from the economic impact of a major terrorist attack. States with ineffective and corrupted institutions may prove to be weak links in global arrangements to deal with threats ranging from the avian flu to transnational terrorism.

Finally, as these complex challenges emerge and evolve, "old" problems still persist. While the number of violent conflicts waged around the world has recently declined, inequality—particularly between groups within the same country—is on the rise. When this intergroup inequality aligns with religious, ethnic, racial and language divides, the prospect of tension rises. Meanwhile, at the state level, the number of actual and aspirant nuclear-armed countries is growing, as is their ability to acquire weapons through illicit global trade.

As the international institutions created in the aftermath of World War II enter their seventh decade, their capacity to cope with this complex, rapidly evolving and interconnected security landscape is being sharply tested. The United Nations has made important progress in some of its core functions—"keeping the peace," providing humanitarian relief, and helping advance human development and security. However, there are

reasons to question whether the broad UN crisis management system for prevention and response is up to the test.

Not only the UN, but also regional and state mechanisms are challenged by this complex landscape and the nature and scale of crises. In the Middle East, for example, interlinked conflicts are complicated by demographic and socioeconomic trends and regional institutions capable of coping with crisis are lacking. In both Latin America and Africa, "old" problems of domestic insecurity arising from weak institutions and incomplete democratization intersect with "new" transnational challenges such as organized crime. Overall, there is reason for concern about net global capacities to cope with these challenges, generating a growing sense of global crisis.

Reading these Working Papers, the first step in a four-year research program, one is left with a sense of urgency about the need for action and change: action where policies and mechanisms have already been identified; change where institutions are deemed inadequate and require innovation. The diversity of challenges suggests that solutions cannot rest in one actor or mechanism alone. For example, greater multilateral engagement can produce a regulatory framework to combat small arms proliferation and misuse, while private actors, including both industry and local communities, will need to play indispensable roles in forging global solutions to public health provision and food security. At the same time, the complexity and intertwined nature of the challenges require solutions at multiple levels. For example, governments will need to confront the realities that demographic change will impose on them in coming years, while international organizations such as the UN have a key role to play in technical assistance and norm-setting in areas as diverse as education, urban planning and environmental control.

That the world is changing is hardly news. What is new is a faster rate of change than ever before and an unprecedented interconnectedness between different domains of human activity—and the crises they can precipitate. This series of Working Papers aims to contribute to understanding these complexities and the responses that are needed from institutions and decision-makers to cope with these crises, challenges and change.

Terje Rød-Larsen

Acronyms

AML	Anti-money-laundering
APEC	Asia Pacific Economic Cooperation
Aseanapol	Association of South-East Asian Nations Chiefs of National Police Conference
CAC	United Nations Convention Against Corruption
CICAD	Inter-American Drug Abuse Control Commission
COP	Conference of Parties (within the TOC Convention and CAC)
CTC	Counter-Terrorism Committee of the UNSC established by SCR 1373
CTED	Counter-Terrorism Committee Executive Directorate
DDR	Disarmament, Demobilization and Reintegration
DPKO	United Nations Department of Peacekeeping Operations
Europol	European Law Enforcement Organization
Eurojust	European Investigation and Prosecutorial Cooperation Mechanism
FATF	OECD Financial Action Task Force
IAEA	International Atomic Energy Agency
IBRD	International Bank for Reconstruction and Development – World Bank
ICC	International Criminal Court
IFIs	International Financial Institutions
IMF	International Monetary Fund

Interpol	International Criminal Police Organization
KLA	Kosovo Liberation Army
LTTE	Liberation Tigers of Tamil Eelam ("Tamil Tigers")
OAS	Organization of American States
OC	Organized crime
OECD	Organization for Economic Cooperation and Development
OIOS	United Nations Office of Internal Oversight Services
OLA	United Nations Office of Legal Affairs
OSCE	Organization for Security and Cooperation in Europe
PKK	Partiya Karkerên Kurdistan
SALW	Small Arms and Light Weapons
SARPCCO	South African Regional Police Chiefs Cooperation Organization
SCR	United Nations Security Council Resolution
TOC	Transnational organized crime
TOC Convention	United Nations Convention against Transnational Organized Crime
UNDP	United Nations Development Program
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
WAPCCO	West African Police Chiefs Cooperation Organization
WCO	World Customs Organization
WMD	Weapons of Mass Destruction

Introduction

In most people's view, it is violent crime—not terror, war, disease or famine—that represents the single greatest threat to their personal security.[1] That threat is increasingly global: the globalization of transportation, communications and finance has benefited not only licit business, but also professional criminals, allowing them to organize transnationally. As a result, crime is transforming from a threat to personal security into a strategic threat to national[2] and international[3] security. But even as crime is transnationalized, crime *control* remains largely corralled behind national borders.[4]

All organized crime (OC) is clandestine, hiding in the dark "shadows,"[5] because OC substitutes might for right, and coercion for capital. Transnational organized crime (TOC) uses the shadowy "sovereign-free" areas of the international system, where state control is weak or ineffective—such as war zones, cyberspace and private bank accounts—to operate.[6] Operating in such zones beyond the reach of state-based crime control, TOC slowly corrupts and undermines state, social and global systems of governance. The growth of TOC undermines social, state and international controls on a range of public ills from political and economic violence to corruption, and from environmental harm to disease. As the violent forms of authority buttressed by OC corrupt and penetrate state, social and international institutions, gaining increasing control over territory, markets and populations, we risk not only a crisis of state and international institutions, but also institutionalizing crisis.

In this Working Paper, I examine the nature of this growing challenge, and ask what capacity there is to respond to it.

First, I present three different conceptions of TOC we find in contemporary theory and practice, and examine the distinct policy implications of each. I suggest that the types of public harms TOC generates—from armed conflict to the transmission of disease—and where they spread depends in part on the types of weaknesses in governance it exploits, and in part on the strategy adopted by the criminals: symbiotic, parasitic, or predatory (which in some cases comes to resemble transnational terrorism).

Second, I sketch the outlines of existing international capacity for responding to TOC, foregrounding multilateral mechanisms. Multilateral capacity to deal with these entities, activities and effects remains highly fragmented, as states jealously guard their crime control competences, a central component of their sovereign power. I argue that this refusal to pool information, analysis, and enforcement capacity risks ceding increasing control of global markets, population, and territory to organized crime and its allies.

Third, I explore scenarios for possible developments in multilateral responses to TOC. I argue that effective multilateral TOC control is achievable, through a focus on the development of harmonized norms and coordination frameworks, complementary international enforcement capacity, and peer review and sanctions mechanisms designed to improve the integration of state and private sector crime control capacity and strategies worldwide.

Three Conceptions of Transnational Organized Crime

There is no unified, consensus definition of either organized crime or transnational organized crime. However, it is possible to delineate three broad, overlapping conceptions of TOC prevailing in policy analysis and theoretical discussion.

First, one conception characterizes OC as a set of *activities* which may be undertaken by any actor or

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[1] Human Security Report, *War and Peace in the 21st Century* (Oxford: Oxford University Press, 2005), p. 51.

[2] See e.g., United States, *National Security Strategy* (Washington, DC: 2006), Ch. 10; United States, *National Defense Strategy of the United States of America* (Washington, DC: 2005); US National Intelligence Council, *Global Trends 2015* (Washington, DC: National Intelligence Council, 2000), p. 41; US Presidential Decision Directive 42, Washington DC, October 1995; USAID, *Fragile States Strategy* (Washington, DC: 2005); United Kingdom, Prime Minister's Strategy Unit, *Investing in Prevention: An International Strategy to Manage Risks of Instability and Improve Crisis Response* (London: PMSU, 2005); European Commission, *European Security Strategy* (Brussels: 2006).

[3] United Nations, *A More Secure World: Our Shared Responsibility. Report of the Secretary-General's High-Level Panel on Threats, Challenges and Change*, UN Doc. A/59/565, December 2, 2004; Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press, 1996), p. 121.

[4] Louise Shelley, John Picarelli, and Chris Corpora, "Global Crime Inc.," in Maryann Cusimano Love, ed., *Beyond Sovereignty: Issues for a Global Agenda* (Wadsworth: Thomson, 2003), p. 145; Phil Williams, "Transnational Criminal Organizations and International Security," *Survival* 36, no. 1 (1994): 96–113.

[5] See for example Curtis Milhaupt and Mark West, "The Dark Side of Private Ordering: An Institutional and Empirical Analysis of Organized Crime," *University of Chicago Law Review* 67, no. 1 (Winter 2000); William Reno, "Shadow States and the Political Economy of Civil War," in Mats Berdal and David M. Malone, eds., *Greed and Grievance: Economic Agendas in Civil Wars* (Boulder: Lynne Rienner, 2000), pp. 43–68; Carolyn Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century*, California Series in Public Anthropology No. 10 (Berkeley: University of California Press, 2004); Friedrich Schneider with Dominik Enste, "Hiding in the Shadows: The Growth of the Underground Economy," *Economic Issues* No. 30, International Monetary Fund, Washington DC, 2002.

[6] See Roy Godson and Phil Williams, "Strengthening Cooperation Against Transnational Crime," *Survival* 40, no. 3 (1998): 66–88.

entity, whether economic or political, private or public. These activities ultimately generate a shadow socioeconomic system, supplying illicit goods and services to meet latent demand.[7] In this conception, TOC encompasses a broad but specific set of illicit transnational transactions, regardless of the actors conducting them.

A second conception of OC, often informed by analysis of US and Italian experiences with the *mafia*, suggests it is more useful to conceive of OC (including TOC) as a set of hierarchically-organized *entities*, conducting diverse commercial activities unified by their underlying business model—the protection racket.[8] This approach focuses on specific membership-based business "groups"—which may even be characterized as illicit "firms"—conceptually distinct from government and politics, and essentially concerned with conducting criminal activities.[9] In this conception, *transnational* OC is simply any such entity engaged in this transnationally-organized criminal activity.

Third, a final conception of TOC is agnostic as to whether OC is properly understood as an activity or entity, instead suggesting that international concern with OC should be triggered whenever OC has transnational *effects*.

These conceptions are not entirely incompatible, and all three conceptions may on occasion be found in one analysis. The key international instrument for controlling TOC, the Convention against Transnational Organized Crime (TOC Convention), in fact adopts a definition of transnational organized crime which tips its hat to all three.[10] It defines TOC as those offenses which, to paraphrase, involve a "structured group" of three or more people with the shared aim to commit either a TOC Convention crime (including money-laundering, corruption, and obstruction of justice), or any other crime punishable by four years' deprivation of liberty or more; where those crimes are committed with a view to material gain; and where those crimes have transnational effects, are committed transnationally, or are

committed by a transnational group. Accordingly, once a group meets the first two limbs of the test, it can meet the third limb of the test either on the basis of being a transnational entity; or on the basis that its activities are transnational; or on the basis that the effects of the activity are transnational.

In the sections that follow, I provide a brief review of what we know about each of these different conceptions of the "transnationality" of OC—activities, entities, and effects—and examine how these different conceptions generate different policy responses at the multilateral level.

