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### Global Terror and Organised Crime: Symbiotic or Synonymous

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## Global Terror and Organised Crime: Symbiotic or Synonymous?

Mark James Findlay

### Introduction

Since Donald Cressey's work on the Mafia as the 'fifth estate' (Cressey 1969), organised crime as a direct threat to the legitimate state is squarely on crime/governance agendas (Findlay 2008, Chap. 3). Politicians and criminal justice administrations in Australia (and the Asia Pacific region), over the last decade in particular, have represented the organised crime 'menace' as an attack on the institutions of the democratic state as well as a physical and financial danger to society (Findlay 1986, 2000). With the recent and particular law enforcement convergence between organised crime and terrorist funding, the implications for governance are argued in crime control terms. This paper seeks to challenge the theoretical assumptions that:

- organised crime is antithetical to the legitimate state;
- organised crime sits well with terrorism, particularly directed against the state or international political alliances; and that
- these forms of terrorism and their support frameworks rely on financing through organised crime in whole or in part.<sup>1</sup>

Aligning organised crime with challenges to state authority and institutions is consistent with the approaches of governments in the United States and Italy when constructing the 'reality' of the Mafia in their countries for more than a century (Smith 1975), and the representation of organised crime 'colonisation' in the transitional Eastern European states

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<sup>1</sup>The notion and nature of terrorism generalised throughout this paper is concerned with violent attacks on state and alliance institutions and ideologies. It is not interested in terrorist violence that is employed directly for economic motives or that which is an extension of violence as a tool or organised criminal enterprise within black market counter-economies (see Findlay 1999, Chap. 5).

This paper is not a detailed denial of the difference between organised crime as the aggregation of illicit wealth, and terrorism which may not be concerned with economic profit. It takes as given the primary *political* context for terrorism and the *enterprise* environment of organised crime.

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(Findlay 1999). More recently, an assumed connection has been drawn between organised crime and international terrorism, with similar political purposes in mind but now the threat is determined against *global governance* (Findlay 2008). This paper critically evaluates this assumption in the context of para-politics.

Beneath the suggested contest between organised crime and the state, are more complex and less apparent mutual interests at a 'deep state' level.<sup>2</sup> Significant evidence exists that during the 'cold war' period in Europe, transitional state conflict<sup>3</sup> alliances have been forged between organised criminal enterprise and para-political movements in order to destabilise state governance and thereby reap benefit.<sup>4</sup> Terrorist violence has featured in these alliances. In contemporary international relations, global terrorism is often directed against the economic and cultural ideologies of Western 'liberal' democracies. This paper asks whether, in Australia and the Asia Pacific region, there exist the political and cultural conditions that would foster co-operation between organised criminal enterprise and politically motivated terrorist violence.

International relations critically declares the *new age of globalisation* (Baumann 1998; Findlay 2008) concerned with risk and security worldwide as the major era of global terrorism (Findlay 2003). At the same time, organised crime is now cast as a trans-national, cross-border problem, with alliances returning to the distinctly political.<sup>5</sup> In global terrorism, the world is said to be confronting a new organised crime opportunity, the local manifestations of which are inextricably linked to international conflict, and the threat is directed against global communities (Findlay 2004). To control terrorism these communities must sever the financial link with organised crime.

This paper commences with a discussion of terrorism as contemporary organised crime.<sup>6</sup> The common characteristics of terrorism and other forms of organised crime are suggested in a broad consideration of enterprise theory.<sup>7</sup> The importance of globalisation in stimulating organised crime as terrorism is then developed. In this phase of globalisation, negotiating risk and security has necessarily been pre-determined by the prevailing political concern with international terror.<sup>8</sup> The nexus between globalisation, terrorism and organised crime is referred to and its consequences for countries like Australia are identified. Australia's reaction to terrorism, both local and global, is critiqued and comment is made on

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<sup>2</sup> For a discussion of the *deep state* and *para politics*, see Tunander 2006.

<sup>3</sup> Examples are provided in Reno 2006.

<sup>4</sup> These benefits may have the common outcome of overturning state authority but may be motivated by distinctly different purposes and often with opposing eventual expectations.

