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### Conversations with a crime boss: Doing Asian criminal business

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## **Conversations with a Crime Boss: Doing Asian Criminal Business**

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**Title of article:** Conversations with a crime boss: Doing Asian criminal business

**Abstract**

Media piracy, in Malaysia, is organised through illicit negotiations between a dominant crime syndicate and consumers, street-corner gang leaders, the Malaysian police, custom officers and directors of the Malaysian Film Censorship Board. These key social actors who crossover class, race, religion, gang membership, and bridge porous legitimate and illegitimate commercial and political sectors of society establish a mutually collaborative relationship by negotiating their asymmetrical social capital, according to a conventional cost-benefit analysis. Contextual analyses of these illicit interactions identify criminal enterprise opportunities and plot the interactive progress of enterprise as it unfolds, against models of organisational and functional inter-connection. The dominant crime syndicate leader, whose perspective pervades this paper, strategically negotiates a cooperative relationship with corrupt regulators (1) to ensure the marketability of pirated films among consumers is unrivalled by legitimate suppliers, (2) to operate a profitable criminal enterprise that is uninterrupted by social control agents, and (3) to dominate the role of primary supplier of pirated DVDs and enforce order among other criminal groups within the illegitimate sector of society. In arguing the salience and specific business location of enterprise theory to appreciate organised crime and debunk normative theoretical frameworks of race, class, gender, this paper argues differing methodological frameworks to be a primary cause of the discordance. The 'two-napkins' methodology employed in this paper is shown to be more advantages over those of preceding studies where enterprise is the research

concern. Interactive variant analysis enables rather than confuse as it has in the past, understanding Asian organized crime as business.

**Key Words:** media piracy, enterprise theory, porosity between legitimate and illegitimate sectors, 'two-napkins' methodology

## **Conversations with a crime boss: Doing Asian criminal business**

### **Introduction**

Why has the framework of enterprise theory that this paper asserts to be central to a holistic appreciation of criminal business, had limited exposure and recognition in the field of organised crime compared to preceding, normative criminology theories that rely on the analytical frameworks of biology, race, ethnicity, class or gender? In the process of answering this question, this paper delves into a critique of methodological frameworks that typically characterise studies of organised crime. It also reflects on the under-development of enterprise theory as an explanation for Asian crime business.

The paper offers more than a new way of researching organised crime. Its focus on the realities of Asian crime business, confirms the critical interdependence of theory and method when venturing understandings of criminal enterprise. Conventional dichotomies promoted in the white-collar and organised crime literature are broken down by re-imagining 'insider/outsider theorising and by researching the 'orderly' and innovative upper levels of criminal syndication as they engage with 'legitimate' regulators. It is crucial to contextualise the methodological framework adopted in this paper against those of previous studies that endorse dichotomous and disorderly versions of criminal organisation and enterprise. Prior to proposing our new interpretations the paper engages with foundational orthodoxies, and explains their impact on the processes of data-collection as well as theorisation within unhelpful distinctions about legitimacy and order. We argue researching is theorising in the context of 'ground-up' theory building and this recognition of the way the methodological framework determines and authorises theory require greater emphasis among qualitative researchers working in the field of organised crime. The perception that 'insiders' or members of criminal organisations hold the key to knowledge of organised crime has systematically forced researchers of organised crime to adopt a method of enquiry that can be aptly described as 'pigeonholing'. Criminologists who

subscribe to the methodological implications of the 'insider' versus 'outsider' tend to emphasise the 'insider' status of their informants despite the fact that the accessibility of these 'insiders' is synonymous with their limited knowledge of criminal enterprise. Pre-empting theory and pre-disposing method from a representational 'insider'/ 'outsider' dichotomy, the paper establishes a holistic appreciation of organised crime. The wealth of knowledge possessed by 'outsiders' in the form of corrupt regulators who associate with criminal enterprise but who are not official members of criminal organisations qualifies the constrained and conditional knowledge of low-ranking members of criminal organisations. As this paper shows, 'outsiders' and 'insiders' are both distracting and at the same time critically referential in an interactive context where criminal business at all levels constitutes a primary research focus. As a market-oriented enterprise within a global, capitalist context, organised crime must accordingly be appreciated as a lucrative, functional network of individuals (both leaders and followers) whose allegiance to profit and to advance criminal enterprise override the archaic allegiance to ascribed statuses. A revealing and realistic methodological framework must be able to educe the intricate features of organised crime to the forefront to serve as the foundation for sound theorisation. This section highlights ways in which the methodological framework for researching organised crime can be re-imagined to facilitate triangulation and validation of data and the reflexivity of theorisation.

Through the refocused lens of enterprise theory, broadcast media piracy, irrespective of its criminality, empirically corresponds to a market-oriented trade and as such should be described in terms of economic processes and the social dynamics of the crime entrepreneurs who lead illegal businesses. Through contextual analyses of the illicit interactions that facilitate media piracy, this paper identifies particular criminal enterprise opportunities and therein plots the interactive progress of enterprise as it unfolds, against models of organisational and functional inter-connection (regardless of market and regulatory legitimacy). The unique dynamics of Asian crime business are accorded market reality through semi-structured interviews with the crime syndicate leader, and by observing the crime business between the syndicate and gang across the hierarchical organisational structure of both criminal entities.

Using the media piracy case study, this paper first argues that the illicit negotiations between syndicate leaders and consumers at the micro level, street-corner

gang leaders at the meso level and members of police and directors of the MFCB at the macro level is comprehensible through the framework of enterprise theory.

### **Asian crime business**

Broadcast media piracy, in Malaysia, is empirically dependent on, and facilitated by illicit, negotiated intersections between consumers, a powerful crime syndicate and street-corner gang leaders, the Malaysian police, officers from the Malaysian customs department and the directors of the Malaysian Film Censorship Board (MFCB). These key social actors who crossover class, race, religion, gang membership, and bridge legitimate and illegitimate commercial and political sectors of society establish a collaborative relationship by negotiating their asymmetrical social capital, according to a conventional cost-benefit analysis. The cooperative relationship among these strategic social actors is essential for the advancement of broadcast media piracy as a national and international criminal enterprise.

The case study around which this paper grows, reveals that the establishment, profitability and sustainability of media piracy is contingent on the dynamic interactions between commercial and regulatory 'insiders' and 'outsiders', and the porous boundary between the legitimate and illegitimate sectors of civil society. Negotiating collaboration with corrupt regulators, specifically the police, custom officers and directors of the MFCB is fundamental in enabling the dominant crime syndicate<sup>1</sup> to function viably and handsomely to the realities of the market forces it serves. These market forces include, the logic of demand and supply, managing competing marketing strategies, price competition, risk minimisation, as well as regulation repositioning of the market by legitimate regulators. The later is not only crucial to market profitability but to market presence and share.

Following an empirical illustration of the organisation of broadcast media piracy in Malaysia and Singapore, the analysis explores the impact of interactions among key players within the enterprise of piracy on the commercial and regulatory structures situated within the illegitimate sector of society. Establishing and maintaining an alliance with corrupt regulators force the crime syndicate leader to adopt an organisational

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<sup>1</sup> The 'crime boss' who is the informant central to my ethno-methodological project controls this syndicate.

structure that is especially conducive to operating an ordered and functional criminal enterprise. In contrast, the Omega gang<sup>2</sup>, a recently established street gang trading in similar commodities is unable to secure the cooperation of corrupt law enforcers and regulators. Consequently, members of the Omega gang regularly suffer regulatory sanctions and discretionary policing by corrupt social control agents, which hinder the gang's orderly and organised pursuit of, and involvement in the enterprise of media piracy. As a strategy to cash in on the media piracy trade, and to avoid being reduced to a 'retreatist' gang in comparison to more successful crime players, Omega's leaders negotiate a subordinate position relative to the syndicate to secure a minor role in the piracy enterprise. In this way, Omega receives a financial slice of the trade and the patronage of the syndicate without disrupting the commercial stability of either criminal entity. Omega at a micro level however, remains exposed to the violent incursion of competitors in the form of other gangs intent on 'pirating' their piece of the trade.<sup>3</sup>

The minor commercial role of Omega relative to the syndicate, within the piracy trade, takes the form of the gang franchising syndicate-produced digital versatile discs (DVDs) and video compact discs (VCDs) in Singapore. More importantly, the asymmetrical dependence of Omega on the syndicate induces an illegitimate trading framework that is orderly and functionally integrated. In this respect, the parallels between illegitimate business and legitimate trading enterprise become graphic. Orderly commerce prevails and violence becomes relegated to gang relations on the periphery of market servicing struggles rather than trading supremacy or regulator resistance.

The detailed description and resultant understanding of the organisation of broadcast piracy in Malaysia derive from participant observation and semi-structured, in-depth interviews conducted with members of the Malaysian police, a syndicate leader and members of the Omega gang operating from the state of Kuala Lumpur. Over a period of about three years, we conducted an ethnographic study of the Omega gang based on data gathered from members who occupy various ranks throughout the gang's

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<sup>2</sup> Omega and its members has been an ethnomethodological focus for earlier research by the author, both within and outside Singapore prison environments.

<sup>3</sup> In Singapore, Omega's franchises of syndicate-produced pirated materials are frequently disrupted by members of established Chinese secret societies like 'Sio Kun Tong', 'Salakao' and 'Sio Ji Hio', who wage inter-gang wars against Omega in an attempt to extort a share of the lucrative media piracy enterprise.

hierarchical structure, from the leaders through to the foot-soldiers, both within the context of the prison and the 'free community' (Hanif, 2008b). In contrast to the extent of fieldwork conducted with Omega members and the depth of data that has been gathered about the structural organisation, criminal activities, ideologies of the Omega gang and its interaction in relation to other criminal entities within the illegitimate sector of Malaysian and Singapore society, data-collection with the syndicate leader is relatively recent. Qualitative data-gathering with the leader of the syndicate, which can be aptly described as conversational, was undertaken over a period of five months between October of 2008 and February of 2009, in the Malaysian state of Kuala Lumpur. Although the syndicate leader operates from Kuala Lumpur, the criminal activities pursued by the syndicate leader are transnational in nature. During participant observation in nightclubs owned by the syndicate leader, we gained an insight into the cooperation negotiated between the syndicate leader and members of the police. As well, this research method was able to engage some of these police officers in snatched and informal conversation about their collaboration with the syndicate leader.