The Transnational Activities of Organized Crime

The first conception of TOC views the problem as one of understanding and controlling specific transnational criminal activities—no matter who is involved in those activites. Yet exactly what constitutes these TOC activities is hard to pin down, given the clandestine nature of most TOC. Crime statistics, particularly in jurisdictions where state control is weak, are often unreliable, and different states operate from different conceptions of both OC and TOC, recording different statistics. Moreover, TOC is by definition transnational, dispersing relevant information across jurisdictions and languages, making research and analysis highly complex. Governments are often cautious about sharing their own intelligence with researchers, and with other states, making centralized analysis rare. And the revelation of clandestine actors' behavior may induce them to change that very behavior.[11]

As a result, certain pat assessments of the scale of the TOC activities are often repeated, and rarely interrogated. For example, in 2000, Michel Camdessus famously estimated that money-laundered funds accounted for perhaps 5 percent of global GDP. While the rationale for this conclusion is unclear, it is often cited as evidence of the significance of the threat posed by TOC. But many illicit revenues are not laundered, rather being directly reinvested in illicit markets, suggesting that a substantially larger share of global economic activity might in fact be illicit.[12]

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[7] See Ethan A. Nadelmann, "Global Prohibition Regimes: The Evolution of Norms in International Society," *International Organization* 44, no. 4 (1990): 479–526; R. Thomas Naylor, "From Cold War to Crime War: The Search for a New National Security Threat," *Transnational Organized Crime* 1, no. 4 (1995): 37–56; Mónica Serrano, "Transnational Organized Crime and International Security: Business as Usual?," in Mats Berdal and Mónica Serrano, eds., *Transnational Organized Crime and International Security: Business as Usual?* (London: Lynne Rienner, 2002).

[8] See Louise Shelley, "Unraveling the New Criminal Nexus," *Georgetown Journal of International Affairs* 6, no. 1 (2005): 5–13, 8; and see T. Schelling, "What is the Business of Organized Crime?" in T. Schelling, *Choice and Consequence* (Cambridge: Harvard University Press, 1984).

[9] André Standing, *Rival Views of Organised Crime*, ISS Monograph Series, No. 77, February 2003 (Pretoria: ISS, 2003), pp. 28–33.

[10] On the TOC Convention, see generally Dimitri Vlassis, "The UN Convention Against Transnational Organized Crime," in Berdal and Serrano, *Transnational Organized Crime*, pp. 83–95.

[11] See generally Cindy Hill, "Measuring Transnational Crime," in Philip Reichel, ed., *Handbook of Transnational Crime & Justice* (Thousand Oaks, CA: Sage Publications, 2005), pp. 47–64; Standing, *Rival Views*; Moisés Naím, *Illicit* (New York: Doubleday, 2005).

[12] But see Schneider and Enste, "Hiding in the Shadows"; and see Stewart Patrick, "Weak States and Global Threats: Assessing Evidence of 'Spillovers'," Center for Global Development, Working Paper Number 73, January 2006, p. 16.

Some of the more reliable assessments of the shares of national economies which are beyond state control suggest that the 5 percent figure is far too low: Greif suggests 90 percent of the Angolan, 40 to 60 percent of the Russian, 50 percent of the Kenyan, Italian and Peruvian, and 10 to 30 percent of the US economies occur beyond state control.[13] Yet should the illicit transnational economy be measured as an aggregate of all illicit national economies? Or only as that portion of *transnational* economic activity which is illicit? What is more, is it safe to treat all "illicit" activity as necessarily constituting OC—by what social standards should we measure illicitness and criminality?

Such definitional debates are not merely semantic: without a clear definition of which activities constitute TOC, it is impossible to establish a baseline assessment of the scale and nature of the threat TOC poses. Ready cant such as Camdessus's 5 percent figure provides a quick fix, but does not provide a secure basis for evidence-based policymaking in the long-term. Clearly, efforts are needed better to define and map the TOC economy worldwide. This will not be possible without international research cooperation, facilitated by states sharing and harmonizing organized crime data and intelligence.

In the absence of such measures, it is more useful to disaggregate different transnational illicit activities, and examine their scale and impacts separately.

The global black market in narcotics is perhaps the best documented area of TOC. The narcotics market is significant to understanding global OC not only because narco-trafficking is clearly the financial and logistical centerpiece of much transnational criminal organization, but also because it reveals the extent to which the structure and impacts of, and responses to, transnational criminal activity are determined by the strategic choices involved in defining a certain activity as criminal at the international level.[14] While only 2.7 percent of the world population are regular illicit drug users, ten times that proportion (28 percent) use tobacco; the international criminalization of certain drugs and their trade has served to render their associated effects a security issue—generating language such as "the war on drugs." Similarly, the growth of opiate production in southern Afghanistan is perceived as a security threat for consumer states such as those in the EU and the United States—whereas the treatment of other drugs and their trade as licit renders their impacts a non-security, public health issue. Yet despite the US-led "war on drugs," the global narcotics black market grew by roughly 6 percent per annum between 1990 and 2000.[15] In 2005, the United Nations Office on Drugs and Crime estimated the global narcotics market at $322 billion—equivalent to a GDP ranking of roughly 30th in the world, measured against national economies, and roughly 75 percent of the total GDP of Sub-Saharan Africa.[16]

What this makes clear is that the choices we make about which activities we will treat as TOC have a significant impact upon how we understand the nature of the threat it poses—and the tools we will turn to in responding to that activity. A similar point can be made in relation to the global structure of intellectual property rights, which is providing the basis for a rapid expansion in the black market in counterfeit goods—now worth perhaps $400-$600 billion per year.[17] Trade in counterfeit goods has grown eight times as fast as legitimate trade since 1990. It costs US business alone some $250 billion per year, and provides up to 90 percent of trade in some sectors in China.[18] It is no doubt in part the globalization of international trademark and design protections in the last fifteen years which has fuelled this demand for lower-cost counterfeit goods ranging from car parts to prescription drugs.

A wide range of other policy choices can also influence the dynamics of global TOC activity, making global crime control a highly complex collective action problem. Illegal migration generates significant revenues—human smuggling alone brings in perhaps $10 billion annually—and poses a direct threat to the human security of millions.[19] Each year, up to 4 million people are trafficked (moved for the purpose

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[13] Avner Greif, "Contracting, Enforcement, and Efficiency: Economics beyond the Law," in Michael Bruno and Boris Pleskovic, eds., *Annual World Bank Conference on Development Economics 1996* (Washington, DC: World Bank, 1996), pp. 239–265.

[14] H. Richard Friman and Peter Andreas, "Introduction: International Relations and the Illicit Global Economy," in Friman and Andreas, eds., *The Illicit Global Economy & State Power* (Oxford: Rowman & Littlefield Publishers, 1999), p. 10.

[15] Naím, *Illicit*, 19.

[16] This estimate includes only revenues, and not law enforcement costs ($67 billion in the US alone in 2005) or indirect social and economic costs ($160 billion in the US alone in 2005). See The Library of Congress, Congressional Research Service, "Transnational Organized Crime: Principal Threats and US Responses," March 20, 2006, p. 5. On the narcotics market, see generally Sandeep Chawla and Thomas Pietschmann, "Drug Trafficking as a Transnational Crime," in Philip Reichel, ed., *Handbook of Transnational Crime & Justice* (Thousand Oaks, CA: Sage Publications, 2005), pp. 160–180.

[17] Moisés Naím, "It's the Illicit Economy, Stupid," *Foreign Policy*, no. 151 (November/December 2005), 95–96.

[18] Library of Congress, "Transnational Organized Crime," p. 5.

[19] Naím, "It's the Illicit Economy, Stupid," p. 96.

of exploitation, and not necessarily across borders) from at least 127 (primarily developing) countries to 137 (primarily developed) countries. Males appear to be trafficked primarily for exploitation in "hard" (i.e. manual) labor, while women are trafficked for sexual exploitation and domestic labor, though there may be significant underreporting in certain categories (e.g., male sexual exploitation). The dynamics of these markets are influenced by policy choices on issues ranging from immigration to prostitution. Other major illicit global markets include conventional weapons (perhaps $10 billion annually),[20] art and antiquities (which Interpol puts at $3 billion annually),[21] cars, toxic waste, and oil.

Organized cybercrime is also an increasing problem, but operates on a somewhat different model than traditional smuggling-based transnational OC.[22] The absence of borders, the anonymity, technical complexity, and low operating costs of internet activity offer OC huge leverage in its competition with state-based crime control. OC uses the internet 1) as a tool for the organization of crimes in the "real" world; 2) as a tool for money-laundering (particularly through online auctions); and 3) increasingly as a source of valuable "virtual" resources to be stolen, defrauded, and attacked. "Phishing" attacks[23] grew from one in every 943 to one in every 304 emails from 2004 to 2005.[24] Financial systems are particularly vulnerable to networked attack and thus extortion, and appear to be among those groups targeted with increasing frequency in cyber-attacks. As more and more legitimate financial and social systems migrate online, so too will OC. Multilateral crime control will become even more complex, since it will increasingly require global regulation of private transnational activity. This will prove challenging for state-based international organizations—but not impossible, as Interpol's development of tools and expertise for fighting OC involvement in internet child abuse demonstrates.

Transnational Organized Crime Entities

The second conception of TOC suggests focusing on specific OC groups operating transnationally. These appear to be increasingly numerous and prevalent. National criminal groups are expanding their operations into diaspora communities,[25] and genuine multinational networks are developing.[26] OC groups appear to be spreading risk, diversifying revenue bases and exploiting regulatory, cost input and price differentials by developing "multiple competence" networks across numerous jurisdictions—much as global multinationals do.[27] These networks respond to changing social and regulatory conditions, altering trafficking routes and substituting products to avoid detection or destruction and maximize profit. Thus recent upheavals in West Africa—which have reduced state customs and policing controls and supplied large numbers of unemployed youth seeking alternative livelihoods—have led to that region emerging as a central trans-shipment point for Colombian cocaine and for heroin from Afghanistan, the Caucasus (the "Golden Crescent") and the Golden Triangle, all bound for European markets.

TOC groups more often than not engage in two-way trade: groups that move opiates from the Golden Crescent to Europe via West Africa bring back small arms and light weapons (SALW), and move them on further to the Middle East, including Iraq, where they may be bought with cash generated by OC activities such as kidnapping. In this way, trans-Atlantic drug habits are intimately connected to increased violence in some parts of the Middle East.

One significant policy implication of understanding TOC as a system of networked transnational groups is in terms of the knock-on effects of interdiction, eradication, and other control strategies. Thus the Western military intervention in Afghanistan unwittingly led to a massive increase in the supply of opiates from southern Afghanistan,[28] with flow-through effects throughout global distribution chains.

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[20] Ibid.

[21] Ibid.; Christine Alder and Kenneth Polk, "The Illicit Traffic in Plundered Antiquities," in Reichel, ed., *Handbook*, pp. 98–113.

[22] See generally Chris E. Marshall, T. Hank Robinson and Dae-Hoon Kwak, "Computer Crime in a Brave New World," in Reichel, ed., *Handbook*, pp. 114–138.