<sup>5</sup> This is not new. An examination of the historical literature on the triads in Nationalist China clearly locates the connection between organised crime organisations and financing with contesting political movements.

<sup>6</sup> The link between organised crime and terrorism is not necessarily a new phenomenon. On the contrary, the earliest identified manifestations of organised crime in Europe, China, and even Japan, demonstrated a motivation to undermine and overthrow established rule. In fact, triads were, at the turn of the nineteenth century, bound up with the Nationalist struggle in China. The difference today is that the international nature of organised crime as terrorism is clearly directed against global political cultures, influences and domination.

<sup>7</sup> Due to limitations of space, enterprise theory is introduced only as a preferred paradigm for distinguishing the economic motivations of organised crime from the ideological and political imperatives of global terrorism.

<sup>8</sup> Some argue that without the strange conflation between fundamental Islamists and the neo-conservatives in the United States (and the terror that emerges from this) then the disengagement from conventional politics would be much more universal. (See the documentary 'The Power of Nightmares' screened by SBS Television in 2007).

the similarities in the way both organised crime and now terrorism (as the great threats to 'Australian values', as well as to global community) have fostered radical responses from the state. We conclude by predicting how globalisation (and terrorism as one of its contemporary characteristics) is influencing the appreciation of organised crime in Australia and the Asian region.

Throughout the paper, the analysis of connections between organised crime/terrorism/governance is at both state and 'deep state' levels. Regarding the 'deep state', there is the recognition that there exists in the contemporary world a powerful clandestine relationship between the security and intelligence organisations of established states, international criminal networks, and 'quasi states' in the form of separatist movements or some terrorist organisations. These 'alternative state' entities challenge sovereignty, economy, monopolies of force, and the whole protectionist fabric of the established state. Organised criminal enterprise may find a home within these movements, in similar ways to its infiltration of state administration through corruption and black economies (Findlay 1994, 2004). In the 'deep state' relationship, the challenge of organised crime to democratic governance is clearest.

Despite these empathies between organised crime, terrorism and state re-formation, the unique insight offered by this paper is to confine commonality between organised crime and terrorism to the level of enterprise (as distinct from any shared ideologies), while critiquing the link between crime financing and terror as often no more than circumstantial. If the foundations of terrorist funding are not principally or essentially organised crime, then where and why has this assumed connection developed? The answer may lie more likely in the way organised crime and terrorism have been represented by the state and its control agencies, as threats to democratic governance. Challenging this nexus will naturally open up other platforms for contesting political legitimacy through terrorism now simply dismissed as a consequence of criminalisation (Findlay 2008, Chap. 4).

The first stage towards these conclusions is to review law enforcement associations between organised crime and hegemonic political distinctions of global terrorism (Findlay 2008, Chap. 5). It is a short step from conventional representations of organised crime, we suggest, to a dangerous alliance with global terror if the moral rather than the economic orientations of each is under-emphasised.

### **Common Characteristics of Organised Crime**

Smith (1975) argues that organised crime is the product, not the cause, of forces that threaten values. In this regard, if society or the state countenances violence, considers 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 a group 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).

When analysing the conventional 'official account' of organised crime in Australia (as with the United States and Italy) it is interesting to note consistency in imagery. Organised crime is:

- the 'fifth estate' (a direct challenge to the authority of government);
- the merchants of terror working towards the theft of a nation;

- the ‘bankers’ for terrorism; or
- the corruptors of democratic government.

Each such representation involves a mixture of the following:

- a subversion of state interests;
- a degree of organised criminal enterprise;
- a potential for violence;
- a deviant counter culture in terms of morality and collective endeavour;
- commercial power and influence both in the licit and the illicit sense (Passas & Nelken, 1993); and
- a threat, whether immediate or long term, to the security of the individual or to the peace and good order of the community.

If organised crime or acts of terrorism are deemed to be challenges to the legitimacy of the state, then governments will move to counter the challenge by neutralising the ideological impetus of the opposition, as much as it will move to neutralise the active threat posed thereby (Findlay 2004). In this process, governments devalue the currency of the ideologies in contest, therefore giving them less opportunity to exchange, move or trade their ideas.