Since empirical data touched on throughout the paper functions as the basis for advancing the theoretical framework of enterprise to understand criminal business and organised crime, the first section details the organisation of piracy within the Malaysian state of Kuala Lumpur. Moving on from the organisation of the piracy trade, this paper addresses the way the organisation of piracy among key social actors at a micro level imparts an orderly and functionally integrated structure to the illegitimate sector of society. The porous boundaries between the legitimate and illegitimate sectors of society, the cooperation among social actors threading the two spheres of society to advance criminal enterprise and their impact on structuring the illegitimate sector of society to be conducive to enterprise challenge preceding understanding and presentation of Asian organised crime. In the subsequent section that attempts to account for the discordance between this paper's presentation and theorisation of Asian organised crime and that of preceding studies, differing methodological frameworks is isolated as a primary cause of the discordance. Subsequently this paper compares the methodological framework of preceding studies against the 'two-napkins' methodological framework employed in this paper to demonstrate the advantages of the later over the former within a context where enterprise is the research concern. Using the 'two



napkins' methodological framework, this paper finally argues for a re-positioning of existing enterprise theory in order to facilitate an understanding of Asian organised crime that is consistent with empirical data that has been gathered.

### **Enhancing enterprise theory**

In a "spectrum-based theory of enterprise", Smith (1980: 361) argues that the institutionalisation of the dichotomy, business versus crime, through our terminology and statistical categories blinds us to the legal-illegal continuum of enterprise. Smith and others have done a great service by debunking this useless and misleading framework that still afflicts many and to proceed with a call for a "spectrum-based theory of enterprise" (1980: 369). Only with a spectrum-based theory can we understand the nature and range of business operations and replace the hoary taxonomy of 'legal' versus 'illegal' which Smith has adduced and debunked (Martin, 1981). Smith thus has taken several giant leaps toward a realistic and potentially bountiful understanding of criminal enterprise and enterprise in general. Enterprise theory, rather than grappling with diverse and complex empirical data in an attempt to conceptualise or define 'organised crime', has induced current literature to shift their analytical focus from explanations of what organised crime is toward building theories of the organisation of serious crimes (Gambetta, 1993; van Duyne, 1993; Paoli, 2002; Hill, 2003; Levi, 2008). Its economic aspects are most evident at present. The common thread in current research, around which a new paradigm appears to be forming (as a substitute for both differential association and the alien phenomenon paradigm) is the effort to relate concepts of enterprise and entrepreneurship to existing knowledge about organised crime (Smith, 1980: 360; see also van Duyne, 1993, Antonopoulos, 2008). This boils down to an argument over what constitutes the necessary relations for the commission of serious crimes for economic gain, and how their contingent concentration in certain places and moments amongst particular populations can be adequately explained. This also suggests that the interplay between more remote 'distal' causes, situational opportunities presented by public and private sector controls, and pre-existing networks of relationships have to be understood in combination for an adequate explanatory account of the organization of crimes (Edwards and Levi, 2008; see also Ruggiero and Khan, 2007; Levi, 2008;). In this paper, the cost-benefit rationale primarily motivates

and incites the cooperative relationships that syndicate leaders successfully negotiate with consumers, the police and directors of the MFCB within the context of the piracy enterprise. By proposing the framework of enterprise to understand criminal business, I extricate Asian criminal business from, and expose the analytically barren theoretical frameworks of sub-cultural mythology, strain and discourses of race and racialisation. Such a proposal challenges preceding studies of Asian criminal enterprise that normatively emphasise class, race, religion, gang membership and the legitimate and illegitimate sectors of society as key indicators to explain organised crime.

Operating according to the logic of a market-oriented enterprise, broadcast media piracy is empirically ordered and functional, in supply and demand terms. The paper suggests that understanding criminal business through the framework of enterprise is antithetical to preceding analyses of Asian criminal business that are systematically embedded in the theoretical perspectives of anomie and strain, subcultural mythology and discourses of race and racialisation. These preceding theoretical perspectives consistently emphasise the themes of disorder and dysfunction. Disorder and dysfunction are epitomised in the individualistic assumptions of positivist destine, theorising collective criminal entities as loose associations of individuals afflicted with either biological or psychological deficiencies. These characteristics supposedly predispose collective criminal entities towards unreservedly pursuing sadism, deviant or criminal acts within the contexts of their organisation and enterprise. Disorder and dysfunction in the writing of symbolic interactionists ensue from the deviant and/or criminal behaviour that members of collective criminal entities participate in and glorify to overcome their stigma and gain status. Disorder, dysfunction and unstable organisational conditions are essentialized features of collective criminal entities. From the perspective of 'strain' theorists, as a corollary of the irrationality and the individualism, such entities characterise the innovators' pursuit of deviant and disorganised entrepreneurial aspirations.

The organisation of the illegitimate Malaysian market for the sale and distribution of pirated materials serves as a foundation to argue the pertinence of enterprise theory in rendering 'Asian organised crime/criminal business' comprehensible. The mechanism that drives the piracy trade marked by the interaction between gangs, syndicate and corrupt regulators are a consequence of the demands of the market-oriented enterprise

of piracy. As a market-oriented enterprise, piracy is subject to the realities of the market forces it serves including consumer demands and satisfaction, managing competing marketing strategies, price competition, risk and regulation of the market by legitimate regulators. In the Malaysian state of Kuala Lumpur (KL) and Johor Bahru (JB), the market for sale and distribution of pirated copies of latest Hollywood and Bollywood film releases on DVDs is a multi-billion dollar enterprise.<sup>4</sup> Piracy is lucrative because the enterprise capitalises on and augments the culturally determined market taste of Malaysians and neighbouring Singaporeans for access to the latest Hollywood, Bollywood and Chinese movie releases on DVDs at a lesser price but of equally good quality, as those offered by legitimate avenues. Cinemas and movie rental and retail outlets, suppliers that also target consumer demand for latest Hollywood, Bollywood and Chinese movie releases on DVDs, are two dominant legitimate institutions that pose competition to the marketability of pirated DVDs. To ensure the marketability of pirated DVDs against the pull factors posed by these legitimate institutions, the syndicate leader embarks on a series of strategies. Strategies employed by the crime syndicate leader include ensuring the price, quality and accessibility of their product, emphasising consumer ownership and the absence of any negative repercussions for consumers of pirated materials.<sup>5</sup> Cumulatively, these consumer-oriented marketing strategies are

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<sup>4</sup> A week prior to its official release throughout Malaysia and Singapore on 17 July 2008, the syndicate leader claims to have released to consumers, and sold nearly half a million, pirated DVDs of Christopher Nolan's highly acclaimed 'The Dark Knight'. Starring Hollywood's veteran actors like Christian Bale, Morgan Freeman, Gary Oldman, and rising stars Maggie Gyllenhaal, and the late Heath Ledger, pirated DVDs of The Dark Knight raked in about 10 million ringgit during the first week of sales in Malaysia and Singapore alone. Sales records of The Dark Knight continued to soar after the movie's official premiere and combined with the sales of pirated DVDs exported to Latin America, Africa, Brunei, Indonesia, Vietnam, Thailand, Laos, China, and India, the syndicate leader estimated a profit of about 250 million USD within the first 4 months of national and international sales. [Fieldwork notes dated 31 October 2008]

<sup>5</sup> This is succinctly encapsulated in the excerpt below by the crime syndicate leader: 'When customers approach my guys, they know they can buy cinema-quality DVDs of the latest Hollywood, Bollywood and Chinese movies at only seven ringgit each. Cinemas and rentals can't beat that. Going to the cinema, you're looking at forking out 17 ringgit per ticket and maybe another 10 for popcorn and drinks, 4 times more expensive than one pirated DVD. Places like VideoEzy sell outdated movies on DVDs for 42 ringgit. For that money, people can buy 6 different movies. There's always some new movie and people cannot afford the cinema or VideoEzy and so they come looking for us. Without compromising quality, pirated DVDs are unrivalled value for money and that's why customers are loyal to us. Singaporeans drive across the causeway to buy 15 to 20 DVDs at a time. And nowadays, pirated DVDs spring up like food stalls, they're everywhere, not in some back alley but out in the open. People don't

unrivalled by the suppliers within the legitimate market. The local film and music businesses suffer, and local legitimate CD manufacturers find it difficult to compete on price with producers that violate copyright law. Securing these consumer-oriented marketing strategies is dependent upon the negotiated collaboration between the syndicate leader, street-corner gang leaders and corrupt regulators.

A normatively unencumbered market perspective enables an appreciation of Asian organised crime as much from the perspective of the discriminating consumer, than focusing on criminal traders or corrupt regulators. Consumers in the pirated video market neutralise their involvement against competitive pricing, recurrent and transient acquisition, and the normalcy of the trading profile. The 'piracy' of the product is subsumed beneath the commonality of demand and the openness of supply.

A cross-sectional view of piracy emphasises the dynamic interactions between 'insiders' and 'outsiders' and the porous boundary between the legitimate and illegitimate sectors of society as fundamental to lucrative criminal business. Conventional approaches to such dichotomous interactions fail to include the supply/demand dynamic. Certainly, with this video piracy case study the consumer and the supplier are deeply embedded in the same market enterprise, which they similarly normalise in cost benefit terms. The unique market context, comprising duplicitous regulatory mechanisms and equivocal consumer tastes and practices injects the local/cultural quality into the business sphere.<sup>6</sup> In this regard, if society or the state countenances violence, considers

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fear going to jail for buying pirated DVDs or Gucci bags. You know what would be abnormal? If people come to Malaysia and cannot find any pirated DVD stalls.' [Fieldwork notes dated 31 October 2008]

<sup>6</sup> According to the crime syndicate leader:

'Corruption is the keystone of every successful business in Malaysia, legitimate or illegitimate. Hard work comes second. Businesses that cannot cater to corruption are doomed. For pirated DVDs to be accessible to the public, piracy must function in broad daylight like any other business. If the police want to play a dirty game, they have the power to disrupt the profitability and stability of the piracy trade. Failure to provide bribes to the police will certainly seal the fate of my business. Police officers can wave their badge and raid all my stalls and factories, confiscate the products and the expensive computers used to produce pirated DVDs, throw my men in jail and impose fines on my customers to deter them from buying my goods. Custom officers at the border can frighten away consumers if they enforce the law and make it very difficult for me to export my DVDs overseas. To run a stable business, I need the help of the police, custom officers especially the high-ranking officials. High-ranking police officials can manipulate the system and refuse to enforce the law. These officials have the power to command their subordinates to overlook the piracy business, to overlook consumers' purchases, to facilitate export of pirated DVDs out of Malaysia and so on. Corrupt officers are the backbone of successful criminal enterprise.'  
[Fieldwork notes dated 7 November 2008]

personal gain to be more important than equity, and is willing to see the law distorted in the pursuit of wealth and power, then such a society or state itself will always be receptive to illicit enterprise whether condoned, ignored or condemned. Such enterprise will become a reality whenever groups of people are willing to take advantage of entrepreneurial opportunities that entail selective law enforcement, violence and corruption to achieve commercial gain (Fiorentini & Peltzman, 1995).