[23] Phishing involves fraudulently acquiring sensitive information such as credit card or bank account details.

[24] IBM, Global Business Security Index Report (January 2006).

[25] Examples include the Chinese ethnicity Liu Yong, Zhang Wei, and Liang Xiao Min syndicates; the Japanese *yakuza*; the Russian Sizranskaya Groopirovka and Ziberman Group; the Ukrainian Savlokhov Group; the US-Italian *Cosa Nostra*; the Mexican Carillo Fuentes organization; and the multinational MS-13 and 18th Street gangs, formed by Hispanic convicts deported from the US. See generally United Nations Office on Drugs and Crime, *Results of a Pilot Survey of Forty Selected Organized Criminal Groups in Sixteen Countries* (Vienna: CICP, 2002).

[26] Examples include the McLean Syndicate (Australia, Philippines, Croatia, Sweden, Germany, China, and the UK); the Juvenal Group (Colombia, Ecuador, Venezuela, Mexico); and West African project-based syndicates. Ethnicity seems to be of decreasing importance in organization. See generally UNODC, *Results of a Pilot Survey*; Naím, *Illicit*.

[27] National Criminal Intelligence Service, *UK Threat Assessment 2001* (London: NCIS, 2001).

[28] UNODC, "Afghan Opium Cultivation Soars 59 percent in 2006, UNODC Survey Shows," Kabul, September 2, 2006.

Similarly, disarmament, demobilization and reintegration (DDR) efforts in one arena may lead to an increased supply of skilled military labor (mercenaries) who can be hired in other jurisdictions, fueling regional war economies, as occurred after Soviet demobilization and has occurred at the end of some recent West African conflicts.

Efforts to control TOC groups should therefore be developed with an understanding of the full transnational, politico-economic context in which they occur, allowing for knock-on effects. This suggests there are advantages to be gained not merely through inter-state information sharing, norm harmonization, and policy coordination, but possibly also through a degree of centralized multilateral intelligence analysis (which we begin to see emerging in Interpol and, in Europe, Europol) and strategy development, which is further off.

The Transnational Effects of Organized Crime
The third conception of TOC casts an even broader net, focusing on the transnational effects of crime, even (but not only) where it is organized essentially within one country.

Social Strategies and Politico-economic Effects
Systematic work on the effects of TOC remains somewhat limited. In particular, we know little about the social strategies of different OC groups and their different politico-economic effects.

It is important to recognize that in many situations, groups involved in TOC activities have a profoundly positive social impact. Many such groups create livelihoods by connecting local producers with far-off consumers in global markets; sometimes these are markets for illicit goods and services (black markets), and sometimes for licit goods and services, illicitly provided (gray markets). Many such groups even provide basic public goods such as "law and order," property rights enforcement and dispute resolution (the Russian *maffiya*, the triads and *yakuza* and South American urban gangs[29]), or basic forms of social security (the emergency relief provided by Japanese *yakuza* to victims of the Kobe earthquake, or

the minimum wage and pension systems provided by Colombian cocaine-producing groups to growers and soldiers).[30] Eradication strategies may in such cases have a negative impact on livelihoods and human security in the short-term; this can complicate peacebuilding as is being demonstrated in southern Afghanistan, eroding the legitimacy of intervening parties and increasing violence.

Yet the social structures which develop around these livelihoods are often illiberal, exploitative or even violently coercive. Across the literature we can delineate three broad social strategies adopted by OC groups: symbiotic, parasitic, and predatory.[31] First, symbiotic OC, such as the mafia in Italy,[32] coexists with existing authority, not targeting it for revenues, but merely for protection from the law and from rivals. In extreme cases of symbiosis, we may also see OC capture the state, with state-ruling elites merging with OC as a method of maintaining power. Well-established OC groups often seem to adopt a symbiotic strategy, because they have a stake in the status quo. Second, short of such a strategy, parasitic OC similarly relies on its connections to existing authority, but targets it not only for protection but also for revenues—although it does not seek to supplant or willfully destroy that authority. Such "established" OC may tend to gather revenues from economic and white-collar crime, rather than clandestine trade.[33] Finally, predatory OC preys on the resources of states and other existing authority structures, engaging in a violent existential competition.

Differentiating TOC strategies in this way allows us to generate a range of hypotheses about the transnational effects of OC. In the following section, I lay out several of these hypotheses, some of which find limited support in existing literature; but since contextual analysis of OC in these terms remains a relatively new enterprise, many of these hypotheses will require further testing.

Armed Conflict and other Forms of Violent Competition
Strong anecdotal evidence suggests that armed conflict is fueled or perpetuated by the presence of TOC networks, which allow armed groups to sell

[29] See Vadim Volkov, *Violent Entrepreneurs: The Use of Force in the Making of Russian Capitalism* (Ithaca: Cornell University Press, 2000); Milhaupt and West, "The Dark Side of Private Ordering," p. 41; John Rapley, "The New Middle Ages," *Foreign Affairs* 85, no. 3 (May/June 2006): 95-103.

[30] Alfredo Rangel Suárez, "Parasites and Predators: Guerillas and the Insurrection Economy of Colombia," *Journal of International Economic Affairs* 53, No. 2, (Spring 2000): 577-601.

[31] See ibid.; A. Peter Lupsha, "Transnational Organized Crime Versus the Nation-State," *Transnational Organized Crime* 2, no. 1 (Spring 1996): 21-46.

[32] Diego Gambetta, *The Sicilian Mafia: The Business of Private Protection* (Cambridge and London: Harvard University Press, 1993).

[33] Canadian Security Intelligence Service, "The Threat from Transnational Crime: An Intelligence Perspective," Commentary No. 70, Ottawa, Winter 1996.

locally-acquired resources on global markets.[34] Moreover, the apparent "convergence" of armed conflict and OC in many theaters has led many theorists to argue that the traditional distinction between the two needs to be reconsidered.[35] Yet such an approach is problematic: it risks conflating divergent phenomena, producing poorly calibrated policy responses; it risks leading to the abandonment of existing analytical and legal frameworks, jeopard-izing the safeguards associated with each; and at present, such basic questions as the impact of the presence of different types of TOC on the onset, duration, and termination of armed conflict remain unanswered.

At present, existing analysis seems to support only three broad hypotheses about the relationship between OC strategy and the dynamics of armed conflict and related forms of political violence.

First, armed conflict is in some cases the result of a violent struggle between predatory OC and a state. Predatory OC groups may find it convenient to be cloaked as political movements, as has arguably occurred in Sierra Leone, Liberia, Burma, Colombia, and DRC. Predatory OC may contest territorial control, even capturing effective control of a small territory from the state and creating "statelets."[36] We know little about what types of functional weakness make states vulnerable to predatory OC producing armed conflict;[37] but it does appear that in such cases, TOC may prolong conflict by providing external sources of inputs such as finance, materiel, and personnel.

This brings us to a second relationship between TOC and political violence: where TOC is the byproduct of armed conflict or other forms of political violence (rather than armed conflict being the byproduct of OC, as is the case in the first scenario). As Peter Andreas has noted, in today's globalized economy, "[m]ilitary success on the battle-field can significantly depend on entrepreneurial success in the illicit economy."[38] There are numerous examples of armed groups resorting to smuggling to finance violence—e.g., of narcotics (KLA, PKK, Islamic Movement of Uzbekistan, Taliban, and Colombian, Peruvian, Burmese and Nepalese armed groups); cigarettes (Hizbullah, Northern Irish parami-itaries); or natural resources (Colombia, Burma, Liberia, Sierra Leone, Angola, Nigeria, DRC, Iraq). In such cases, there may be significant economic cooper-ation between competing groups.[39] This points to a commercialization of war,[40] the emergence of "warlordism," and the institutionalization of violent criminal disorder as a shadow economic system, carried out through large-scale criminal enterprises connecting local and global markets.[41] That would also suggest that the presence of TOC groups risks prolonging (and perhaps accelerating the resort to) armed conflict. But again, reliable empirical analysis remains thin.

Third, armed conflict—or similar, but lower level violence—may result from violent competition between OC groups, particularly those adopting symbiotic or parasitic, rather than predatory, strategies. There are few clear examples of such competition leading to full-scale armed conflict in competition for the full effective control of territory (Tajikistan may be one); but there may be more examples—e.g., the Brazilian *favelas*—of violent competition between parasitic or symbiotic OC groups aspiring to exert a level of functional control below that of government. Such tensions may also be fueled by these groups' access to TOC supply chains, or the result of competi-tion for that (lucrative) access. In the long term, the passage of TOC through a state's territory may thus

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[34] See Karen Ballentine and Heiko Nitzschke, eds., *Profiting from Peace: Managing the Resource Dimensions of Civil War* (Boulder, CO: Lynne Rienner, 2005); François Jean and Jean-Christophe Rufin, eds., *Economies des Guerres Civiles* (Paris: Hachette, 1996).

[35] John Mueller, *The Remnants of War* (Ithaca: Cornell University Press, 2004); Francisco Gutiérrez Sanin, *Criminal Rebels? A Discussion of War and Criminality from the Colombian Experience*, Crisis States Programme Working Paper no. 27, London School of Economics, London, 2003; Paul Collier, "Rebellion as a Quasi-criminal Activity," *Journal of Conflict Resolution* 44, no. 6 (2000): 839-853; Phil Williams and John T. Picarelli, "Combating Organized Crime in Armed Conflict," in Ballentine and Nitzschke, *Profiting from Peace*, pp. 123-152.

[36] See Rapley, "The New Middle Ages"; United States Institute for Peace, "Lawless Rule Versus Rule of Law in the Balkans," Special Report 97, Washington DC, December 2002; Stergios Skaperdas and Constantinos Syropoulos, "Gangs as Primitive States," in Gianluca Fiorentini and Sam Peltzman, eds, *The Economics of Organized Crime* (Cambridge: Cambridge University Press, 1997); André Standing, "The Threat of Gangs and Anti-Gangs Policy," ISS Policy Discussion Paper, Pretoria, 2005; Thomas W. Gallant, "Brigandage, Piracy, Capitalism, and State-Formation: Transnational Crime from a Historical World-Systems Perspective," in Josiah Heyman, ed., *States and Illegal Practices* (Oxford: Berg, 1999), pp. 25-61.

[37] See Patrick, *Weak States and Global Threats*.

[38] Peter Andreas, "Illicit International Political Economy: The Clandestine Side of Globalization," *Review of International Political Economy* 11, no. 3 (August 2004): 650.

[39] USIP, "Lawless Rule."

[40] Jean-Paul Azam, Paul Collier and Anke Hoeffler, "International Policies on Civil Conflict: An Economic Perspective," World Bank Working Paper, Washington DC, December 14, 2001.