Continuing the theme of enterprise, states can devalue a currency to reduce inflation (of an idea in this case). In today’s international political climate, the proliferation of particular ideologies is often attacked in this way, i.e. reducing credence and devaluing or building blocks of the ideology (Findlay & Henham, 2005). For example, when religious fundamentalists talk about terror attacks as ‘holy war,’ the victim cultures retaliate by reinterpreting these acts as illegitimate violence. A central device in such a process of neutralisation is to define the actions of the opposition as only criminal (Matza 1964), hence devaluing or delegitimising the claims of proponents who cite provocation by aggressive cultures as the inevitable reason for violence.

This control strategy becomes more complicated when the state, realising the unique nature of the terrorist threat, but not wishing to place it outside the rhetoric of criminality, chooses to compromise or exaggerate the more usual processes of criminal justice, rather than give credence to the claims of the terrorist through an ongoing military response.

A recent Australian example has been the enactment of anti-terrorist legislation in the most populous State, New South Wales. The *Terrorism (Police Powers) Act 2002* created a new crime on top of kidnapping, bombing, hijacking, and the widespread destruction of property, which have been offences for ages. The offence of terrorism combines and exacerbates predetermined harms and this is the justification for a radical legislative reaction. The special feature of the Act is to give the police power to intrude without warrants against ‘targets’ that might involve whole classes of people and collections of premises. Such powers are largely exempt from challenge by the courts and can extend for days. Expanded search powers are built on the general authority of the police and other more recently empowered investigation agencies (Findlay et al. 2005, Chap. 3). They are highly discretionary and, despite the attempt to exclude legitimate industrial and political protest from the powers of the Act, similar behaviours might in fact identify a target group.

The violations of *civil rights*<sup>9</sup> (otherwise protected by the International Covenant on Civil and Political Rights, signed and ratified by Australia) include arbitrary detention and

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<sup>9</sup> In their common law and legislative forms in New South Wales, or as protected through the administrative guidelines governing police practice.

invasion of privacy, even against particular vulnerable communities in Australia. These rights invasions do not need to be justified by a specific act; they can be pre-emptive, and need to be supported by nothing more than 'reasonable cause' as determined by the police. Particular powers such as the strip-searching of children challenge international covenants such as the United Nations Convention on the Rights of the Child, despite legislative justification. All this is legitimised against a criminal threat posed by international terrorism, as yet of unclear significance within Australia's 'local' jurisdiction.

The utility of the criminal sanction in controlling terrorism, like organised crime, rests with the acceptance by the community that radical modifications to 'due process' are necessary as part of contemporary legitimate government, and an essential utilitarian response to the unique threat posed. The same conditions apply to exceptional laws against organised crime from strong states with a commitment to responsible internationalism (Viano 1999). Any popular criticism of the radical control response is restricted not to issues of legitimacy, but rather to whether the legislation and new law enforcement framework will succeed in its express control objectives.

Sophisticated comparative levels of analysis (local, regional and global) are notably absent from assertions about organised crime and terrorist funding. If the developing nature of organised criminal enterprise for Australia, the Asian region, and internationally is to be realistically, and less dispassionately, confronted, the analysis of crime and globalisation is productive (Findlay 1999, Chap. 5; Findlay 2008). International pressures toward modernisation see regional and international criminal enterprise exploit the instability attendant on economic transition and cultural conflict, in order to promote conventional crime business.<sup>10</sup>

Established sources of illegitimate finance and capital are now widely suspected by law enforcement as bank-rolling violent struggles for political and cultural change (McCulloch et al. 2004). Even so, there is little evidence-based research outside operational 'intelligence' to confirm crime as the major source of terrorist funding (certainly beyond its international manifestations).<sup>11</sup> If so, then why has the organised crime/terrorism connection become part of the language of international policing?

The more convincing investigations of organised crime recognise its enterprise structure (Burchfield 1978; Van Duyne 1993), and the trans-national commerce/profit on which it relies (Findlay 1999, pp 49–52). This analysis emerges in part from an appreciation of organised crime as the provision of goods and services in illicit markets, the infiltration of state and legitimate markets through corruption, and the creation and financing of quasi-legitimate business enterprises (Volkov 2002). This 'business style' parallels the role of organised crime in servicing slum settlements in place of the state<sup>12</sup> and the community building of alleged terrorist groups in failing states such as Lebanon (Napoleoni 2005). Here, the division between organised crime and the state, and their respective location in illegitimate and legitimate economies, is far from convincing (Findlay 1999).