Black-market trading will not necessarily normalise against competitive pricing alone. Within the context of a market where suppliers compete to meet the single demand of consumers for access to the latest Hollywood, Bollywood and Chinese film releases, the low retail price of pirated DVDs is insufficient to ensure its dominating marketability over legitimate competitors. This is especially salient when considering the piracy enterprise in the southernmost Malaysian state of JB. Southern JB shares a border with Singapore and the weekly influx of Singaporeans in JB for the purposes of shopping, entertainment and dining, incited by the stronger Singapore Dollar compared to Malaysian Ringgit, encourages street-corner gangs to set up countless shops in department stores, bazaar booths and roadside stalls to flood consumers with cheap pirated DVDs. Both Malaysian and Singaporean consumers however avoid purchasing these cheap pirated DVDs in certain areas of southern JB, specifically stores in Holiday Plaza, Danga Mall, Komtar shopping centre and the roadside stalls surrounding those areas, because of their extremely poor quality.<sup>7</sup> Through oral publicity and trial and error, consumers acquire and disseminate information that distinguishes geographical areas that supply pirated DVDs of excellent, mediocre and poor quality. This consumer tactic compromises the marketability of poor quality pirated DVDs in certain areas of southern JB.<sup>8</sup>

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<sup>7</sup> Produced through direct recordings from cinemas, pirated DVDs sold in these areas are visually unclear due to the dark ambience of cinemas and often interrupted by the chattering, laughter, coughing and movements of audience.

<sup>8</sup> The pirated optical discs sold by Omega members are produced mainly through direct recordings from cinema on mobile phones and video cameras. During an interview session, one of the leaders of Omega gang revealed the arduousness of pushing the sales of Omega-produced pirated discs within a context where high-grade quality pirated discs produced by the syndicate simultaneously exists. This is summed up below:

Another issue crucial to consumer incorporation and normalcy is the location of the trade. The purchase of pirated product loses its 'black-market' appearance with pirated DVDs on offer in outlets within legitimate shopping precincts. Along with this is weak cross border regulation at points of entry into Malaysia associated with the relatively small value of the product should confiscation occur.

The nature of the market and the enterprise that services its demands require several important enterprise dynamics:

1. *The essence of regulatory cross-over*

The cooption of regulators into the illegitimate market has become essential not only for its profitability and practicality, but to its persistence and normalcy. The inextricability of consumer satisfaction from the profit-oriented enterprise of piracy necessitates syndicate leaders to exercise quality control over their product in order to ensure customer satisfaction, an expanding clientele and high profit margins. Since the production of high quality pirated DVDs, marked by visual and sound clarity, is systematically achievable only by duplicating original copies of new films released to the MFCB, a ministry of the Malaysian government in charge of vetting all films, it is an impetus for syndicate leaders to initiate negotiations with the directors of the MFCB. From the perspective of the criminal syndicate, the process of negotiating the interests of the directors of MFCB in order to obtain original copies of new film releases is of paramount importance to ensure a lucrative enterprise of piracy, unlike that in southern JB.

To minimise the risks inherent in pursuing a cooperative relationship with the criminal syndicate, directors of the MFCB institute a two-pronged approach to safeguard

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'Piracy is a damn big business and everyone wants to cash in. You get a story everyday in the papers about group of friends, individuals, old couples, all trying to cash in. However, buyers do not just want to buy pirated DVDs, they want good quality ones. That is hard to produce. Our products are usually taken from the cinema on handphones (mobile phones) or video cameras that are snuck into the cinema by our members. The bad thing is you get the laughter, people's heads, chatting, sound of people eating and buyers tend not to like that. They won't come back to us anymore. Buyers are smart and they know that in Petaling Street, they can get excellent quality DVDs at a very low price. The difference is that those syndicates are rich enough to strike deals to get better quality DVDs. At best, what Omega can afford is to bribe to get a private screening of movies in the cinema. We don't have high-quality computers to better the quality of our goods and our members are not specialist in IT. So it's really tough for Omega to cash in on the piracy business.'

[Fieldwork notes dated 11 October 2008]

the secrecy of their role in the enterprise of piracy. In reasoning a cooperative relationship with the leader of the criminal syndicate, directors of the MFCB struggle between a myriad of pull and push factors. Pull factors for the directors of the MFCB include a pecuniary benefit that potentially translates into an opportunity to campaign for politics thus elevating their socio-economic status. Each sale of original copies of the latest Hollywood, Bollywood and Chinese film releases to syndicate leaders earns the directors of the MFCB about half a million U.S. dollars. Factors that deter directors of the MFCB relate to possible legal prosecution that will inevitably compromise their reputations and their profession. To deflect the attention of non-corrupt social control agents from the piracy venture, directors of the MFCB adopt two strategies, one indirect and another direct. The indirect strategy relate to directors of the MFCB withholding the sale of original copies of Malaysian produced films to syndicate leaders to evade potential discontent from members of the Malaysian film industry, whose proximity to the piracy enterprise will inevitably compel police investigations and legal investigations. Worldwide, piracy has caused the Hollywood, Bollywood and Chinese film industries to suffer severe economic losses and this has led members of those film industries to pressure social control agents to declare war on piracy by toughening the laws against the perpetrators of piracy (Wang, 2003; Pang, 2006). A second, more direct strategy to promote their interests at minimal risk involves directors of the MFCB negotiating a monetary incentive to elicit cooperative relationship with high-ranking officers of the Malaysian police to execute five crucial aims. In accepting the financial offer from the directors of the MFCB, these police officials thus establish their cooperative and facilitative role in the enterprise of piracy. Police officials exercise their cooperative and facilitative role in the piracy venture by executing the following aims drafted by directors of the MFCB:

- to overlook the illicit relationship between the syndicate leaders and the directors of the MFCB, which facilitates the enterprise of piracy and violates copyright law,
- to engage subordinate police officers to exercise a gaze over the sale and distribution of pirated copies of films to ascertain that Malaysian produced films are excluded from the black-market without impinging on the piracy enterprise,

- to either confirm or present evidence to contradict the syndicate leader's contractual agreement with the directors of the MFCB to exclude Malaysian produced films from the black-market, and
- to exploit their rank, status and authority to eliminate potential disruptions posed by other criminal entities that attempt to subvert the arrangement among the syndicate, directors of the film censorship board and the police.

Asymmetrical power relations and the 'pervasiveness of a corrupt police culture in Malaysia' (Quah, 2006) ensures that the illicit standing order issued by police officials to subordinate policemen to overlook the enterprise of piracy and to indirectly abet the criminal enterprise by reporting the sale of Malaysian produced films is complied with. Majority of subordinate police officers strategically exploit their authority and status as police officers relative to the members of criminal syndicates peddling pirated DVDs to procure a small portion of financial for themselves. Unable to expose the involvement of their superiors in the enterprise of piracy without risking the loss of their job, which for many is an only source of livelihood, subordinate policemen capitalise on their status and authority to harass subordinate syndicate members at the micro-level to elicit some pecuniary benefit.<sup>9</sup>

As mentioned above, despite their attractive price and excellent quality, additional factors that impact on the marketability of pirated DVDs include the degree of accessibility of pirated DVDs and the degree of risk that potentially confronts its consumer. The accessibility of, and risk associated with purchasing and marketing pirated DVDs are determined by the culture of law enforcement agents in Malaysia. In Malaysia, the low wages of Malaysian police officers is primarily responsible for the pervasiveness of a corrupt police culture, which is one of the nation's biggest obstacles against crime-prevention strategies (Quah, 2006). Syndicate leaders exploit this corrupt police culture to facilitate the enterprise of piracy. A tangible economic incentive, although extremely appealing to poorly paid police officials, is not the sole factor that

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<sup>9</sup> While in conversation with a police inspector in Kuala Lumpur, it was revealed that subordinate police officers "are not stupid to engage in the dangerous and futile endeavour of exposing the collaboration of high-ranking police officials in the piracy business." Potential "troublemakers" are deterred because any attempt to expose police corruption inevitably "results in the emergence of evidence to implicate these troublemakers in corruption charges, who will subsequently be fired and jailed."



secures police cooperation with criminal syndicates in the piracy venture. Of equal importance are the intangible benefits offered by syndicate leaders. In exchange for their protection over the piracy enterprise and its main players, police officials are able to exact help and information from syndicate leaders and members to solve crimes and exercise order within the illegitimate sector of Malaysian society.<sup>10</sup>

2. Enterprise restructuring as a consequence of differential cross-over – Franchising street gangs

Through indirect, profit-maximising strategy, syndicate leaders exploit police cooperation in the piracy enterprise to ensure their dominant role as suppliers of pirated DVDs within the illegitimate sector of society and maximum reach of their product to consumers. This indirect strategy is akin to franchising. Criminal syndicates that successfully secure police protection over the piracy enterprise are able to operate an uninterrupted criminal enterprise. In contrast, criminal organisations that fail to secure the cooperation of corrupt regulators, mostly street-corner gangs, are exposed to the regulatory sanctions of social control agents, which interrupt their stable, effective involvement in criminal enterprises. In order to secure some form of economic gain from the piracy enterprise, these street-corner gangs negotiate a subordinate cooperation with criminal syndicates that are economically stable because of their cooperation with corrupt regulators. Leaders of Omega, a street-corner gang operating in Singapore, offers the Malaysian syndicate leader a portion of their profits for the right to market syndicate produced pirated DVDs throughout various locations like train stations, bus stations and housing estates in Singapore. Syndicate leaders benefit economically from the 'royalty' paid by street-corner gangs who market their products within Malaysia as well as internationally.<sup>11</sup> Of greater intangible importance, franchising highlights the

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<sup>10</sup> The crime syndicate leader reveals as follows:

'The police benefit as much as we benefit from them. This is a business deal and they are not one to lose out. The police here can overlook everything as long as the coffee-money (bribe) is sufficient. This is extremely advantageous to us because as long as the syndicate can fork out money, we can basically carry on business as usual. But the police don't just stop at the money. They take advantage of us too. When they need information about some criminal gang, some big kidnap or murder, they look to us to tell them what we know. The information we provide is valuable to the police to assist them in solving crimes and looking good to the public.'