[41] This conception is increasingly reflected in the concept of "joint criminal enterprise" in international criminal law: see Attila Bogdan, "Individual Criminal Responsibility in the Execution of a 'Joint Criminal Enterprise' in the Jurisprudence of the Ad Hoc International Tribunal for the Former Yugoslavia," *International Criminal Law Review* 6, no. 1 (2006): 63-120.

serve to undermine state-provided law and order, as currently appears to be occurring in parts of Latin America and Africa. One corollary hypothesis—like so many others in this area, largely untested—is that the likelihood of the emergence of sustained violence in such cases may depend in part on the nature of the (transnational) market, and whether it is susceptible to monopolization.[42] Thus, we seem to see more violent competition over cocaine markets than cannabis and methamphetamine markets, because of the relative ease of production of the latter. Different control strategies may thus be necessary for different types of markets.

Conflict Management

To date, little systematic thought has been given to the implications of these different OC/armed conflict relationships for international conflict management. Yet the strategies and organizational capacities required to make peace with a predatory OC group may be radically different from those needed to deal with a symbiotic or parasitic OC group.

First, predatory OC groups may be less interested in political solutions, leading to group fracturing and continued violence (as in DRC).[43] This may require emphasis on "hard" law enforcement and civilian protection. The creation of a Standing Police Capacity within the United Nations DPKO will facilitate this—but may need to be accompanied by an expansion of ready-reaction detention and judicial capacity. Further thought is needed to develop concepts of strategic policing in the post-conflict context, and to explore its relationship with the "Responsibility to Protect." In such cases, peace operations may need to think about what cross-border and sectoral control measures are needed to strangle

TOC-supplied support to the predatory group, whether in border control, policing, intelligence sharing or coordinated price and tariff strategies.[44]

Second, symbiotic and parasitic groups may be more susceptible to economic incentives—as they were in the settlement of the conflict in Sierra Leone. Yet most international mediators operate within a narrowly political framework, with little ability to analyze or control the provision of economic incentives.[45] There is a long way to go before the sticks wielded by UN peace operations are aligned with the carrots wielded by the IFIs and bilateral donors in a manner that will create viable alternative livelihoods which will woo away those engaged with TOC-based economies. The Peacebuilding Commission and Support Office have an opportunity to play this strategic coordination role, but their success will depend on political commitment and resource levels.

More generally, further research is needed to understand when TOC groups will resist peace, when they will seek to corrupt peace (using it as a cover to legitimize ill-gotten gains,[46] or adopting a symbiotic or parasitic approach to the new regime) and when they will simply displace operations (and violence) across local borders in a ballooning effect.

Finally, further thought also needs to be given to the role of peace operations themselves as targets of—and participants in—TOC in the post-conflict period. While much-needed attention has begun to be paid to peacekeepers' involvement with prostitution and human trafficking,[47] peace operations remain reticent to confront the criminal networks that stand behind such illicit activities.[48]

Corruption and State Criminalization

All states confront the challenge of corruption. In the

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[42] Though see Michael L. Ross, "Oil, Drugs, and Diamonds: The Varying Roles of Natural Resources in Civil War," in Karen Ballentine and Jake Sherman, eds., *The Political Economy of Armed Conflict: Beyond Greed and Grievance* (Boulder, Colo.: Lynne Rienner, 2003), pp. 47-72.

[43] Mats Berdal, "How 'New' Are 'New Wars'? Global Economic Change and the Study of Civil War," *Global Governance* 9, no. 4 (2003): 486-488.

[44] See International Crisis Group, "The Congo's Transition is Failing: Crisis in the Kivus," Africa Report no. 91, March 30, 2005, pp. 26-27; Neil Cooper, "Conflict Goods: The Challenges for Peacekeeping and Conflict Prevention," *International Peacekeeping* 8, no. 3 (Autumn 2001): 21-38; and see United Nations Security Council, Press Release, "Security Council Calls for Regional Approach in West Africa to Address Such Cross-Border Issues as Child Soldiers, Mercenaries, Small Arms," UN Doc. SC/8037, New York, March 26, 2004.

[45] Williams and Picarelli, "Combating Organized Crime in Armed Conflict," pp. 136-137; Susan Woodward, "Economic Priorities for Successful Peace Implementation," in Stephen J. Stedman, Donald Rothchild and Elizabeth M, Cousens, eds., *Ending Civil Wars: The Implementation of Peace Agreements* (Boulder, CO: Lynne Rienner, 2002), p. 184.

[46] Post-conflict situations offer ideal conditions for money-laundering: poorly regulated banking systems, informal cash economies, and a sudden upswing in demand for goods and services paid for in foreign currency. Zentrum für Internationale Friedenseinsätze, *Organized Crime as an Obstacle to Successful Peacebuilding. Lessons Learned from the Balkans, Afghanistan and West Africa*, 7th International Berlin Worskhop, Berlin, December 11-13, 2003, pp. 13, 43.

[47] United Nations Department of Peacekeeping Operations, "Human Trafficking and United Nations Peacekeeping," Policy Paper, New York, March 2004.

[48] Very little has been written on this topic, but see Major Irv Marucelj, "Mature Peacekeeping Operations as Facilitators of Organized Crime," paper presented at the CDAI-CDFAI 7th Annual Graduate Symposium, Royal Military College, Kingston, Ontario, October 29-30, 2004; and see Transnational Crime and Corruption Center, *Transnational Crime and Peacekeeping: Comparative Perspectives*, Conference Report, Cantigny in Wheaton, Ill., September 6-7, 2001.

US alone, fraud and corruption may claim as much as $400 billion per year.[49] By undermining state regulatory systems, corruption significantly impedes macroeconomic management and raises the cost of legitimate business, drawing revenue away from legitimate investment and development. Corruption risks undermining the effective control and public accountability of the state and along with it the prospects for sustainable democratic development.

Yet we know rather little about the correlation between overall corruption and the presence of different types of OC. Some recent studies indicate that political intervention in bureaucracies—often related to corruption—and the lack of judicial independence are both correlated to the presence of OC.[50] It seems likely that corruption facilitates OC, which in turn produces further corruption: corrupt functionaries—whether public, such as customs officials or politicians, or private, such as lawyers and accountants—serve as the conduits through which crime is organized and through which it flows.[51] Corruption is accordingly a central component of both the parasitic and symbiotic strategies of criminal organizations.[52] (It seems less likely to be a correlate of predatory OC, however.)

Corruption of the political sphere is particularly problematic. Uncontrolled, corruption may lead ultimately to the criminalization of the state, with government leaders privatizing state assets, and operating as racketeers selling protection.[53] In extreme cases, a symbiotic relationship can develop between state-controlling elites and OC groups that sustain or enlarge those elites' power: Serbia under Milosevic, Iraq under Saddam Hussein, North Korea under Kim Jong-Il, Mugabe's Zimbabwe, to name a few examples.[54] In these scenarios, OC gains access to the resources and arsenals otherwise controlled by states:

hence Vladimir Montesinos's use of office to traffic arms, drugs and cash, and A.Q. Khan's use of office to traffic nuclear goods and services.

Responses to state criminalization to date have involved a mixture of diplomatic pressure, military responses, law enforcement and economic sanctions. We should be particularly hesitant about efforts to ostracize pariah regimes: there is increasing evidence—from South Africa, the Balkans and Iraq—that multilateral economic sanctions, in particular, in fact may fuel a symbiotic relationship between governing elites and TOC groups. By restricting supply and placing a premium on scarce goods, multilateral sanctions reward trafficking networks,[55] and may even encourage states to ally with them, transforming smuggling from a criminal activity to a patriotic duty. Significantly, this strengthening of the political-criminal nexus seems to occur not only in the embargoed state, but also in trading partners, particularly proximate states. And once sanctions are lifted, the political-criminal alliance, normalized under wartime embargo conditions remains, as developments in the Balkans and Iraq have made clear.[56]

Where corruption leads to state criminalization, the very institutions of the international system—such as sovereignty, diplomatic immunity, and judicial comity—may be corrupted and abused, providing cover for TOC. Over time, repeated state criminalization may undermine the very doctrine of sovereign equality which underpins the international system, leading powerful states to seek to "outlaw" or "criminalize" other "rogue" states.[57]

The end result may be the institutionalization of crisis. Already, we may see signs of this, with increasing resort by powerful states to concepts of emergency and "exceptionalism" as escape clauses from global human rights and other international law constraints.

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[49] While public corruption is globally pervasive, as a percentage of national GDP, it may drain greater fractions of developing states' resources. See World Bank, *Helping Countries Combat Corruption: Progress at the World Bank Since 1997* (Washington, DC: World Bank, June 2000), p. 1.

[50] Edgardo Buscaglia and Jan van Dijk, "Controlling Organized Crime and Corruption in the Public Sector," *Forum on Crime and Society* 3, nos. 1 and 2 (December 2003): 11, 13, 15. See also Edgardo Buscaglia, "Undermining the Foundations of Organized Crime and Public Sector Corruption," *Essays in Public Policy* 114 (2005).

[51] See Phil Williams, "Threats from Non-State Actors/Criminal Networks," paper for United Nations and Global Security, A United Nations Foundation Initiative, 2003, available at www.un-globalsecurity.org/papers_cat/terrorism_non_state_actors.asp#12.

[52] Compare Shelley, "Unraveling the New Criminal Nexus."

[53] See Jean-François Bayart, Stephen Ellis, and Beatrice Hibou, *The Criminalization of the State in Africa* (Bloomington: Indiana University Press, 1999); Reno, "Shadow States"; Peter Andreas, "Criminalizing Consequences of Sanctions: Embargo Busting and Its Legacy," in *International Studies Quarterly* 49 (2005): 335–360; Marko Hajdinjak, *Smuggling in Southeast Europe: The Yugoslav Wars and the Development of Regional Criminal Networks in the Balkans* (Sofia: Center for the Study of Democracy, 2002); James H. Mittelman and Robert Johnston, "The Globalization of Organized Crime, the Courtesan State, and the Corruption of Civil Society," *Global Governance* 5 (1999): 121.

[54] Andreas, "Criminalizing Consequence"; USIP, "Lawless Rule"; US Bureau for International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report*, March 2005.

[55] Williams and Picarelli, "Combating Organized Crime in Armed Conflict," 141.

[56] Andreas, "Criminalizing Consequence," 336–337; Peter Andreas, "The Clandestine Political Economy of War and Peace in Bosnia," *International Studies Quarterly* 48 (2004): 29–51; compare R. Thomas Naylor, "The Insurgent Economy: Black Market Operations of Guerilla Organizations," *Crime, Law, and Social Change* 20, no. 1 (1993), 23.

[57] This is not a new phenomenon: see Gerry Simpson, *Great Powers and Outlaw States* (Cambridge: Cambridge University Press, 2004).

Terrorism, Weapons Proliferation and Money-Laundering

Since 9/11, much has been made of the connections between transnational terror and TOC. Many institutional responses to OC are now assessed in terms of their contribution to counter-terrorism strategies, particularly in the area of anti-money-laundering (AML). But as with many other aspects of the discussion of TOC, the exact nature of the crime-terror nexus remains under-theorized and poorly empirically grounded.

At the multilateral level responses to terror and crime remain almost completely stove-piped;[58] when concerns over the crime-terror nexus are raised, it is usually in the context of anxiety over terrorists' use of trafficking networks to acquire WMD, or the role of TOC in laundering terrorist finances. Both issues ought to prompt serious concern.