Take, for instance, the enterprise preference in criminal organisations for illicit drug trafficking, and the 'business' and political interconnections this requires. In recent times, the integral relationships between organised illicit drug trade and the domestic and international interests of powerful states has been convincingly chartered (McCoy 1973). In

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<sup>10</sup> Volkov's (2002) intriguing examination of the place of protection and extortion rackets in the emerging Russian private marketplace exemplifies this trend.

<sup>11</sup> Indeed, it seems that organised 'philanthropic' contributions from 'off-shore' communities play a more significant and constant role in financing organisations and movements suspected of terrorist involvement.

<sup>12</sup> See the discussion of the favelas in Brazil—Findlay and Zvekcic 1993.

this setting it is the legitimate as opposed to the ‘deep state’ that marries organised crime for mutual benefit.<sup>13</sup>

Without a concentration on the ‘business’ focus of organised crime, and the distinctive political/ideological imperatives of global terrorism, it becomes easier to merge both within representations of racialisation and exclusion. Considering organised crime (and international terrorism as its alleged dependant) in terms of enterprise and profit motives, avoids the unfortunate distractions of racism, xenophobia, and mysticism pervading the official literature on both phenomena (Van Duyne 1996). By simply accepting this conventional analysis from law enforcement and intelligence agencies in Australia and its allies, organised crime is the province of Asian crime gangs, Middle Eastern youth, Italian families, or Russian gangsters (Poynting et al. 2004, pp 53–54). In these terms neither organised crime nor terrorism are ‘home-grown’, always appearing as an external infection, emanating from those cultures which ‘white Australia’ (and the neo-conservative West in general) fears. Compatible with the nature and origins of legitimate international trading and enterprise, this representation is not the reality, and its distortion makes researching and regulating organised crime and terrorism all the more difficult (Findlay 1994).

Assuming international terrorism as a new incarnation of organised crime suffers from similar misrepresentation. In Australia, for instance, terrorism and organised crime control strategies have been appropriated one to the other in a climate of ‘war’ rhetoric, wherein criminal justice is engaged and widely compromised (Findlay 2001). Investigation institutions such as the Australian Crime Commission, and the Australian Federal Police carry cross-over mandates to control organised crime and terrorism in the name of national security. Terrorist funding has emerged as the bridge for this law enforcement convergence.

It is more productive to expose terrorism funding and its organisation to enterprise theory (located within crime or politics), than to base law enforcement on popular culture mythologies about shared challenges to the state. To achieve this it is necessary to interrogate the ‘profit’ motivation for the terrorist enterprise from material wealth (as with drug trafficking) to political power and cultural influence in their broadest senses, which may in turn have their material byproducts. Certainly, the critical stages of terrorist enterprises can be qualified as profit driven. In so doing, the simplistic distinction between criminal and political formulations is challenged and exposed. This is rarely recognised in attempts to regulate money laundering and to confiscate criminal assets as an upstream effort to stem the funding of terrorism. But even with recent Australian legislative initiatives such as the *Suppression of the Financing of Terrorism Act 2002* (Commonwealth of Australia), the unquestioned link between crime capital and terrorism is not critically addressed (McCulloch et al. 2004).

We have argued that one sure way to appreciate the actual motivations of organised crime is in the application of enterprise theory (Findlay 2004). Another consequence of this analysis is the critical edge to test assumed connections between organised crime and terrorism. Through the prism of enterprise theory the best that could be said for any such relationship is that economic profit is a shared platform from which distinctly different objectives are sought. Seen in its limited context, away from political and ideological imperatives, the application of enterprise theory to terrorism as organised crime offers the possibility to:

- disentangle ideology from action;
- understand the stages and locations of a ‘trade’ in terror;

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<sup>13</sup> This also gives weight to Napoleoni’s caution that the distinction between state and non-state actors may be false and misleading. In some situations alleged terror organisations such as the PLO and Hamas have larger and more community interconnections bureaucracies and finances than do the ‘shell states’ in which they locate (Napoleoni 2005, p 67).