[Fieldwork notes dated 13 November 2008]

<sup>11</sup> According to one of the leaders of Omega:

asymmetrical reliance of economically unstable street-corner gangs on stable criminal syndicates. This asymmetrical reliance of street-corner gangs on syndicates gives rise to a hierarchical structure and order of the illegitimate sector of society dominated by syndicate leaders.

### *3. Market differentiation to comfort cross-over*

Contextual analyses of negotiated cooperation among interest groups within the piracy venture, referring to syndicate leaders, police officials, directors of the MFCB, are functional from a cost-benefit analysis. Despite the failure to negotiate the procurement of Malaysian produced films, syndicate leaders appreciate the impetus to avoid piracy of Malaysian produced films in order to distance the criminal enterprise from legal attention and prosecutions. More importantly the procurement of original copies of the latest Hollywood, Bollywood and Chinese film from directors of the MFCB secures for syndicate leaders the low price, quality and marketability of their pirated DVDs over that of their competitors, without any serious compromise to their ability to appeal to the consumers. To overcome the competition posed by legitimate institutions and rapidly sprouting piracy ventures within the illegitimate sector of society, syndicate leaders strategise consumer appeal by striking a balance between the price and quality of their pirated DVDs. Although the purchasing price of each original copy of latest film releases from directors of the MFCB at about half a million U.S. dollars seems staggering, syndicate leaders are perceptive of the high profit turnover of this investment, considering the relatively low cost of producing pirated DVDs for export throughout Malaysia as well as internationally.<sup>12</sup>

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‘Omega is a new group and we do not have enough resources to negotiate the collaboration of authority figures and we do not have much money to invest in factories, equipments, workers to carry on the piracy business. Therefore, we have to negotiate middleman position with the syndicate. We take syndicate-produced pirated discs across the causeway into Singapore. We sell these pirated discs at all the housing estates, train stations, bus stations and some old shops. The syndicate leader charges us 4 SGD per disc and we then sell the pirated discs for about 8 SGD to the Singaporeans. We’re dependent on the syndicate for their products because buyers like their products and will continue buying. And some of them just don’t want to get caught in causeway traffic so we make pirated DVDs accessible to them in Singapore.’  
[Fieldwork notes dated 18 October 2008]

<sup>12</sup> The importance of negotiating a collaborative relationship with directors of the MFCB in order to advance the syndicate’s role in enterprise of piracy over other competitors is succinctly encapsulated in the excerpt below by the crime syndicate leader:

‘Piracy is a type of business which requires a small capital but which has the potential for a high profit turnover. That is the reason people are so attracted to get involved in this business. You see piracy business

The case study of piracy in Malaysia provides the context for the emergence and activation of criminal enterprise. Illicit interactions that facilitate piracy empirically involve various interest groups, referring to consumers, syndicate leaders, directors of MFCB, police officials, negotiating their asymmetrically aligned social capital in order to avert potential risks and maximise the potential rewards. A pivotal way of understanding the engineering behind 'organised crime' therefore, is through the cumulative contextual analysis of these illicit interactions through the framework of enterprise theory. As such, the contextual analyses of these illicit interactions are the rigor for the semi-structured interviews with key syndicate and regulator players. In this section, the case study of piracy is a prelude to advance the enterprise theory for interpreting the nature and progression of Asian criminal business.

### **Market regulation or law enforcement? – Boundaries of illegitimate trading**

Despite promising legislation to guarantee protection for intellectual property and widespread crackdowns by Malaysian authorities and the motion picture industry, DVD piracy expands at an exponential rate that would make many legitimate corporations envious, making it one of Asia's great growth industries (Smith and Urbas, 2001; Sesser, 2004). Attempting to counter the pervasiveness of DVD piracy through a meticulous scrutiny of the process of manufacturing compact discs, Dewan Rakyat or the House of Representatives in the Malaysian Parliament passed 'The Optical Discs Act' in 2000. The Optical Discs Act empowers a wide range of government authorities, police inspectors, the Minister for Domestic Trade and Consumer Affairs and the Minister-appointed office

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everywhere in Malaysia. When the police kill 10 businesses, almost 100 other businesses pop up instantly. Computers are accessible to almost everyone, poor quality re-writable CDs are so cheap and the production of pirated DVDs is a low-skill operation that even grandmother and grandfathers are doing. For the syndicate to rise above its competitors, it needs to surpass the weakness of other competitors. The quality of syndicate-produced pirated discs are unrivalled by its competitors because we do not record movies directly from cinemas or youtube or other online sources. We produce our pirated discs by obtaining high-quality originals from directors of the MFCB. Only the MFCB directors can offer us cinema quality original movies without any interruptions. They are key to our success. The syndicate does not compromise on quality despite its low price. Our customers are loyal because they know they're getting a good deal and they keep coming back. They buy 10 to 20 copies at any one time because they trust our products. They won't do that if they're buying in Komtar or Danga bay. They may buy 1 or 2. Because other competitors cannot afford to negotiate a deal with the MFCB directors, the syndicate peaks over other businesses.' [Fieldwork notes dated 1 November 2008]

of the Controller, Deputy Controller, assistant Controllers of optical discs, to monitor all aspects of compact disc production in local factories, from licensing of imported machines and materials to distribution. The Act further stipulates that factory operators convicted of pirating compact discs be sentenced to a maximum of RM 500, 000 fine, or five years jail. In 2001, Deputy Minister for Domestic Trade and Consumer Affairs, targeted optical disc plants producing cheap compact discs to meet the demands of music and movie pirates. Although legitimate demand for blank compact discs estimated in 2001 to be less than 20 million units, plants in Malaysia manufactured nearly 300 million units (Lau, 2001). Regardless of tough measures to suppress the enterprise of piracy, Ghani (2003) asserts that KL is becoming an export hub for pirated DVDs and VCDs via the internet, catering to big orders from North America, Europe, Australia, New Zealand and South Africa.

The imperviousness of the enterprise of piracy in Malaysia to the myriad of legal and law enforcement strategies aimed at deterring consumers, criminal organisations, and legitimate businesses that cater to the demands of pirates, is conditional upon the surreptitious alliance of corrupt regulators like Malaysian police and custom officers in criminal enterprise. The power and authority legitimately invested in police and custom officers to exercise border patrol, to guard the flow of illicit commodities and services between boundaries and to enforce the law constantly situates these social control agents at the intersection between the legitimate and illegitimate spheres of society. It also makes this situation an individually and organisationally profitable market regulator (see also Quah, 2006: 61). The way these social control agents exercise their power and authority at an everyday level, to a large extent, determines the boundary between the illegitimate and legitimate sector of society, whether porous or impermeable, which subsequently affects the flow of illicit goods and services between the two spheres of society. More than this, through corruption these agents become facilitators of the illegitimate market more than differential or weak regulators of the legitimate market. And market division blurs as profit possibilities ebb and flow.

A direct relationship between the rank of a social control agent and his ability to determine the boundary between the legitimate and illegitimate sector of society is evident from the organisation of piracy. Consequently, securing the functional alliance of the various offices of these social control agents is critical to the economic productivity

of criminal enterprise. These offices include, Inspector General Police of Malaysia, Police Commissioners, Inspectors and Superintendents in charge of criminal investigations in the various districts of KL, Chief Director of the department of audit, taxation, import and export of the Malaysian Customs and officers working the borders between Malaysia and Singapore, Indonesia and Thailand. By successfully negotiating an alliance with these various offices within the Malaysian police and customs and excise department, the syndicate leader tactically shields the enterprise of piracy from the potential economically compromising effects of various legal strategies. In saying this, it is necessary to drill deeper into the characteristics of crossover as a market regulator:

*a. Normalising potentials of corrupt regulation*

Appreciating corruption among social control agents as a pervasive and normalized feature of Malaysian society is an important recognition and an indispensable factor in explaining the persistence of organised crime in Malaysia. The Report of the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police found that "corruption regrettably has swept through, in varying degrees, all levels of the service" of the Royal Malaysia Police (RMP) (Royal Malaysia Police 2005: 277). More specifically, the Royal Commission found that the following divisions in the RMP were "more susceptible to corrupt practices", namely "traffic police personnel, investigating officers and their supervisors, detectives, prosecuting officers and police enquiry office personnel" (Royal Malaysia Police 2005: 279). Another finding was that corruption was "prevalent in the police lockup as many complainants alleged that detainees had to 'pay' for additional food, to receive and make phone calls, to see family members or friends and to be placed in 'good' cells" (Royal Malaysia Police 2005: 280). Finally, it was common for police officers "to bribe other officers to gain an advantage such as being transferred to 'gold mine' postings" such as the "Commercial Crime Department, Traffic Branch, Criminal Investigation Department (D7 covering secret societies, anti-vice and gambling), Narcotics Department, Logistics Department (Procurement and Development) and Deployment and Promotions Division" (Royal Malaysia Police 2005: 280 cited in Quah, 2006: 60-61).

A symbiotic relationship between various offices of the Malaysian police and the syndicate leader is vital to the optimal functioning of criminal enterprise, which transpires through the case study of piracy. This is best illustrated through an example

recapped by the crime syndicate leader. In 2003, the Motion Picture Association (MPA) and the International Intellectual Property Alliance (IIPA) isolated Petaling Street, Gombak and Setiawangsa as three major pirate retail sites in KL for Hollywood, Bollywood and Chinese films and pressured the police commissioner of KL to raid these locations. In order to portray the incorruptible image of the Malaysian police and promote Malaysia as aggressively combating piracy to international bodies like the MPA and the IIPA, while maintaining their clandestine cooperation in the enterprise of piracy, the police commissioner of KL and the syndicate leader negotiated the terms for staging three 'successful raids'. The way police officers negotiate their power, authority and specialised knowledge is integral to the sustainability of criminal enterprise. Negotiations between the police commissioner of KL and the syndicate leader to plan three 'successful raids' addressed the following details:

- (1) the specific factories that the international bodies, MPA and IIPA, had isolated in Petaling Street, Gombak and Setiawangsa in KL to be raided;
- (2) appropriate timing for these raiding operations that would allow the syndicate leader sufficient amount of time to remove the bulk of his property and ensure the re-assignment of important personnel from these factories, without compromising the image of Malaysian police as prompt actors to alerts provided by the MPA; and
- (3) the degree of loss, in terms of arrests of pirates, the confiscation of pirated DVDs and information technology (IT) equipments for the piracy trade that the syndicate leader is willing to incur, in rough accordance to the expectations of the MPA, to avert suspicions of police corruption.