The A.Q. Khan network has already demonstrated the feasibility of TOC undermining global non-proliferation regimes, especially if sheltered by complicit states.[59] We know that Pakistani nuclear experts met with top al-Qaeda officials in 2001.[60] Yet as the A.Q. Khan episode demonstrates, the key to nuclear control efforts probably lies not in eradicating global TOC, but in supply-side controls: securing the global military complex against leakage of such technology through corrupt government officials.[61]

Still, many OC groups will avoid the risk that comes with an association with WMD. Perhaps the more insidious long-term weapons proliferation challenge posed by TOC lies in its role as the distributor of SALW—which Kofi Annan has likened to "WMD in slow motion."[62] Significant attention is needed to improve inter-agency cooperation to stem SALW proliferation—especially cooperation between Interpol and UN entities such as sanctions monitoring bodies, peace operations and UN country teams. But efforts may also be needed at the national level to ensure that SALW flows can be adequately tracked and controlled.

Better progress has been made in connecting international responses to terrorism and TOC in the area of money-laundering. Money-laundering is a key step in illicit transactions for a range of clandestine actors, essentially transforming the fruits of coercion into valuable capital. The resulting corruption of the licit financial system weakens confidence in and stability of the global financial system, skews investment towards low-detection financial sectors, and reduces public revenue bases, hindering states' ability to deal with other security and development challenges. September 11 prompted developed states to push for the significant tightening of AML controls, leading the OECD Financial Action Task Force to add nine Special Recommendations on Terrorist Financing to its existing forty Recommendations on Money-Laundering. Similarly, the G8 merged its Lyon (counter-crime) and Roma (counter-terror) expert groups.

But few other steps have been taken at the international level to align counter-terror and counter-crime strategies, or to apply the lessons of one to the other. Little effort has been put into understanding the emergence of hybrid crime-terror organizations in contexts such as Iraq, and how this may necessitate a convergence of worldwide crime control and counter-terrorism.

Is there a Convergence of Crime and Terror?

There are two contending analyses of this purported "convergence" between crime and terror groups. One analysis suggests that whatever convergence occurs is pragmatic and essentially commercial—terror groups turn to criminal networks to supply and distribute the tools they need for their operations (weapons, finance, and personnel)[63] or even their propaganda,[64] while criminal groups may turn to terror groups for enforcement capacity.[65] The other analysis suggests

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[58] Consideration was given to including terrorism within the TOC Convention, but rejected.

[59] David Albright and Corey Hinderstein, "Unraveling the A.Q. Khan and Future Proliferation Networks," *The Washington Quarterly* 28, No. 2 (Spring 2005): 111–128.

[60] Graham Alison, *Nuclear Terrorism: The Ultimate Preventable Catastrophe* (New York: Times Books, 2004), pp. 20-24.

[61] See generally Stephen Chledowski, "Military Corruption and Organized Crime in Eastern Europe and the Caucasus," *Journal of Military and Strategic Studies* 7, Issue 4 (Spring 2005). In 2006, IAEA reported 85 cases of the theft or loss of nuclear or other radioactive materials.

[62] On this issue see further Keith Krause, "Small Arms and Light Weapons: Towards Global Public Policy," *Coping with Crisis* Working Paper Series, International Peace Academy, New York, March 2006.

[63] Mark S. Hamm and Cécile Van de Voorde, "Crimes Committed by Terrorist Groups: Theory, Research, and Prevention," *Trends in Organized Crime* 9, no. 2 (Winter 2005): 18–51; Barry R. McCaffrey and John A. Basso, "Narcotics, Terrorism, and International Crime: The Convergence Phenomenon," in Russell D. Howard and Reid L. Sawyer, eds., *Terrorism and Counterterrorism: Understanding the New Security Environment* (Guilford, CT: McGraw-Hill/Dushkin, 2004); Annette Hübschle, "Unholy Alliance? Assessing the Links between Organised Criminals and Terrorists in Southern Africa," ISS Paper 93, Pretoria, October 2004; Yvon Dandurand and Vivienne Chin, *Links Between Terrorism and Other Forms of Crime*, A report submitted to Foreign Affairs Canada and The United Nations Office on Drugs and Crime, April 2004.

[64] A recent Interpol study points to terrorist groups using pirated music distribution networks in West Africa in this way: Interpol, *Report on Intellectual Property Pirated Goods*, Lyon, May 2004, pp. 35–37.

[65] For example, when Pablo Escobar turned to the ELN to provide car bomb-making expertise in 1993; see Alex Schmid, "Links between Terrorism

that beyond this commercial nexus, "terror" and "crime" may be converging at an institutional level, in terms of methods of organization, tactics (such as hostage-taking, kidnapping, and black-marketeering)[66] and motivations.[67] (It is notable that these two explanations mirror the "activity" and "entity" conceptions of OC itself.)

Many commentators distinguish between crime and terror on the basis of the motivations of those involved in each activity: criminals are essentially motivated by greed, terrorists by grievance.[68] However, this approach is both theoretically and operationally problematic. For example, what are the essential motivations of an individual who engages in crime that finances terrorist activity? And how do we determine those motivations?

Other commentators suggest that contemporary crime and terror should be treated as similar phenomena sitting on a spectrum, differing primarily through the strategies they adopt: terrorists aim at magnifying their social and political power, including through the use of public media and indiscriminate violence, whereas criminals adopt narrower commercial goals and more discriminating methods.[69] But their organizational profiles will be similar: both rely heavily on networks, flat decision-making structures, compartmentalization, careful intelligence gathering and operational planning, and both invest in learning capacity to move goods, assets and people across borders in order to undertake activities based on violence outside the state monopoly.[70] Moreover, predatory OC operates as a kind of institutionalized system of terror, a "non-state-based authoritarianism."[71]

This "spectrum" approach combines the "activity," "entity," and "effects" conceptions of TOC, and broadens them to include terrorism. The benefit of this approach is that it can accommodate organizational development—groups may move along this spectrum as they develop in response to internal (i.e., leadership) and external (i.e., state response) stimuli. Examples include the IRA and Abu Sayyaf terror groups, which have mutated from terrorist groups into criminal gangs; and the Italian mafia, which arguably took on the role of a terrorist group in resorting to targeted assassinations and bombings when their symbiotic relationship with the Italian political elite came under attack in the early 1990s.[72] This approach also suggests that effective counterterrorism and crime control strategies will need to combine a range of intervention strategies to deal with different activities and entities at different points within the clandestine global economy.

Environmental and Public Health Effects

TOC can serve as a vector that transmits the impacts of public ills found at one point on the globe to other points, sometimes magnifying them in the process. Even local OC may undermine global control regimes in a manner that produces transnational harm. As larger shares of the global economy go "underground," effective multilateralism becomes increasingly problematic. Clandestine enterprise has little interest in investing in sustainable environmental practices or public health regimes, and is often corrosive of public goods and common resources.

The corrosive impacts of narco-trafficking such as accompanying neighborhood crime and transmissible diseases (particularly HIV/AIDS and hepatitis) are among the better understood effects of TOC, although the resulting cumulative reduction of capacity to respond to other public health threats such as the H5N1 avian flu is less well understood. But the causal relationship between TOC and deteriorating

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and Drug Trafficking: A Case of 'Narco-terrorism'?" The Madrid Agenda for the International Summit on Democracy, Terrorism and Security, March 8-11, 2005, *safe-democracy.org*, January 27, 2005.

[66] Terrorist groups have financed their activities through trafficking of narcotics (PKK, Al Qaeda, Hizbullah), diamonds (Hizbullah, Al Qaeda), cigarettes (Hizbullah, IRA) and credit card fraud (the Madrid bombers). In 2004, fourteen of thirty-six groups on the US State Department's terror watch-list were linked to narco-trafficking: Emma Björnehead, "Narco-Terrorism: The Merger of the War on Drugs and the War on Terror," *Global Crime* 6, nos. 3 and 4 (August-November 2004): 322, note 5.

[67] Col. Albert Zaccor, "Security Cooperation and Non-State Threats: A Call for an Integrated Strategy," The Atlantic Council of the United States, Occasional Paper August 2005, p. 4; Louise Shelley, John Picarelli, et al., "Methods and Motives: Exploring Links between Transnational Organized Crime & International Terrorism," National Institute of Justice: Washington, DC, June 23, 2005.

[68] Frank Bovenkerk and B.A. Chakra, "Terrorism and Organized Crime," *Forum on Crime and Society* 4, nos 1 and 2 (2004).

[69] Alex P. Schmid, "The Links between Transnational Organized Crime and Terrorist Crimes," *Transnational Organized Crime* 2, no. 4 (1996): 40-82; Tamara Makarenko, "The Crime-Terror Continuum: Tracing the Interplay between Transnational Organized Crime and Terrorism," *Global Crime* 6, no. 1 (2004): 129-145; and see Shelley, Picarelli et al., "Methods and Motives," pp. 34-39.

[70] See Michael Kenney, "Drug Traffickers, Terrorist Networks, and Ill-Fated Government Strategies," in Elke Krahmann, ed., *New Threats and New Actors in International Security* (New York: Palgrave Macmillan, 2005), pp. 69-90.

[71] Louise Shelley, "Transnational Organized Crime: The New Authoritarianism," in Friman and Andreas, *The Illicit Global Economy & State Power*, pp. 25-51.

[72] This example would seem to support Louise Shelley's suggestion that symbiotic (and perhaps parasitic) OC will have fewer motivations to work with terror groups than those I term predatory OC groups, because their strategy depends on long-term exploitation of state systems, whereas terror groups (like predatory OC groups) usually seek to disrupt those systems. Shelley, "Unraveling the New Criminal Nexus."

public health may not be one-way. Deteriorating public health provides huge opportunities for OC: it creates new markets in counterfeit pharmaceuticals—with 10 percent of medicines for sale worldwide, and as much as 25 percent in developing countries, being fake;[73] and it creates a supply of new "soldiers" in the form of unemployed (and often orphaned) male youths, as increased mortality slows economic activity.[74]

TOC will also likely serve as an increasingly important spoiler for global environmental control strategies in the next two decades, since clandestine industry will operate outside multilateral environmental control regimes.[75] In the late 1990s, chlorofluorocarbons smuggled (to avoid US taxes) into Florida alone were the second most significant illegal import after illicit narcotics, representing a loss of $100-$200 million in US tax revenues.[76] Major environmental impacts already arise from the clandestine trade in endangered species, unsustainable logging and mining, and destruction of crops in favor of drug production.[77] OC is also likely to contribute to energy insecurity: of the top eleven oil producers, five (Iraq, Mexico, Nigeria, Russia, Venezuela) have serious problems with OC, potentially undermining state stability. Global oil prices are thus likely to become increasingly impacted by OC, as recent events in the Nigerian Delta region evidence. Again, the relationship between deteriorating natural systems and OC is not unidirectional: climate change and resulting environmental crises seem likely to create sudden scarcities and even social upheaval which TOC groups will be well-positioned to exploit.