- identify and appreciate the material motivations for terrorist attacks;
- expose and regulate the financing of terrorism, which maybe distinct from the religious, cultural and political motivations for terrorism;
- understand why certain phases of a terrorist event and its organisational infrastructure locate in particular jurisdictions; and
- follow the pathways of communication crucial for a terrorist event, and better understand the selection of victims for terrorist attack, and their vulnerability.

If possible, a limited, evidenced-based organised crime model for terrorism, emphasising the structural cross-over between legitimate and illegitimate commercial enterprise supporting acts of terror, rather than their immorality, also qualifies the extent to which criminal justice should be involved in terrorist regulation rather than military or other political control agendas (Dickie 1994). The intention of the *International Convention for the Suppression of the Financing of Terrorism* is clearly to encourage similar international criminal justice responses as those now directed to corruption and to money laundering, and consequently against the resourcing of terrorism (Tan 2003). The problem with this approach to terrorist financing is its over adoption, and its capacity to tar even spontaneous and politically motivated terrorist violence with a common financial brush. In terms of international politics, an explanation for this lies in the place of criminalisation in efforts to delegitimise contesting ideologies (Findlay 2008).

If terrorism is crime rather than war or revolution, then the activity of various states in selectively promoting one type of terror against another might be more clearly critiqued. If terrorism is distinctly integrated within other criminal enterprise (such as arms smuggling, identity fraud, and money laundering) then, to a limited extent, effective market regulators may be employed in its control, even where violence is the currency for trade (Findlay 1986).

### **Conventional Representations of Organised Crime—Lessons for the Interpretation of Terrorism**

A widespread and prevailing interest in crime is a desire at community levels for simple and convincing evaluations of crime problems. So saying, the ‘local wisdom’ about crime is both problematic and indicative. While usually failing to provide a sufficient understanding of crime in context, this ‘wisdom’ goes a long way towards identifying what is troubling people about crime, and where, and in what form, it is feared. Current media concerns in Australia about Asian organised crime reveal a prevailing racism in the Australian community. For example, these representations implicitly hark back to the ‘white Australian policy’ of the 1950s, and have not been efficiently countered through decades of political ascription to multi-culturalism.

The relationships, dynamics and consequences of crime are derived mainly from popular impressions, rather than critical scholarly analysis. Popular impressions determine climates of fear and isolation, which impact on the quality of life within communities. This harm is more so than *actual* crime victimisation, particularly when the latter, as with September 11, is embraced locally and internationally.

All too often the desire to know more about crime within communities has been satisfied by misleading political and law-enforcement discourse, or academic equivocation. Partial or unbalanced ‘understandings’ of crime, in these arguments themselves become a significant variable in crime situations, thereby influencing the shape it assumes and the effect it renders its essential relationships.



The interests behind the almost chronic misrepresentations of organised crime (see Findlay 1992) have the power to endorse, as well as deny its significant and constant justification for or against social change. However, the analysis of organised crime both in its local and international setting has the potential to unmask these interests and thereby challenge the misconceived stories about such crime. For instance, the popular representation of cannabis cultivation in southern New South Wales (NSW) in the 1960s was as an Italian conspiracy inextricably connected with Calabria. By examining crime relationships in real settings of southern NSW (and comparing this with southern Italy), the actual enterprise was both more tangible and dynamic. It involved a trade network locally, and a drugs and capital climate beyond Australia, but not essentially pre-determined by ethnicity, migration or Mafia mystique (Findlay 1992).