*b. 'Soft labelling and normalising the market through selective micro regulation'*

At an everyday level, the economically lucrative enterprise of piracy, as consistently affirmed by published articles in Malaysian newspapers like Business Times, New Straits Times and The Malay Mail, inevitably incites individuals, groups of friends, families, and street-corner gangs to actively try and cash in on criminal business (Sesser, 2004). Occasionally, these competitors could pose a serious threat to the enterprise of piracy, organised through a symbiotic relationship between the syndicate leader and corrupt regulators. Such threats necessitate lower ranking police sergeants and constables to exercise police discretion in order to eliminate these other competitors

at the micro level. Events that led the syndicate leader to negotiate the franchise of syndicate-produced pirated DVDs to the Omega gangs constitute a case in point that will be recapitulated here. In 1996, leaders of the Omega gang developed a strategy aimed at exploiting syndicate-produced pirated DVDs for the gang's economic advancement. Failing to secure the alliance of directors of the MFCB and the police, Omega leaders invested in IT equipment to produce duplicate copies of syndicate-produced pirated DVDs in bulk to be sold to consumers at a just a ringgit higher than the price quoted by the syndicate. Omega leaders began selling duplicate copies of syndicate-produced pirated DVDs in various parts of Johor Bahru, Kuala Lumpur and Singapore. Members of the syndicate investigating the drop in their sales followed the alerts of their regular customers regarding new peddlers whose pirated DVDs parallel the quality of syndicate-produced DVD and priced only a dollar more, in Kampung Baru and Bukit Bintang in KL and Danga Bay in Johor Bahru. The mode of conflict resolution adopted by the syndicate leader against Omega leaders reflects the impetus to avoid the likelihood of betraying the 'invisibility' of the syndicates and jeopardising an economically-lucrative cooperation established between the syndicate leader and corrupt regulators to be forefront. To avert violent confrontations with Omega leaders that will inevitably induce a legal inquiry concerning the cause of the outbreak of violence and expose the organisation of the piracy enterprise, the syndicate leader strategically invoked the assistance of police inspectors. Police inspectors subsequently commissioned police sergeants and constables on the ground to exercise discretion in performing daily raids at establishments run by Omega members, arresting the peddlers, confiscating the pirated DVDs and running Omega's businesses into the ground. Police discretion exercised over establishments peddling pirated DVDs that are specifically operated by Omega members effectually forced Omega leaders to enter into negotiations with the syndicate leader to franchise syndicate-produced pirated DVDs. The piracy enterprise operated by the syndicate leader is protected from exploitation from other criminal groups and legal strategies as a direct consequence of police cooperation with the syndicate leader in the piracy enterprise.

*c. Indeterminate consumer deterrence*

Finally, the cooperation among syndicate leaders, the Malaysian police and custom officers manning the borders between Malaysian and Singapore, Thailand and

Indonesia in the enterprise of piracy indirectly means a lack of any systematically enforceable legal deterrence for consumers. Often penalties against consumers by social control agents are slaps on the wrist in the form of probationary warnings either with or without confiscating the pirated DVDs or confiscation of the DVDs without filing formal charges (see Bloch et al., 1993). Data gathered from the syndicate leader and the Omega gang suggest that Malaysian and Singaporean consumers, at a relatively equal degree across divisions of ethnic groups, class, age and gender, endorse the enterprise of piracy.

Driven by the intricate cooperation among syndicate leaders, police officers, directors of the MFCB, and custom officers who man the border between Malaysia and Singapore, the enterprise of piracy exposes the ambiguity between 'conformists' and 'innovators', 'insiders' and 'outsiders' (Merton, 1938, 1972) within the criminal enterprise. As reflected by the enterprise of piracy, Merton's categories of 'conformist' and 'innovator' are in fact not mutually exclusive, since corrupt regulators who are key players within the piracy enterprise combine both legitimate and illegitimate means of opportunity in order to achieve their tangible and intangible aspirations.

*d. Regulation as market maximisation*

Corrupt regulators who lend their legitimately-acquired power and authority to facilitate the flow of illicit goods and services, and rendering porous the boundaries, between the legitimate and illegitimate spheres of society, in an attempt to advance their individual tangible and intangible interests, have been conceptualised as 'maximizers' (Murphy and Robinson, 2008). Through a narrative analysis of testimonies provided by individuals convicted for their roles in corporate crimes, Murphy and Robinson develop the concept of the 'maximizer'. Murphy and Robinson (2008: 10) assert that the aspiration for economic achievement contains within it situations that encourage and even sometimes mandate violating the criminal law as a component or codicil of legitimate activity in order to achieve the consecrated value of money, to overcome goals-means discrepancies. The negotiated cooperation between the syndicate leader and corrupt regulators is incited by a mutually beneficial relationship, marked by the ability of each social actor to meet the demands of the other. Corrupt regulators are essentially maximisers who utilise legitimate or institutionalised means as well as illegitimate or non-institutionalised means in pursuit of culture goals. Thus,



maximization involves a combination of conformity and innovation. 'Maximizers' conceptually refer to individuals who simultaneously use and incorporate legitimate and illegitimate means of opportunity in the pursuit of profit and/or monetary gain (Murphy and Robinson, 2008: 502). Enriching Merton's category of individual adaptation to strain, this new mode of adaptation, 'maximization' encompasses groups, occupational roles, and subcultures who simultaneously and regularly accept the norms of conformity and innovation, law-abiding and law-breaking behaviours. Corrupt regulators or 'maximisers' are fundamental to the criminal business whose respective motivations, rationalisations of positive and negative implications and dynamic negotiations underlying their cooperative relationship can be interpreted through an enterprise framework.

An underlying aspiration and consequence of the enterprise/regulatory cross over is the establishment and maintenance of market ordering. In conventional organised crime analysis disorder features as a crucial discriminator of illegitimate business. The reverse is the experience of syndicate senior management in our case study and argues against the order/disorder dichotomy in crime business.

### **Ordering the illegitimate sector of society**

Thus far, the discussion of piracy deals with criminal enterprise from a micro perspective. Description of the empirical organisation of piracy in the first section and the subsequent discussion of the crucial function of corrupt regulators to criminal enterprise focuses on the rationalisations of key social actors participating in the enterprise of piracy. This section, shifts to examine how these micro rationalisations, which engender permeability between the boundaries of legitimate and illegitimate spheres of society, affect the organisational structure of individual criminal organisations and indirectly the macro socio-economic structure of the illegitimate sector of society.

A comparison of data gathered from the syndicate leader and Omega leaders on the organisation of piracy and the management of inter-group conflict reveals acute differences in organisational structure between the syndicate and the Omega gang as an indirect consequence of their respective success and failure to negotiate the alliance of corrupt regulators or maximisers. The distinctive structural features that set the syndicate apart from the Omega gang include:

- a greater degree of bureaucratisation exhibited in the syndicate's organisational structure;
- systematic rationalisation of all actions by syndicate members in terms of tangibles and intangible benefits including, whether the actions promote and enhance or hinder and impair the syndicate's relationship with maximisers, whether the actions are economically rational or irrational and positive and negative implications for the entity's reputation, status, power;
- having access to lucrative criminal enterprises, whose execution are contingent on the cooperation of maximisers; and
- exhibiting a lesser predisposition to violence and disorderly behaviour.

These differences in organisational structure between the syndicate and the Omega gang, determined by respective success and failure to secure the alliance of maximisers, indirectly inclines the syndicate towards running economically lucrative enterprises compared to the Omega gang. Having secured and more importantly seeking to maintain the alliance of maximisers determines the structural organisation of the syndicate in such a way that renders the former to be more economically productive compared to the Omega gang.

The previous section shows that by securing the cooperation of opportunistic 'maximisers' the syndicate leader is able to operate an uninterrupted enterprise of piracy. In contrast, the failure to secure the cooperation of corrupt regulators exposes the Omega gang to the regulatory sanctions of social control agents, which interrupt their stable, effective involvement in the criminal enterprise of piracy. In order to secure a stable participation in the enterprise of piracy, the Omega gang is forced to declare their subordination and negotiate cooperation with the economically stable syndicate. More importantly therefore, differences in the economic viability between the syndicate and Omega forces the latter to be asymmetrically dependent on former, which affects the macro, socio-economic structure of the illegitimate sector of society.

Armed with the alliance of corrupt regulators, the syndicate leader strategically averts the gaze of social control agents to ensure the stable and orderly functioning of the piracy enterprise. Consequently, the syndicate is economically viable. In this sense the syndicate that secures the dynamic alliance of maximizers systematically exhibit a set of structural features that are akin to Cloward and Ohlin's (1960) concept of 'criminal

gang'. These structural features are aimed at protecting the alliance of maximizers. An in-depth analysis of enterprise dynamics reveals an intense degree of rationality pervading the organisational structure of the criminal syndicate. Akin to a bureaucracy, the organisational structure of the syndicate manifests a high degree of specialisation of functions, rigid adherence to fixed rules, and a hierarchy of authority. The bureaucratisation of the organised criminal syndicate ensures that systematic investigation and reason precede all of the group's decision-making processes instead of the irrational temperaments of members who occupy the lower rung positions of the syndicate or characterises the Omega gang (Hanif, 2008b). Bureaucratising the syndicate's criminal operations ensures that violence is kept to a minimum in order to elude the interest of the public that would elicit the attention of social control agents.

A pertinent example is the mode of conflict resolution adopted by a group of syndicate leaders to resolve price competition within the illegitimate market. In the state of Kuala Lumpur, Malaysia, the sale and distribution of illegal DVDs detailed earlier is monopolised by five syndicates. Leaders and members of these five syndicates operate respectively in north, south, east, west and central Kuala Lumpur. Despite the attempt to reduce competition through geographical segregation, the economic recession in 2007 caused the sale price of pirated DVDs to fluctuate as each syndicate competed with the price of others to maintain, if not promote, their sales of pirated DVDs. The resolution of this conflict of interests among the five syndicate leaders assumed the form of a highly restrained response, specifically negotiations rather than violent confrontations, to refrain from jeopardising the framework of criminal enterprise of piracy. Across the board, there was an impetus to reach an amicable settlement to avert violent confrontations. In this resolution certain features of criminal enterprise ordering were apparent:

1. *Compliance through self regulation*

Violent confrontations would inevitably expose and subsequently disrupt the lucrative enterprise of piracy and the symbiotic relationship between corrupt regulators to the public and incorrupt social control agents. Inevitably, a 'gang-war' among members of the syndicates will induce a legal inquiry with regards to the cause of the outbreak of violence. This investigation would have undoubtedly implicated the paramount role of the directors of the MFCB, police, custom officers, in the criminal

enterprise and adversely affect the future cooperation of corrupt regulators with syndicate leaders. More importantly, by implicating the role of corrupt regulators in the piracy enterprise and jeopardising their socio-economic statuses, other criminal enterprises operated by these criminal syndicates, which is heavily reliant on the cooperation of these maximisers would be negatively affected as well. The future inability of the syndicate leaders to secure the cooperation of corrupt regulators, as a result of choosing violent war as a mode of conflict resolution could translate into a series of economically-unprofitable outcomes. Prompted by an economically-sound rationale, the syndicate leaders standardised the price of DVDs across Kuala Lumpur to seven ringgit each and enforced a strict order to lower-ranking members of the syndicates to remain within their established territory.