Implications for International Crime Control Policies

If we conceive of TOC as a collection of transnationally-structured criminal entities, then international crime control efforts would be properly directed towards hardening systems of global governance against infiltration and penetration by those groups, and at policing and repressing those groups. Such an approach may be significant in focusing minds on the importance of information sharing, shared intelligence

analysis, and institutional cooperation; but it also risks essentially "criminalizing" individuals, groups, and even entire states, creating division and encouraging exceptionalist approaches to human rights and international law. Such an approach is also likely to lead to an emphasis on "hard" law enforcement and even military responses to TOC, with significant long-term strategic costs.

The insights offered by the "activity" and "effects" conceptions of TOC suggest that while policing of TOC groups posing specific strategic threats may be necessary, we also need to understand that those groups are embedded within a larger system of interconnected illicit activities, some of which are intimately intertwined with the licit aspects of a globalized political economy, and which may implicate otherwise "licit" actors under certain conditions. This requires an approach to multilateral crime control which involves not only wielding "hard" law enforcement tools, but also mobilizing "soft" crime control resources such as economic incentives to encourage socially responsible behavior. Conceiving of TOC as an "activity" also requires us to engage in *internal* policing, ensuring not only that external criminal groups do not invade our systems of governance, but also that actors within those systems do not engage in—or even simply, and perhaps unintentionally encourage—TOC activities, corrupting global control regimes from the inside out.

Whether we conceive of TOC as activity or entity, controlling it requires integrating safeguards into mechanisms of global governance to protect their integrity and harden them against corruption, predation and capture, across a wide range of thematic areas. International crime control will involve intrusive and controversial interventions in the economic, political, and social systems which govern human lives, precisely in order to ensure global governance offers universal access to public goods such as physical security and political representation. For that very reason, international crime control efforts require broad multilateral consultation and participation. In the next part, I provide a brief overview of existing multilateral crime control capaci-

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[73] BBC, "UN Warning over Counterfeit Goods," January 30, 2007.

[74] See Antonio L. Mazzitelli, *The Challenges of Drugs, Organised Crime and Terrorism in West and Central Africa* (ARI), (Madrid: Fundacion Real Instituto Elcano de Estudios Internationales y Estratégicos, 2006); Caroline O.N. Moser and Dennis Rodgers, *Change, Violence and Insecurity in Non-Conflict Situations* (London: Overseas Development Institute, March 2005), pp. 7–8; Foreign Affairs Canada, "Freedom from Fear in Urban Spaces," Discussion paper, Human Security Research and Outreach Program, Ottawa, May 2006.

[75] Rosaleen Duffy, "Global Governance, Criminalization and Environmental Change," *Global Crime* 7, no. 1 (February 2006): 25–42.

[76] Jennifer Clapp, "The Illicit Trade in Hazardous Wastes and CFCs: International Responses to Environmental 'Bads'," in Friman and Andreas, *The Illicit Global Economy & State Power*, p. 113.

[77] United Nations Office on Drugs and Crime, *Annual Report* (Vienna: UNODC, 2005), pp. 36–37.

ties, before moving on to think about what options policy-makers have in seeking to improve that capacity.

Multilateral Crime Control Capacity

While crime has gone global, crime control has remained largely state-based. Yet "[t]ransnational criminal networks can only be defeated by transnational enforcement networks."[78] As Godson and Williams put it, "[a]s long as transnational criminal organizations structure their operations in ways which limit the effectiveness of initiatives by any single state, the response needs to be extensive in scope, multilateral in form and, to the extent possible, global in reach."[79]

The mere "transnationality" of contemporary OC thus calls for an international response. At the same time, defining crime and seeking to control it is an exercise in the projection of values backed by power; all the more important, therefore, that this exercise is conducted on the broadest basis possible.[80] To date international efforts to control TOC have involved a mixture of multilateral norm development, multilateral and bilateral capacity development, bilateral policing and intelligence cooperation and, in some cases, unilateral norm projection and extraterritorial policing. States' reticence to share intelligence on a multilateral basis[81] and to delegate analytical or coercive powers to supranational agents has curtailed the emergence of multilateral crime control strategies and operational capacities. Yet there are a number of areas where multilateral institutions do contribute to the development of effective international capacity for dealing with TOC: e.g., in the development of norms relating to TOC control; in developing and connecting international mechanisms for enforcing and implementing those norms; and in building states and societies' crime control capacities.

Norm Development

Since criminalization is a political process, wherever possible international criminalization should occur through inclusive international norm development processes. In many cases, perhaps inevitably, the development of international crime control norms has been driven by the interests of powerful states, on issues ranging from maritime piracy to aerial hijacking to terrorism.[82] Today, developed countries' opposition to narco-trafficking, terrorism, war crimes and other crimes against humanity continue strongly to influence the developmental trajectory of international criminal norms. Yet increasingly, that development occurs on a multilateral basis—and where it does not, meets resistance.

The key forum for that multilateralization has been the United Nations. Its near universality has lent legitimacy to crime control norms developed under its aegis, particularly through the General Assembly, especially its Sixth Committee and the International Law Commission. All of the major international crime control treaties have been developed through the UN: the narco-trafficking treaties of the 1960s, the anti-hijacking and related conventions of the 1970s, the Rome Statute of the International Criminal Court, the TOC Convention (which came into force in 2002), and the UN Convention against Corruption (CAC) (which came into force at the end of 2005).[83]

But multilateral norm development is slow and cumbersome, as the inability to agree on an international definition of "terrorism" infamously epitomizes. Consequently, in recent years the more powerful states have looked to alternative forums for lower cost, fast-track development of international crime control norms.

Perhaps most important among these has been the United Nations Security Council (UNSC), which offers a forum that can both quickly generate binding international legal norms and is empowered to take enforcement action. However, the use of the Council's law-making and law enforcement powers in a manner which circumvents the multilateral norm development process has proven highly contentious, as the experiences with the imposition of counter-terrorism, nuclear proliferation and—to a lesser extent—child soldier control regimes have all demonstrated.[84]

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[78] Williams, "Threats from Non-State Actors/Criminal Networks," p. 4.

[79] Roy Godson and Williams, "Strengthening Cooperation Against Transnational Crime," *Survival* 40, no. 3 (1998): 70.

[80] See especially Peter Andreas and Ethan Nadelmann, *Policing the Globe: Criminalization and Crime Control in International Relations* (New York: OUP, 2006).

[81] See especially Simon Chesterman, *Shared Secrets: Intelligence and Collective Security* (Sydney: Lowy Institute for International Policy, 2006).

[82] Andreas and Nadelmann, *Policing the Globe*; Simpson, *Great Powers and Outlaw States*.

[83] Both the TOC and CAC Conventions provide harmonized legal frameworks for national crime control and inter-state cooperation, and each establishes a Conference of Parties—conveniently acronymed COPs—about which more below. As of end January 2007, the TOC Convention has 131 Parties (147 signatories); the CAC has 83 (140 signatories).

[84] These regimes are imposed by UNSCR 1373 (2001), September 28, 2001; UNSCR 1540 (2004), April 28, 2004; and 1460 (2003), January 30, 2003, respectively.

Moreover, despite its recognition that terror and crime are intimately related,[85] the UNSC has taken few steps to further integrate counter-crime and counter-terror norms and strategies. All three global control regimes imposed by the UNSC were adopted in areas where the international community lacked an equivalent multilateral treaty mechanism; any further expansion of the Council's counter-terror activities into the area of crime control—where multilateralism is well established as the basis for norm development—would likely provoke significant backlash from members of the General Assembly, who consider crime control an essentially internal affair and beyond the Council's remit.

Perhaps in part to avoid this divisiveness, the US and other states seem increasingly to be turning to ad hoc coalitions of like-minded states to develop TOC control norms and techniques, building a critical mass of support for those norms among affected states, even if such approaches cannot quickly generate binding international law. One key forum for this approach has been the G8. As early as 1995 the G8 established a Senior Expert Group on Transnational Organized Crime (the "Lyon" Group); the following year it produced forty Recommendations to Combat Transnational Organized Crime, followed by revised recommendations in 2002 to deal with counter-terror issues as well.

Some of these efforts are organized thematically—the leading example being in the area of anti-money-laundering (AML). Initial AML efforts occurred in the context of the fight against drug trafficking, drawing in such diverse groups as the Council of Europe, Interpol, the UN, and the Bank for International Settlements. In 1990, the OECD Financial Action Task Force (FATF) adopted forty Recommendations which have since become the cornerstone of international AML efforts, receiving backing from groups as diverse as the International Organization of Securities Commissions, the G8, and even the UN Security Council.[86] But this process of building support for a set of technical norms before bringing them to the Council for a seal of approval can also be found in the handling of the Kimberley Process Certification Scheme on the diamond trade,[87] and in the weak endorsement of high-seas WMD inspection norms developed through the Proliferation Security Initiative.[88]

One additional reason for the success of these schemes has been the emphasis on participant-led monitoring of implementation. FATF's success is underpinned by its innovative use of peer-review-style "mutual evaluations," in which one country's experts work with the FATF Secretariat to assesses another's implementation of the recommendations; and blacklisting mechanisms backed up by hefty sticks such as denial of access to international financial flows, which have combined international legitimacy with effective sanctions mechanisms to ratchet up international banking standards. The Kimberley Process also incorporates a peer-led monitoring mechanism.

The legitimacy of peer review also has parallels at the norm development stage. In many cases, crime control efforts in specific commercial sectors are led by the peak international organization for that particular sector: the International Civil Aviation Organization, the World Customs Organization, and the International Atomic Energy Agency have all played this role in various ways. There is, however, a triple danger in relying on sectoral initiatives: 1) normative fragmentation; 2) high administrative costs discouraging sectoral investment or activity; and 3) the fact that many trafficking networks now appear to have "multiple competences"—so information sharing and interdiction strategies similarly may need to straddle sectoral boundaries.

Accordingly, even as crime control norms develop through decentralized processes that assemble appropriate coalitions of affected public and private interests and expertise, it is important to think about the role of multilateral mechanisms in coordinating these norm development processes—and providing common frameworks for their implementation and enforcement. It is to those issues that I now turn.

International Response Capacity

Even the most powerful states face limitations in extraterritorial policing, as the US has learned through both its "war on drugs" and its "war on terror." As the need for transnational law enforcement grows, an increasing emphasis is consequently being placed on the development of international capacity for enforcing and implementing norms developed to control TOC.

One increasingly significant component in this

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[85] UNSCR 1373 (2001), OP4.
[86] UNSCR 1617 (2005), July 29, 2005, OP7.
[87] Strongly endorsed in UNSCR 1459 (2003), January 28, 2003.
[88] UNSCR 1718 (2006), October 14, 2006, OP8(f).

evolving multilateral crime control infrastructure is the International Criminal Police Organization (Interpol).[89] Interpol has one of the broadest memberships of any international organization. Founded in 1923, Interpol has developed into the key international mechanism for connecting and coordinating national law enforcement mechanisms, providing secure global communications and access to operational data services such as databases of suspects, fingerprints, stolen and lost travel documents and stolen goods. Interpol has also begun to develop expertise in the analysis of global crime trends, taking advantage of its role as an information-clearing mechanism, focusing on crimes of "global importance" (e.g., use of the internet by terrorists, crimes against children, and intellectual property crimes). Apart from individual states' analysis, only the UN Office on Drugs and Crime (UNODC) and the UN Commission on Crime Prevention and Criminal Justice provide any similar analysis of global crime trends, but with access to much more limited information and on a more piecemeal basis.