### **Organised Crime as the Banker for Terrorism**

There is much contemporary law enforcement speculation at regional and international levels which declares that organised crime is a crucial fund for terrorism. Occasional evidence of money-laundering associated with terrorism, or the transfer of criminal assets to terrorist organisations and enterprises has tended to justify a prevailing law enforcement conviction that by regulating crime cash flows, terrorism will be denied. However, there are a number of simple observations concerning organised crime and terrorism that might test this assumption:

- as with organised crime, it is too simplistic and misleading to universalise terrorism and terrorist organisation. A crucial distinction, and one which might have a direct influence over whether a terrorist enterprise requires external resourcing, is if the organisation behind the terrorist event controls territory or commercial assets;
- some terrorist events are sporadic, spontaneous, individualised, and require little by the way of money to promote and achieve their objectives;
- many terrorist organisations are aligned with recognised or legitimate political movements and gain financial assistance through shared resources;
- other organisations which are referred to as having terrorist aims, or terrorist alliances, may gain benefit from donations to over-arching religious or resistance movements;
- some terrorists and their organisations are also active in criminal activity for profit;
- however, the proceeds of crime which result are as much directed to the maintenance of individual lifestyles as they are to further terrorist activity;
- organised crime and terrorism may benefit financially and politically through destabilised market structures, without generating identifiable and mutually supportive cash transfer relationships; and finally
- many terrorists and the organisations they sponsor are independently wealthy through legitimate business or transferred wealth and this legitimate capital base can be redirected to funding terrorism, or not, as the case may be.

If criminal enterprise is not the crucial and distinctive financial supplement to terrorist enterprise, and if not all significant terrorist activity requires external funding, the effort to defeat terrorism through the organised crime route is at best misdirected. This realisation should have the capacity to require law enforcement to individually justify rather than automatically assume that following the money trail will deny the terrorist the essence of their endeavour.

It is arguable, as has been regularly revealed in organised crime capital and financial arrangements, that examining connections with legitimate banking and financial services might be as productive when it comes to understanding (for the sake of control) terrorist funding. The stories of terrorist groups using drug trafficking, vice, illegal immigration, identity fraud and poaching to raise resources are unfortunately more populist than the mundane realities of political and religious sponsorship.

In any case the remaining connections between organised crime profit and terrorist financing may not be causal. Organised crime and terrorist organisations will employ common criminal enterprise for their own quite separate motivations. A good example of this is the illegal arms trade. Organised crime profits from the manufacture, sale and marketing of illicit arms. Terrorists benefit from the trade and may gain ancillary profit from facilitating arms transfer among different terrorist cells. Connected to this is shared training and knowledge transfer, which will make possible greater terror capacity. The complexity of this trade and mutual assistance challenges a simple causal interpretation of crime proceeds and terrorist resourcing.

As mentioned earlier, organised crime might not be the great terror bank, but the business methods which it employs and the impact on fragile states and fledgling free markets deserves the tag of terrorism in many instances.

### **Organised Crime as Terrorism**

Classifying terrorism as a special form of organised crime facilitates and justifies state intervention at a civil level, as constitutional, politically responsible and necessary. Such an approach, while supportive of state authority, ignores the often intricate and diverse organisation behind politically and ideologically motivated terrorism and its transient interconnections with other less violent forms of organised crime. This is particularly so when cross-border and organisationally complex global terrorism exhibits and relies on the international enterprise networks essential for other forms of trans-national organised crime, such as drug trafficking, people-smuggling and identity fraud. It also confounds spontaneous, disorganised, anarchistic, and often as such more dangerous terrorism phenomena such as ‘copy-cat’ catastrophes, which can have no reliance on organised crime financing.

In Australia, the state’s response to organised crime and more recent terrorism presents similarities:

- both have been identified as new and vital threats;
- largely from external sources but with local manifestations;
- requiring tough legislation giving new powers to law enforcement agencies, and restricting conventional citizen’s rights, and
- justified by the argument that if tough measures are not taken then whole communities and life-styles will suffer.

Legislative reaction has been extreme, and the conventional rights of the suspect are an early casualty in directing criminal justice towards national security.<sup>14</sup>

The current representation of terrorism features the same ‘war on crime’ discourse that was characteristic of state responses throughout the last century to organised crime,

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<sup>14</sup> For a brief outline of recent Commonwealth legislative and administrative activity in the area of national security see Findlay et al. 2005 pp 100–105.

particularly drug trafficking (Chambliss 1989). In the same vein, the obligation to join in an international alliance attacking global terror mirrors the debate behind the UN Convention against Trans-national Organised Crime at the turn of this century.