## 2. *Bureaucratic anonymity*

A high degree of secrecy that each member of the syndicate is expected to observe through the bureaucratisation of the syndicate's organisational structure is subsumed under this rationality. Secrecy includes denying membership or knowledge of the syndicate, incurring negative consequences for acknowledging one's membership, abiding by the group's code of ethics and maintaining strong ties between members of the organisation. Maintaining a high degree of secrecy is economically rational from the perspective of the syndicate, because secrecy averts knowledge of the extent of the syndicate's criminal endeavours from becoming apparent to the public and gaining attention of the mass media that could potentially translate into a moral panic. Moral panic surrounding the syndicate will inevitably induce official investigations that would obstruct the operation of a profitable, ordered and functionally integrated criminal enterprise. Second, a high degree of secrecy also facilitates the ability of the organised criminal syndicate to secure a symbiotic relationship with corrupt regulators in order to facilitate the syndicate's illegitimate enterprises without posing a threat to the latter's status and credibility.

In contrast, the Omega gang that fails to secure the cooperation of maximizers is subject to the 'gaze' or discretionary policing of social control agents which interrupts their stable, effective involvement in criminal enterprises. Discretionary policing assumes the form of stop and search practices, detention without trial, detention in police stations, 'questionings', 'status degradation ceremonies', extracting deference and

inflicting summary punishment. A consequence of this form of policing is that the Omega gang consequently occupies a marginal status in the illegitimate society and exhibit characteristics akin to a 'retreatist' gang (Cloward and Ohlin, 1960).

3. *Differential reliance on racial bonding dependent on social positioning*

Retreatist gangs, like Omega, do not possess the skills to be considered criminal gangs and members do not participate in stable forms of criminal enterprise, retreating into a role on the fringe of illegitimate sector of society (see Hanif, 2008a, 2008b). Omega's failure to provide its members with any pecuniary advantages necessitates the gang's exploitation of 'operative criteria' to advance its interests. Operative criteria refer to an individual's ascribed status, specifically the affinity to 'race' and 'religion' as ideological tools to secure membership for the group. A contradiction between the ideology of the Omega gang to promote the interests of 'Malay Muslims' and the lived experiences of members of the Omega gang, mostly dying in inter-gang wars, living in poverty or enduring imprisonment, have frequently threatened Omega's cohesiveness. Omega's leaders find it an arduous task to reconcile the irrational and untenable ideologies tools of 'race' and 'religion', increasingly deconstructed by Omega members, to sustain and expand their membership without delivering tangible benefits to members of the group (Hanif, 2008b). Contrarily the syndicate leader stresses 'formal criteria', conceptually referring to achieved status or the measure of an individual's ability, as the basis for every member to move up the ranks within the syndicate. The syndicate leader additionally asserts that a system of economic rewards based on 'formal criteria' which appeals to individuals regardless of 'race' or 'religion', effectively expanding the syndicate's membership and attracting individuals with skills and expertise into the syndicate, promotes a positive work ethic among members and is overall an economically sensible decision.

Through a comparative analysis, it can be established that their social positioning relative to their alliance with maximizers empirically influences the micro structural features of the syndicate and the Omega gang. Of greater significance is that the structural organisation of criminal organisations can either advance their criminal pursuits and solidify their socio-economic position or obstruct their socio-economic advancement in the context of illegitimate sector of society. The ordered and hierarchical socio-economic order of illegitimate sector of society is characterised by an

asymmetrical dependence of criminal entities, unable to secure the alliance of corrupt regulators, on criminal organisations whose alliance with maximizers renders upon them a structure that is suited to running an enterprise. In order to secure some form of economic benefit from ongoing criminal enterprises within the illegitimate sector of society, criminal entities that fail to secure the cooperation of maximizers negotiate a subordinate cooperation with criminal organisations that are part of a dynamic criminal enterprise facilitated by maximisers. This interdependence is the basis for theorising the ordered and hierarchical structure of the illegitimate sector of society.

The re-conceptualisation of enterprise theory invites a re-imagination of the theory method nexus in researching Asian organised crime. At this point we move away from describing the dynamics of crime business within a market/enterprise frame. The remainder of the paper sets out how these insights can transmigrate researching organised crime at large. The insider/outsider dichotomy, responsible as it is for retarding enterprise theory, offers a way out of its own limitations.

### **Researching criminal enterprise using the ‘*Two Napkins*’ methodology- Bringing the outsiders and insiders<sup>13</sup>**

To understand the case study of broadcast media piracy within a market model and against a dynamic enterprise frame demands a methodological framework designed to address the intricate synergies between the organisation of criminal enterprise and the intra-organisation of individual criminal groups. Further, there is a need to deal critically and dynamically with the impact of these synergies on the data-gathering process. Enterprise theory then requires a fresh methodology of comparative engagement with the criminal business society within and without critical enterprise ‘moments’. This section identifies the interactive challenges of researching criminal

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<sup>13</sup> Fundamentally, this paper was developed by and targets qualitative researchers who pursue a methodological framework through which the actions of micro entities feasibly translate into a macro theorisation about networks and patterns of behaviour that ensures the stability of a society, whether illegitimate or otherwise. The process of developing such a methodological framework has induced a rethinking of ‘insiders’ as the source of valid, objective and credible primary data, a re-conceptualisation of ‘outsiders’ and the significance of that re-conceptualisation for capturing the dynamics that facilitate a criminal enterprise.

enterprise, and proposes the methodological framework of 'two napkins' as a multi-levelled comparative technology.

Discussions regarding the validity and credibility of qualitative data of a particular phenomenon under investigation normatively sink into a critique of the status of the source of knowledge either as 'insiders' to be juxtaposed against 'outsiders'. This "insider-outsider" debate was stimulated by Merton's (1972) paper on the sociology of knowledge, a response to the popular view among some black scholars in the late sixties and early seventies that white scholars be excluded from research in black communities. Merton identifies two extreme positions represented in what he sees as an elitist and exclusionary position. One holds that insiders have monopolistic access to knowledge of a group: the insider is "endowed with special insight into matters necessarily obscure to others, thus possessed of a penetrating discernment" (1972: 11). The other, the outsider doctrine, holds that unprejudiced knowledge about groups is accessible only to non-members of those groups.

The dichotomy between 'insiders' and outsiders', and the competing validity and credibility of the body of knowledge possessed by members of each category, obscure the essential interactive context of researching media piracy. We have shown, and this dichotomy avoids, how contingent the interactive enterprise of profitable crime business will be on the collaboration between social actors who crossover the legitimate and illegitimate sectors of society. This empirical revelation confronts the assumption that knowledge of criminal enterprise is embedded in 'insiders' functioning within the illegitimate sector of society, presumed to be rigidly cordoned from the legitimate sector of society and dichotomised against 'outsiders' who are supposedly restricted to the legitimate sector.

There is not time here to engage a Foucauldian analysis of the power dynamics of knowledge manufacture, fruitful as this direction would be for another purpose. Suffice the observation here that focussing understandings of organised crime on low level 'insiders' had not only distorted the reality of crime business but has accommodated prevailing law and order discourse in the field. Portraying from this perspective, criminal enterprise as divorced from and destructive of legitimate commerce, but for law enforcement regulation presents obvious advantages for crime control governance.

Power invests in the insider/outsider knowledge frame. Power also recurs to the outsider seeking legitimacy in distance and distinction from the insider world.

Enforcing, or even recognising, model and misleading dichotomies between 'insiders' and 'outsiders' as well as 'legitimate' as opposed to 'illegitimate' spheres of society, is at best ideological. This normative discrimination of markets and market players effectively constrains the potential to appreciate the complementary and indispensable collaboration of outsiders with insiders in selectively facilitating criminal enterprise by corrupt regulators, detailed above.

Analysing insider/outsider interaction, far from confirming the analytical integrity of the dichotomy, invites consideration of enterprise dynamics, which collapse rather than confirm the legitimacy divide:

*a. Skewed view from below*

The example of selective policing regulation dependent on social positioning within the criminal enterprise highlights another problem that renders the normative 'insider' versus 'outsider' debate distracting in the context of researching criminal enterprise. Knowledge pertaining to the organisation of the media piracy trade is not uniformly distributed throughout the ranks of any particular criminal entity. It is equally possible that maximisers who are not members of any criminal entities may possess a better understanding or a bird's eye view of criminal enterprise compared to rank and file members of the syndicate or Omega.

The obscurity of criminal networks typically induces researcher to formulate their understanding of organised crime by inferring and extrapolating the data gathered from an exclusive population sample, typically accessible 'insiders' like members occupying the lower rungs of criminal groups or leaders of petty gangs. Lesser status gang operatives, because of their visible 'insider' positioning within the illegitimate sector of society, are assumed by the naïve researcher to possess monopolistic access to knowledge about the organised criminal enterprise being studied. This neglects two empirical realities. First, the position an insider occupies along the hierarchical structure of a criminal organisation and the body of knowledge that the consequently insider possesses is characterised by a direct and often dependent relationships.<sup>14</sup> Accessible

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<sup>14</sup> This was apparent from qualitative fieldwork with Omega members.



'insiders' like members occupying the lower rungs of criminal groups are typically subjects of false consciousness, whose solidarity to the group is a consequence of obligatory ideologies perpetrated by gang leaders and who are ignorant of the extent and dynamics of criminal enterprise beyond their limited involvement.