Interpol has also begun to develop crisis support capacities which complement the capacities of its member states, and which it has begun to lend to other international organizations—for example to the UN in the inquiry into the assassination of former Lebanese Prime Minister Rafiq Hariri. Its utility is limited, however, by ongoing concerns about the security and reliability of some of its systems—the US, for example, still does not honor Interpol "Red Notices" (international "wanted" alerts);[90] by its budget—a mere €42 million last year; by its limited ability to turn its criminal intelligence analysis into strategic operations; and by its limited connectivity to other elements of the emerging multilateral crime control infrastructure.

One of these missing connections was filled in late 2006, when the UN Security Council adopted UNSCR 1699 (2006) providing the basis for information generated by UN sanctions committees to be incorporated into Interpol databases. The sanctions committees and monitoring bodies are just one component of a growing array of UN expertise in investigating clandestine groups: others include investigation bodies dealing with war crimes and political violence in Yugoslavia, Rwanda, East Timor,

Kosovo, Sierra Leone, Darfur, Côte d'Ivoire, Guatemala, and Lebanon; policing and military intelligence components of UN peace operations confronting OC and gangs in Haiti, West Africa, the Great Lakes, and the Balkans; UNODC; and of course internal investigative capacity such as that in OIOS and the Oil-for-Food inquiry. Interpol has had a Special Representative in New York since November 2004 to develop cooperation with the UN, and since 1996, a cooperation agreement has allowed for various joint activities such as joint investigations in the context of peacekeeping. But much more could be done to improve the connectivity of all these components, even simply within the UN, particularly in the areas of information sharing, common threat assessments, and the sharing of best practices.

As the earlier discussion of the impact of TOC on international conflict management pointed out, developing international capacity to deal with TOC is particularly pressing for peace operations. As policing roles become increasingly important in contemporary peace operations,[91] this capacity may improve; however, policing functions within UN peace operations are still primarily viewed through the lens of public order provision, rather than strategic operations against OC groups. Exceptions have included the Special Trafficking Operations Program (STOP) established in Bosnia-Herzegovina in 2001 to deal with human trafficking; the UN-mandated Multinational Specialized Unit within KFOR in Kosovo; and most recently, the revamp of MINUSTAH in Haiti targeting gangs, drugs, and arms trafficking. The UN's ability to deal with organized criminality of transnational significance will also meet stern tests in East Timor and Darfur. In each case, it remains to be seen whether the peace operation will be equipped with adequate intelligence gathering and analytical capacity, and whether it will be able to interface effectively with neighboring states' and international (e.g., ICC) crime control mechanisms. These experiences will likely influence the attitude taken within DPKO to counter-TOC capacity in the development of the new Standing Police Capacity.

Beyond these gaps in international enforcement capacity, what is most obviously lacking across the international system is even a rudimentary shared strategy for combating TOC. The forty-state UN

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[89] See generally Maria Haberfeld and William H. McDonald, "International Cooperation in Policing," in Reichel, *Handbook*, pp. 287-295 for a general introduction to Interpol's work; and see Mathieu Deflem, "'Wild Beasts Without Nationality': The Uncertain Origins of Interpol, 1898-1910," in Reichel, *Handbook*, pp. 275-285, and Andreas and Nadelmann, *Policing the Globe*, pp. 87-96, for an historical introduction.

[90] Naím, *Illicit*, p. 192.

[91] At the time of writing, over 8,800 police officers from ninety member states were engaged in seventeen UN missions worldwide. See further Richard Gowan and Ian Johnstone, "New Challenges for Peacekeeping: Protection, Peacebuilding and the 'War on Terror,'" *Coping with Crisis* Working Paper Series, International Peace Academy, New York, March 2006.

Commission on Crime Prevention and Criminal Justice, a subsidiary body of the UN Economic and Social Council, is generally recognized as the central body for UN policy setting in this field. It focuses, however, on identifying new areas of criminal activity of concern and discussing appropriate state-based responses—in some cases laying the groundwork for new international treaties. It has little influence over the allocation of crime control resources, and is unlikely to generate coordinated crime control strategies that would underpin specific operations. Similarly, the TOC and CAC Convention COPs may play an important role in the future as forums for the mobilization of technical assistance to state parties, but this will serve more of a capacity-building function than a strategy-setting role.

There is only one forum where such a multilateral TOC control strategy is emerging: the European Union.[92] Since 2004, European Union member states have worked on the basis of the "principle of availability," whereby criminal intelligence available to one national law enforcement agency is, as a matter of principle, available to those in other member states. This intelligence is channeled through Europol, which is not an operational organization, but instead provides complementary support to EU member states' activities in counter-narcotics, terrorism, illegal migration, trafficking in nuclear and radioactive substances, stolen motor vehicles, euro counterfeiting, and money-laundering. Europol has the ability to request member states to carry out coordinated investigations in specific cases, and multinational prosecutions are now facilitated by Eurojust (a standing conference of national prosecutors) and the European arrest warrant. The key advance offered by Europol, however, is centralized analysis of strategic threats: in 2006 Europol began to publish an annual EU-wide Organized Crime Threat Assessment, which provides a basis for identifying the highest strategic policing priorities across the EU. It is also in the process of developing a European Criminal Intelligence Model which will further improve cross-border analysis and control strategies.

This represents a radical—and by far the most advanced—step towards the multilateralization of criminal intelligence, threat assessment and operational strategy. But is likely to be replicated in other regions only where levels of trust are very high, or where a strong regional leader drives the process

forward. There are some similarities in the Pacific Transnational Crime Coordination Centre, which provides operational and intelligence coordination for a regional network of Transnational Crime Units throughout the South Pacific. Additionally, South East Asia has also shown some signs of heading towards deeper cooperation against TOC.[93] But in each case, the emphasis is on information sharing, rather than common strategy. The prospects for regional integration in TOC control appears limited in each case: in the Asian case, sovereignty is closely guarded, and regional leadership is contested; in the Pacific case, Australia has acted as a regional hegemon, pushing its crime control norms and technologies through an extensive program of legislative and technical assistance, development assistance, and more recently, police-led peace operations—which have not gone uncontested. Only in the EU does the level of political integration between neighboring states seem to herald any significant prospect of near-term integration of counter-TOC strategies.

Building State and Society Capacity

Effective responses to TOC require hardening structures against corruption and penetration by TOC at multiple levels: society, state and international. In this section, I focus on the role of the international system in building states and societies' capacities for dealing with TOC themselves. Much of this assistance occurs bilaterally. In this section, I focus however on the role of multilateral actors.

Across the UN system, a wide range of bodies are engaged in different forms of OC control capacity building, ranging from legislative assistance to states (e.g., OLA, CTED, UNODC), to building policing capacity (e.g., DPKO, UNODC, PBC) and judicial sector reform (e.g., UNDP, OHCHR, DPKO, as well as the IFIs). Additionally, a host of issue-specific programs, agencies, and other bodies assist states to control OC in their specific issue areas: the IMF on money-laundering, the World Bank on corruption, UNAIDS on HIV-AIDS, UNESCO on the illicit trade in antiquities, and UNEP on illegal wildlife trade. This fragmentation greatly restricts the system's ability to develop effective overall capacity-building strategies, as each body has its own normative framework, budget, and stakeholders.

Among these diverse actors, the key player is the

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[92] See generally Andreas and Nadelmann, *Policing the Globe*, pp. 96–104, 186–188; Haberfeld and McDonald, "International Cooperation in Policing," pp. 295–300.

[93] ASEAN has adopted a number of Plans of Action to Combat Transnational Crime, and Aseanapol, the Association of South-East Asian Police Chiefs, has developed an electronic cross-border information sharing mechanism (e-ADS).

United Nations Office on Drugs and Crime (UNODC), established in 1997 to house existing UN activities on drugs and crime,[94] and to develop new assistance competences. Headquartered in Vienna, with 350-400 staff spread over twenty-two field offices, UNODC serves as an expert research and technical assistance delivery organization primarily sub-contracted by donor states—primarily the European Commission, Italy, Norway, Sweden, UK and US—to deliver services in the developing world. Despite its apparently comprehensive mandate to address crime control issues "in an integrated manner,"[95] UNODC's work is in fact rather more narrowly cast: in 2005, roughly two thirds of UNODC projects and spent funds were narcotics related. Moreover, the leadership of UNODC has little control over these expenditures, because 90 percent of its budget (roughly $100 million) comes from voluntary contributions, and the vast majority of these are earmarked.[96] This funding structure seriously constrains its ability to act as a focal point for building state capacity for TOC control.

Regional organizations have also played an important role here, as donors, as service providers, and in creating incentives for states to raise their own standards. The OSCE's role in the former Soviet Union and the EU's impact on eastern European states are particularly notable. The EU has gone so far as to make Romania and Bulgaria's recent provisional accession hinge on their control of OC. But in most regions, the prospects of such an approach are limited. Africa's regional counter-TOC cooperation is limited to meetings by a number of regional associations of chiefs of police, which have reinforced professionalism among their members, perhaps even acting as bulwarks against politicization by national governments, but which at present exhibit only a very limited ability to drive up member organizations' analytical and operational capacities.[97] This lack of opposition allows TOC to run rampant throughout the continent, corrupting elites and criminalizing states, fuelling armed conflict and sparking recurring crises. As a result, the African Union—and external actors such as the EU and UN—are forced to resort to costly crisis response mechanisms such as peacekeeping and military intervention.

Again, what is obviously lacking is any centralized coordination mechanism to assess national and sectoral crime control capacity-building needs, and direct adequate resources to meet those needs. There is a possibility that the TOC and CAC Convention COPs may improve prospects in this area. Significantly for this purpose, both COPs could establish review systems to oversee parties' implementation of their convention obligations. Both should look to the peer review mechanisms adopted by FATF and the Inter-American Drug Abuse Control Commission (CICAD). CICAD, an autonomous agency of the Organization of American States, was created as a multilateral response to the unilateral US certification experience, which led to cut-offs in US aid to Colombia in the mid-1990s over Colombian counter-narcotics efforts. CICAD provides crime control assistance to OAS states, facilitates continental drug and firearm flow monitoring, and incorporates a Multilateral Evaluation Mechanism (MEM), which has a Government Experts Group that evaluates state responses to a national crime control strategy questionnaires.

The MEM, like FATF, relies on situational expertise for its legitimacy. FATF also points to the possibility of effective private sector engagement with multilateral crime control mechanisms. Other sectoral initiatives—such as the Extractive Industries Transparency Initiative and the Kimberley Process—also increasingly seek to involve the private sector. Private groups such as the Environmental Investigation Agency, International Justice Mission, International Crisis Group, Human Rights Watch, Amnesty International, Transparency International, and International Alert all play important roles in generating information about TOC, and some—such as the Business Software Association and the International Chamber of Commerce—have even begun to work alongside national law enforcement agencies at the operational level.

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[94] Including the UN International Drug Control Programme, established 1991; the UN Commission on Narcotic Drugs, established in 1946 by ECOSOC; the International Narcotics Control Board, established by the 1961 Single Convention on Narcotic Drugs; and the UN Commission on Crime Prevention and Criminal Justice, a subsidary body of ECOSOC.

[95] UN, "Organization of the United Nations Office on Drugs and Crime," ST/SGB/2004/6, March 15, 2004, para. 2.1.

[96] UNODC's budget grew by roughly 25 percent year-on-year in 2005—primarily for non-narcotics related projects.

[97] D.J.M. Bruce, "Regional Approaches to International Police Cooperation: The Role and Achievements of the South African Regional Police Chiefs Co-Operation Organization," in *Interpol: 75 Years of Police Co-Operation* (Kensington, UK: Kensington, 1998), pp. 52-55; Johan De Beer, "Transnational Police Operations and Investigations," 2nd World Conference on Modern Criminal Investigation, Organised Crime and Human Rights, Durban, December 3-7, 2001, available at www.crimeinstitute.ac.za/2ndconf/papers/de_beer.pdf; and Prosper Addo, "Cross-Border Criminal Activities in West Africa: Options for Effective Responses," KAIPTC Paper No. 12, Kofi Annan International Peacekeeping Training Centre, Accra, May 2006.

What Next?

As the preceding review indicates, international capacity to identify and counteract TOC is highly fragmented. This is unsurprising, given that crime control continues to be regarded by states as an essential competence of sovereignty, to be jealously guarded. Yet as crime is increasingly organized transnationally, the need for transnational response capacities also grows, pointing to the need for greater connectivity and coherence among these fragmented capacities. In this final section, I briefly review three scenarios for future developments in this area, focusing on policy options which might help us to achieve a best-case scenario.

Scenarios

The worst case scenario is that TOC will slowly corrupt and undermine effective governance at all levels, from the local to the state to the global, corroding global weapons, environmental and health control regimes and fueling armed conflict. In some areas of the globe where state control is weakest, predatory warlords, kingpins and gang-leaders financed by participation in TOC may wrest control of large segments of territory, markets or population away from governments. Powerful states would likely respond by adopting a highly defensive and confrontational strategy, raising significant barriers both within and at their borders to the penetration of OC and terror groups. International relations would be increasingly "criminalized," with powerful states seeking to use all the tools at their disposal—ranging from military force to UN Security Council Resolutions—to control "rogue," "outlaw" or criminalized states, and non-state actors. In this atmosphere of permanent confrontation, crisis would become endemic, and respect for human rights standards would gradually erode. Slowly, but surely, TOC would strangle effective public governance, with catastrophic effects.

In a more "business-as-usual" scenario, states, international organizations and non-state actors such as business organizations struggle to cobble together ad hoc responses to particular TOC activities, entities, and effects. Outside the walls of emerging "global" cities, private governance increasingly rules, organized in the form of gangs run by kingpins and warlords, and filled with child soldiers and streetkids. These organizations feed off flows of illicit goods (cocaine, diamonds, timber, guns, pirated DVDs) into those global cities, and receive protection from corrupted officials on the take. In the hinterlands and the informal slums and *favelas*, the stranglehold of unaccountable criminal organizations renders sustainable public services and protections from disease, violence, and ecological catastrophe increasingly precarious. Women and children suffer most, as the public sphere is closed to everyone but heavily armed men, usually mobilized around exclusionary political, tribal/ethnic or religious identities. Peacekeepers and peacemakers sent—increasingly reluctantly—by metropolitan governments into these slums and hinterlands confront amorphous, often utopian social movements, fueled by growing *anomie*, and asymmetric warfare. The struggle against TOC and its progeny increasingly bears the hallmarks of a losing battle, as TOC groups' ability to learn, innovate, and adapt seems constantly to place them one step ahead of uncoordinated, highly fragmented international crime control efforts.

Efforts to build global crime control networks straddling states, business, and civil society will inevitably be hampered by two key realities: first, different bureaucratic and organizational cultures among different states, between law enforcement, security, intelligence, judicial and other state bodies, and between states, business, and civil society; second, an inherent unwillingness on the part of many actors to share law enforcement information and especially strategic criminal intelligence with other partners, precisely because of the vulnerability of some partners to corruption by OC, and because crime control is so central to traditional conceptions of sovereignty.

Both factors mean that multilateral institutions are unlikely to serve any time soon as the basis for joint crime control *operations*—except where there is a high level of trust between members (as in the EU), or the target is the presence of OC in a particular area under effective international control (e.g., Kosovo, or Cité Soleil in Haiti). States with the greatest law enforcement capacity of their own are particularly unlikely to favor the multilateralization of operational initiatives, and instead favor project-based multilateralism and extraterritorial policing. But such ad hoc multilateralism may over the long term serve to force up participation thresholds—as the US government's support for initiatives such as FATF and the Proliferation Security Initiative seems to indicate.

Accordingly, we can envisage a best-case scenario that falls short of the multilateralization of TOC-control operations, but nevertheless requires the development of significant additional multilateral involvement in TOC-control. This would require

states to work more closely together, overcoming the lack of coherence and connectivity in the currently highly-fragmented international crime control system. To do this, states will need to use the four comparative advantages of the UN system in dealing with TOC: 1) its lawmaking capacity; 2) its universality; 3) its sanctioning and enforcement capacity; and 4) its wide range of service delivery and capacity-building capabilities.

Improving Multilateral Crime Control

The UN and other multilateral institutions have a role to play in facilitating the integration of TOC-control efforts, at each of the levels discussed in the previous part of this paper: norm development, international response capacity, and capacity-building.

Norm Development: Towards Multilateral Coordination Frameworks

First, at the level of norm development, we should work towards multilateral coordination frameworks for national and private crime control. This will require further normative harmonization—an end in itself, in this context, because it reduces the opportunities for regulatory arbitrage which often underpin criminal profits. At the same time, broadening consensus on what constitutes criminal activity helps to legitimize control of that activity. Many of the trades we consider to be part of global OC are "consensual" at one end—often the demand end (e.g., cigarette smuggling, human trafficking, pirated goods, narcotics) but sometimes also the supply end (e.g., toxic waste dumping).[98] This complicates control strategies because it necessitates external policing, rather than relying on internal policing. Broadening consensus on what activities are "illicit" helps overcome this obstacle.

Normative harmonization additionally facilitates improved operational coordination, by providing common terminology, definitions, and conceptions of the conduct to be controlled. It may also facilitate the emergence of common assessment frameworks for understanding the geographic and sectoral distribution and the strategies of TOC. Some basic assessments along these lines are now being provided by UNODC and Interpol; but both organizations are somewhat hamstrung by resource and mandate constraints. Europol provides the best model of what can be achieved through inter-state cooperation in threat

assessment and response strategy development; but that template may be of limited utility in the context of global sectoral control challenges—such as WMD proliferation—where levels of trust and integration are significantly lower than they are in the EU context.

International Enforcement and Implementation: Complementary Capacity

Second, at the level of international enforcement capacity, we should work towards developing operational capacity complementary to that which is found at lower levels of governance. Global control regimes are only as strong as their weakest link. But complementary enforcement capacity at the international level can serve not only to plug holes in global control regimes, but also to create incentives for actors at lower levels to plug those holes themselves. The International Criminal Court provides an excellent example of this logic of complementarity in the fight against impunity for war crimes, crimes against humanity, and genocide. Strategic choices need to be taken as to how centralized arrangements for such complementary capacity should be, and what types of enforcement and implementation assistance they should provide. Perhaps the key issue here is the extent to which states—and private sector actors—will be prepared to share criminal intelligence or allow the development of independent international intelligence gathering and analysis capacity—as they did in allowing the creation of an independent but complementary prosecutorial capacity in the ICC.

One area where the UN (and others) will simply not be able to avoid developing complementary enforcement capacity to deal with TOC is in the area of peace operations. Controlling OC seems likely to be an increasingly prominent aspect of peace operations work—both in stemming TOC funds flowing to warring parties, and in building states which can serve as responsible nodes in global control regimes, notwithstanding efforts by parasitic and symbiotic OC to encourage corruption. This will require peace operations to harness the full range of TOC control functionalities, from "hard" law enforcement operations in the context of peacekeeping to the "soft" tools needed for transforming political economies and creating alternative livelihoods during peacemaking and peacebuilding. The impacts of such functionalities may be significant on the requisite mandates, regional integration, and force profiles of

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98 Naylor, "From Cold War to Crime War," p. 51.

peace operations.

Capacity Building: Using International Review Mechanisms

Finally, at the level of state and society capacity building, we should work to create international review mechanisms to provide incentives for coordinated and effective crime control strategies on the part of state governors and private actors. Without external pressures and incentives, state-governing elites will have few motives to bear the often extremely serious—even life-threatening—costs of confronting TOC. The external incentives needed to change the behavior of governing elites and ensure that states serve as effective nodes in global control systems may range from access to World Bank and IMF finance, through to the threat of international prosecution, depending on the issue at stake. Peer review mechanisms—like those of the FATF and CICAD—seem more likely to attract support and legitimacy and reduce the risk of entrenched polarization and the institutionalization of crisis; whereas efforts to impose solutions through unilateral, extraterritorial policing or through Security Council "legislation" seem more likely to create division.

International efforts to reinforce state and private TOC control capacity remain rather piecemeal and fragile. Overcoming these obstacles not only requires radically improved inter-agency cooperation in developing counter-crime strategies, but perhaps also the development of overall system-wide counter-crime strategies, similar to the UN's recent Comprehensive Counter-Terrorism Strategy, or the UN Millennium Development Goals. Such a comprehensive strategy would need the support of key political actors, particularly the G8, but should be developed in as broad a multilateral forum as possible—with a revitalized ECOSOC being one possibility. Such a strategy would, however, need to reach beyond states to draw in other relevant international organizations (such as the IAEA, WCO and ICAO); regional organizations; business (especially the extractive industries, banks and internet regulators); and civil society.

Armed with such a strategy, the best case scenario may come within our reach, and we may be able to reduce TOC to the serious—but ultimately manageable—threat that OC represents to most states. Without it, there is a real risk that TOC will prove unmanageable, and will slowly corrupt and erode governance at all levels, with catastrophic results.

Further Reading

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> *The public version of the European Union's cross-border police unit assessment of organized crime in Europe. The first genuine multilateral criminal threat assessment, which aims to assist in setting strategic policing priorities across Europe.*

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> *Makarenko offers a sophisticated model for understanding the interactions between terror and crime, placing crime and terror on a continuum. This approach is gaining increasing sway among theorists and practitioners, but the implications for action at the international level are yet to be adequately explored.*

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> *An excellent introduction to theoretical discussions of the forms and activities of global criminal enterprise.*

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The leading edge of scholarship on the relationship between global criminal enterprise and armed conflict. Includes useful policy analysis and recommendations.

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