Additional to the limited understandings of an enterprise perspective which they offer, data gathered from low-ranking members of criminal organisations, who are predisposed to petty conflicts as a demonstration of masculine bravado, direct confrontations with social control agents and inter-gang conflict at an everyday level, tend to emphasise disorder and dysfunction. Contrarily, data gathered from the syndicate leader reveals dynamic negotiations to be the primary mode of conflict resolution among key players within the enterprise of piracy to protect the stability of criminal business. Partial understanding of organised crime is a direct consequence of limitations in the methodological framework of a particular study. 'Insiders' categorically embody a heterogeneous group of individuals whose lived realities within the illegitimate sector of society, and subsequently knowledge of organised crime, vary intensely.

This potential to create stylised and alien market perspectives of criminal enterprise depending on overly accessible lesser stakeholders in the business network, co-incidently confirms the insider/outside, legitimate/illegitimate divide. Access to different levels and hierarchies of authority and decision-making in the enterprise organisation challenges both the stylisation and the dichotomy it fosters. Recognition of the potential to skew variant indication of criminal enterprise towards the illegitimate, disorderly and confrontational is a strong argument to develop a multi-variant and comparative research methodology with capacity to interrogate crucial sites of internal organisational enterprise. Such a comparative research frame also requires viewing from outside the enterprise to the extent that non-member maximisers make the switch without/within to facilitate profitability and market share. This is no different to business analysis methods in the non-crime context.

b. *Illusive objectivity*

The dichotomy between insiders and outsiders advocated by qualitative social scientists to obtain a *verstehen* and objective understanding of a particular phenomena, in effect possesses the potential to compromise the researcher's accurate appreciation of the research inquiry. This dichotomy fundamentally:

(1) obstructed the researcher's ability to triangulate primary data provided by Omega members in order to differentiate ideological responses from truthful information,

(2) hindered the researcher from appreciating the emergence of the Omega secret society as an ethnic enterprise and its organisational features as a micro phenomenon, relational to the macro socio-economic context of Singapore's illegitimate sector of enterprise<sup>15</sup>,

(3) impeded any potential for the researcher to forward either a holistic understanding or a macro theorisation of criminal enterprise and criminal entities and

(4) restricted the researcher to eclectic theorisations instead of facilitating intellectual harmony or synthesis between discrete elements that thematically relate to criminal entities and criminal enterprise.

c. *Need for dynamic integration*

The two napkins methodology<sup>16</sup> moves beyond observer bias and first engages with the transaction of meaning and perception, which marks out interactive methodology, and enterprise theorising. In this respect, we invite the application of a dynamic rather than a regressive and research-centric methodology, to complement and develop a transactional theorising about gangs, syndicates and their crossover into regulatory spheres. Researching enterprise means researching people, connections, dynamics and transitions within communities of meaning; identified communities where enterprise is achieved and transacted. Our case studies reveal that in the most apparent sense these communities straddle soft divisions of illegitimate criminal business, and legitimate market regulation. In this respect an important dichotomy of

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<sup>15</sup> Omega is an ethnic enterprise incited by the socio-economic marginalisation of Malay members vis-à-vis Chinese members in Chinese secret societies. Within Chinese secret societies, goals of economic success are ideologically emphasised as a legitimate expectation for all its members. Achieved statuses are commonly emphasised among all members of Chinese secret societies as the individuals strive to rise within illegitimate society. Despite their 'efforts, allegiance to rules and regulations, and their willingness to risk limbs and life,' however, Malay members of Chinese secret societies find themselves restricted to rank and file positions and deprived of access to illegitimate economic opportunities and learning structures. Malay members of Chinese secret societies perceive their ethnic identity and the implicit racism practiced by Chinese leaders in Chinese secret societies, as the barrier against the upward mobility of Malays within Singapore's illegitimate sector. Omega emerged as a form of retaliation to the marginalisation of Malays within Chinese secret societies dominating Singapore's illegitimate context (Hanif, 2008b: 73-74).

<sup>16</sup> The graphic of this theory is comparison of folds (and their fields) within a wider boundary. Against this is overlaid another such field until a rich multi-variant, multi-dimensional framework is constructed.

business for law enforcement can be challenged and along with it the uni-directional consideration of insider/outsider status of business players and market regulators. We challenge this by looking at:

- how players in the gang and the syndicate, and beyond in the realm of 'legitimate regulation view each other as outsiders, and see themselves inside the essential sphere of their perception;
- how players move inside and outside identified spheres of perception and communities of enterprise;
- how significant intermediaries can be identified as holding specialist knowledge and unique truth for the research enterprise when in fact they may create and construct perceptions for identifiable interests; and
- how the observer can be located inside and outside certain communities of enterprise for the purpose of engaging contested perceptions without debasing the interactive understanding being pursued.

*d. Multi-variant, multi-dimensional interaction and validation*

Here the methodology of 'two napkins'<sup>17</sup> prescribed in this paper proves to be advantageous in triangulating qualitative data within a context where enterprise constitutes the research focus. Why a 'napkin' imagery? A napkin is typically a large rectangular cloth that is folded lengthwise or breadth-wise into a series of smaller rectangular flaps. Although the rectangular flaps can be sequentially unfolded to unravel a whole rectangle, the pressed boundaries that distinguish one flap from another will remain imprinted in the cloth. Emphasising the difference between the rectangular cloth from which a series of rectangular flaps (fields) are shaped to make the eventual napkin is an important distinction because cloth and flaps serve as separate analogies in the methodological framework aimed at researching criminal enterprise. Each entire rectangular cloth represents a particular community (say, enterprise; regulators),

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<sup>17</sup> The folds (square fields) of the napkin represent single variants such as race or masculinity which if used for static and one-dimensional variant analysis are prone to confirm some of the mythologies which characterise the structures and motivations for Asian organised crime. Rather, if these fields are interrogated for their dynamic contribution to structure and function, and from there the comparison is multi-variant and interactive, the analysis holds a potential for enterprise understanding at all crucial levels of the hierarchy. Above this other napkins with their interactive fields can inform the enterprise analysis representing as they may the world of non-gang, non-syndicate regulation.

legitimate or illegitimate, and its entire hierarchy, which in the case study of media piracy includes the crime syndicate, the Omega gang, and the group of corrupt police, custom officers and directors of the MFCB. Each flap within the rectangular cloth is to be understood as various perspectives, enterprise, race, gender, religion, class or biology, through which a researcher may interpret and analyse the actions of social actors within a particular group that constitutes the research focus.<sup>18</sup> The various flaps within a single napkin are sensitive to the notion that different perspectives may be most applicable in making sense of the discourses and the lived realities of members occupying various ranks within a particular group, which directly emphasise a comparative dimension within the context of a single napkin or a single group.

One approach which we favour towards the empowering and enlivening of enterprise theory as an explanatory paradigm for crime business is to inject a dynamic, interactive and multi-dimensional commitment to the comparative research endeavour. As we have said earlier, our work envisages criminal enterprise as an interactive, integrated and dynamic field of commercial relationships and arrangements. This field flows across a range of regulatory situations and 'boundaries of permission'. The resultant crime opportunities in a business sense are, as a consequence', as adaptable to the conditions of market profit as may be any legitimate commercial endeavour. They need to be researched as such. At the risk of simply hinting at the dimensions of a comparative aspirations for enterprise theory they are these:

- Within the gang – to break free of single or limited variant analysis of the construction, organisation, legitimacy and authority of the essential organisational unit;
- Gang to syndicate – how are power/authority and relationships of dependency constructed up and down the syndicate chain; how does this lead to essential service delivery and facilitation?
- Syndicate to legitimate regulators and vice versa – how are regulatory market frames negotiated and utilised for individual and collective benefit?

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<sup>18</sup> The use of napkins as an analogy is purely incidental since I happened to be engaged in a conversation with Professor Mark Findlay at the recently demolished BB's Café in the University of Sydney, when this methodological framework was born.

- Across conditions of enterprise – to compare the commercial interests and arrangements that eventuate in a profitable crime business and its proliferation/perpetuation;
- Across complementary business enterprises – in trade relations enterprises collaborate and complete. Where do illegitimate arrangements form the linkages for these relations?
- In and out of the research frame – Insiders? Outsiders? – on to a new methodological consideration of the research mission.

With reference to piracy, this paper will show that the validity and accuracy of the data gathered from the syndicate leader on the organisation of piracy can only be effectively triangulated by corrupt regulators like members of the police and directors of the MFCB, who are typically thought of as 'outsiders' to the criminal enterprise. Based on our experience, the inclusion of 'outsiders', in this case-study referring to people who interact with the particular group or community being researched upon but who do not necessarily originate from that community or group instead of researchers, is a revealing strategy. Researching criminal enterprise requires a methodological framework that includes at least two napkins or two communities of stakeholders at different levels of dependency or authority. Distinguishing between illegitimate and legitimate market representation is not the reason for or the reality of the two napkins. An interrogation of the way that the flaps inter-relate, and then how the different communities overly denies a dichotomy based on simple regulatory or normative identity and distinction.

*e. Interactive reality of research object*

The interaction between innovators (typically thought of as 'insiders') and maximisers (typically thought of as 'outsiders') is enriching and enlivening when enterprise is the research object. Established research dichotomies fall away via an interactive methodology including the dynamic understandings of outsiders as an active influence on the progressional perspectives of insiders. Interaction as advanced here espouses a more extroverted methodology which recognises the influence and importance of 'outsiders' as they relate and react to the observed insider community. The triangulation of primary data provided by insiders through the perspective of outsiders in action within and across frames of observation, gives a capacity to critically evaluate the process of perception and meaning construction. Insider understandings

and perceptions are as fluid as might be their status and positioning in the enterprise. Recognising the influence of outsider intervention and representation, over meaning creation, the interaction in enterprise is as much the research object as might be observing key players and their positioning relative to the researcher.

In our researching criminal gangs, 'outsiders' include police officers who are bribed by gang members, politicians who interact with or engage the services of gang members, and the inter-relationship between criminal groups within a particular context and across national boundaries. The inclusion of these 'outsiders' facilitates a macro theorisation rather than a simple description which is usually generated when interviews are done solely with insiders.

Police corruption, political corruption and the simultaneous utilization of legitimate or institutionalized means and illegitimate means by 'maximisers' to facilitate their economic enterprises empirically attest to the indistinct personalities of 'insiders' as opposed to 'outsiders' and the vague demarcation between legitimate and illegitimate contexts. Proposing the inclusion of outsiders is methodologically rational since it allows the researcher to appreciate dynamics of cooperation among various groups between the fluid boundaries of 'legitimate' and 'illegitimate' society, functions as a mode of triangulating primary data provided by insiders, and serves as a platform for macro and holistic theorisations.

### **Re-positioning enterprise theory – Crime business as usual**

Legal to illegal businesses requires examination in light of the market structure and the organisational structure in which and by which they operate. The array of important relationships, which result from the necessary interplay between market structure and organisational structure, must be understood. Otherwise the representation of criminal enterprise will forever be stylised by distracted dichotomies (legitimate business vs. the syndicate), moralising psychologising (legitimate businessmen being corrupted by mobsters), and a tacit belief in an alien spectre seducing away the virginal purity of the illusive free market (infiltration of legitimate business) (Martin, 1981: 57).

Good business is steady business. Strain, conflict and disorder are not generally conducive to the stable and reproductive market conditions necessary for the grounding

and development of profitable enterprise. Where crime business relies on violence and intimidation for its market framework more than market positioning, the parallels with business enterprise theory as it emerges from conventional organisational theory are at their most unconvincing. Broadcast piracy on the other-hand represents a profitable, predictable and perennial commercial opportunity where the variables of economic analysis merge comfortably with theorising property crime relationships. The challenge for enterprise theory is to break free of the normative and moralist dichotomies (false as they are) between good and bad business, legitimate and illegitimate commerce. Once outside the construction of organised crime as disorderly and thereby antithetical to a better business model, enterprise theory can reveal the motivations behind corrupt regulatory relationships and anti-competitive marketing, which characterise crime business much more than violence and intimidation. In this, enterprise theory does not provide an apologia for criminal corruption of legitimate markets. Rather it enables a consideration of the corruptability of regulators and the susceptibility of inelastic market models to criminal competition.

In many of its ramifications enterprise theory sets out to usefully deconstruct organised crime but fails to meet its potential. This is particularly so where racialist stereotyping constructs the engagement between criminology theorising and more conventional market analysis. Violence, racial division, ethnic rivalry, organisational secrecy, mystical loyalty, and more violence, for instance, typify Asian crime business. For law enforcement discourse, this enables an 'us-and-them' narrative where legitimate commerce is the unwilling victim of criminal infiltration, long-suffering regulators are out-numbered and out-muscled by a foreign threat, and good business is raped by a trade that has no moral limits.

An essential reason for the teleological failure of enterprise theory is its incapacity to dispassionately recognise and engage with crime as 'good' business in a profit/market sense, and the commercially conducive conditions of criminality (particularly corruption) as they advance profit. In many transitional societies, in fact, crime and corruption are not only good business they may be the only viable business (Findlay, 2007).

Enterprise theory has little to say about more viable trading arrangements, where black markets are the market of choice for the consumer. This is because the

more generalised and a-historical musings within enterprise theory about the progression of market relations and commercial arrangements tend to take as a given that consumer preference for crime business is dependent on crime factors (addiction, perversions, violence, intimidation) rather than more predictable consumer influences such as price and quality.

The factors that explain the receptiveness of Malaysians and Singaporeans to pirated DVDs can reveal themselves clearly through the analytical framework of enterprise theory, so long as common analytical frames are employed as those that would to legitimate business. Contrary to the claim of legitimate institutions that the price and quality of pirated DVDs is characterised by a direct relationship, where a low price guarantees a low quality product, syndicate-produced pirated DVDs increasingly expose the fallacy of such a claim to consumers. Duplicated directly from original copies of films obtained from directors of the MFCB, syndicate-produced pirated DVDs convince consumers that low prices and high quality products are not mutually exclusive. For the same product, criminal business offer consumers a better value for their money compared to legitimate institutions. For the bulk of consumers, the entertainment value of any latest Hollywood, Bollywood or Chinese films either diminishes or disappears once they have watched and become familiar with the characters and plots of the movie. This is because for most consumers, 'cultural products like movies may be defined tentatively as "nonmaterial" goods directed at a public of consumers, for whom they generally serve an aesthetic or expressive, rather than a clearly utilitarian function' (Hirsch 1972: 641-642). Exacerbated by the rapid turnover of one acclaimed blockbuster after another from the Hollywood, Bollywood and Chinese industries, economically sensible consumers respond to the constant pull towards consumption by purchasing the excellent quality yet cheap pirated DVDs. The short life span of any particular film to entertain consumers is demonstrable from the numerous appeals and negotiations of consumers to members of the syndicate that operate at the ground level to exchange their undamaged pirated DVDs for new titles at a slightly cheaper price, which would otherwise be shared, sold, chucked or given away.

As the case study suggests, many of the 'services' and facilitations offered by the crime syndicate are crucial to the achievement of a more profitable commercial trade than the legitimate market (with its framework of regulation) can offer. Profit declares



this. Market sustainability evidences this. Consumer loyalty makes the business stable and makes it pay.

As is argued above, underpinning constraint on the analytical utility of enterprise theory is the moral commitment to free market enterprise as a 'good'. From this position, any theorising of criminal enterprise is constrained to recognise 'good and bad business' dichotomies. The legitimate market, no matter how fragile or corrupt, has to be celebrated above even more profitable illegitimate market conditions. The illegitimate market is to be policed rather than regulated.

What flows from this is the incapacity, therefore, of some enterprise theory applications to account for the symbiotic relationship, which the case-study reveals between regulators and criminal commercial entities to reconstruct the market to their mutual advantage. If enterprise theory separates the regulatory frames of the legitimate and illegitimate markets in an effort to endorse the priority of good business (and the criminality of illegitimate commerce) it fails to explore the rich mine of causation that is 'cross-over'. Findlay suggests, referring to understanding the business utility of corruption that:

By focusing on corruption and control, while ignoring the structures of permission within which they connect, an accurate appreciation of their impact on other market relationships becomes difficult (Findlay, 1994: 280)

Thus the over alliance of enterprise theory with the moral superiority of legitimate free-market economics, to the exclusion of understanding 'freed-up' market forces through say broadcast piracy trading, dulls the capacity of enterprise theory to interrogate what challenges the illegitimate/legitimate market divide and makes crime business possible and profitable; regulatory cross-over.

As with the case study compromised or corrupt 'legitimate' market regulation can in fact favour crime business as much as it portends to manage authorised market relationships. What enterprise theory can say about this depends on a neutralised approach to the market and its forces within a profit motivation (Findlay, 1994; 2007).

Along with the moral modelling of good and bad business, and the crucial antipathies offered through organised crime mythologies, enterprise theory ends to treat

the progress of commercial ages without the benefit of historical engagement. It is common to be offered by exponents of enterprise theory market 'typologies' and business modes which may not even recognise let alone comparatively interrogate commercial arrangements enjoying crime capital, violent market construction, or corrupt protection from law enforcement. The actuality of market conditions it where organised crime thrives. Theories of organised crime cannot avoid or misappropriate these realities.

Enterprise theory has fallen victim to the 'triumph' of free market economics and notions of globalisation where materialism and modernity prevail (Findlay, 1994). This is not surprising. With the 'collapse' of alternative and 'competing' market paradigms (as much a political as an economic phenomenon) illegitimate market repositioning crucial in many transitional states has been dismissed as necessary if regrettable corrections on the road to western democracy. The relationship between political hegemony and economic development has added to the challenge of enterprise theorising organised crime.

The case study presented above emphasise the need for theory building which is both interactive and capable of understanding dynamic and fluid commercial and regulatory relationships. Enterprise theory further fails to address the realities of crime business if it is committed to institutions, structures and outcomes, without also interrogating the influences, which shape enterprise legitimate and illegitimate. Conversations with the crime boss after-all where about business, profit and sustainability Crime was the context and not the objective.

### **Re-Imagining Asian crime- Back to the crime boss**

Instead of the crime boss who advocates disorder and celebrates violence, divulging reluctantly within a cramped, clandestine setting meant to restrict the flow of criminal confessions and formidable truths on organised crime that I expected, I confronted an antithetical reality. Exercising his 'gaze' and leadership over a range of criminal enterprises spanning decades and extending beyond the Malaysian border is an applied economist whose description of criminal enterprises through the language of economics transported me to economics lectures in college. As a researcher who had seen the other-side of gang crime, I was rattled by relating to his business side.

Listening to his conversation I was overcome by p my inability to set claims to a trying field experience.<sup>19</sup> Attempting to salvage my appreciation of the 'dark side' of gang crime, I was offered a captivating and convincing case study on crime as business life, not crime as violent death. My parallax peaked when hyperactive visions of drug, human and organ trafficking was punctured by an extensive elaboration into the plain profit of piracy, specifically the organisation of the Malaysian market for the sale and distribution of pirated copies of latest Hollywood and Bollywood film releases on DVDs.

Here were the real research dichotomies. Having accepted the practical and empirical challenges of studying crime as business, where does the crime fit in? And what was it about criminal enterprise in the conversation laid out, that would merit a contextualisation as 'Asian'? With insider/outsider falling away was the inquiry returning to little more than market differentiation or the colour of the collar?

As the conversation progressed, my thoughts returned to the disposed; to the disengaged; to the unlucky; to the washed-up, the passed-over, the abused; to the dead. Business and profit was only one dimension. The conversation must be had with all those touched by the 'crime business'.

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<sup>19</sup> A relative degree of coherence between the disconcerting situations in which I find myself during the course of my fieldwork and the agonising images that I anticipate facing has been the thread on which my conversational composure hangs in light of the grim faces of crime I have witnessed. These agonising images include the carcasses of foot-soldiers after a 'gang war', faceless flesh raped of any sense of being in down-trodden brothels, and under-aged boys scraping at the gang's promises of racial and religious martyrdom while physically, intellectually and emotionally ravaged behind bars. The dark side of organised crime. Despite the absence of prosthetics for such perturbing sights, the scholarships of *verstehen* criminology, inclined towards ethnographies of criminal entities, criminal networks and cultures of imprisonment have mentally braced me to confront the perturbing lived realities of my research subjects and nature of my research endeavours. Reviewing ethnographies of the 'pains of imprisonment' experienced by male transvestites in the U.S. prisons mediated my distress at the nature, extent and causes of the abuse and discriminatory treatment perpetrated in solidarity by heterosexual Malay male inmates and guards towards Malay male transvestites in the Singapore prisons (Hanif, 2008a). Similarly, preceding 'gang studies' made intellectually and emotionally comprehensible the ferocity of armed homicides venerated by Omega members in their proclamation of masculinity territoriality and economic survivability, and the manipulation of 'race' and religion by Omega leaders as ideologies for recruitment and promoting gang solidarity (Hanif, 2008b). Armed with insights from the field experience of Venkatesh (2008) who was held hostage by the leader of the Black Kings in the Robert Taylor Homes projects and my personal ordeal of being stalked by members of a Chinese secret society (Hanif, 2008b), I anticipated a rigorous methodology.

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