New levels of law enforcement cooperation across borders have been fostered in this climate of acute threat and exaggerated retaliation (Viano 1999). By concentrating on the violent and intimidatory behaviours of organised crime and terrorism, rather than on their organisational structures or expressed motivations, the community is more ready to accept strong medicine to prevent terror in its midst. Interestingly, the state has employed the 'terror' of fear concept to facilitate what might otherwise be law enforcement responses that would meet vocal resistance (McCulloch 2003).

Up to this point we have been concentrating on local or jurisdictional responses to what is now defined as an international threat. It is important in order to understand the way in which a state like Australia has responded to global terrorism as crime, to consider the impact of globalisation in defining the organised criminal behaviour of terrorism, the threat it poses and the obligation imposed on 'legitimate states' to join the global 'war on terror'. How does terror target the state?

### **Terrorism and the Challenge to the State**

Loretta Napoleoni in *Terror Incorporated: Tracing the dollars behind terror networks*, looks at Pierson's *The Modern State*, to distil from his nine characteristics of the state, four that are shared by terrorist organisations or 'shell states'. These are:

- a monopoly on the means of violence
- territoriality
- taxation, and
- public bureaucracy

The other indicia (sovereignty, constitutionality, the rule of law, impersonal power, and the legitimacy of authority and citizenship) may not only be missing from the terrorist project but they may form the objectives of its violent endeavour.

However, as suggested earlier, what comprises the authorised state, particularly in times of weakness, transition, and conflict, may not be distinctive from the 'deep state' within, and the terrorists it sometimes employs. An important feature of para-political analysis is to treat as state-like entities a whole range of organisations and institutions which at first may not conventionally classify as states. In doing this, the simplistic dichotomy between states and the organised crime/terrorism threat said to be pitted against them takes on a more politically conditional appearance. These 'state-like entities' (direct challenges to the state or not) include:

1. covert organisations, semi-autonomous intelligence agencies, secret societies and power elites which may be well ingrained into the authorised state institutions;
2. criminal structures and enterprises, which exist in parallel symbiosis with the state and may sponsor it, or have its patronage;
3. revolutionary and terrorist movements dedicated to the overthrow of the authorised state, seeking territorial control and sovereignty as well as eventual moral and legal standing.

Recognising the growing power of these groups, particularly in drug trafficking and terrorism, and their 'politicisation', it is strained to talk of their activities and their consequences as either outside the state, or diametrically opposed to legitimate state interests.

It is the complex interconnection between states, weak states, deep states and shell states that challenges the representation of organised crime and terrorism as always and only in contest with authorised state interests. Certainly, if we are to concentrate on the economic dimensions of organised criminal enterprise and its involvement with deep state/terrorist projects then the challenge to state institutions and processes posed by such groups is more even and significant. In 1988, the IMF estimated that illicit funds worldwide amounted to between US \$800 billion and \$2 trillion. In some states the black economy exceeds the formal economy in GNP terms as well as capital reserves. In Asia it is not uncommon for much more money in foreign remittances to pass through the informal rather than formal banking sectors.

The tri-partite relationship between deep state institutions within authorised states, criminal networks, and quasi-state projects is systematic, broad based and influential. This means that a simple push by law enforcement to crack the link between terrorism and organised crime financing will not have a long lasting influence on the stability of governance under attack from without and within.

### **Globalisation and Terrorism**

Essentially characteristic of globalisation, international crime is moving further away from conventional explanations of criminality, despite political imperatives to the contrary, such as those discussed above. The assumed but problematic and specific connection between organised crime finance and global terror supports this conclusion. The same might be said of the definition and understanding of organised crime and terrorism, particularly within multinational economies (Block 1991; Block & Chambliss, 1981)

Critical to both globalisation and globalised crime is the internationalisation of capital, the generalisation of consumerism, deregulation and the unification of economies. If crime is to be understood as a market condition then its place within globalisation becomes more vital in analysing contemporary appreciations of crime and control. So too terrorism as a disproportionate 'organised crime' concern on the international agenda, cannot be disengaged from the international relations that are the product of modernisation (Gilpin 1987).

The transitional economies of Eastern Europe have demonstrated the symbiosis between organised crime, emergent private markets, and weak state regulation. With these conditions present, criminal enterprise facilitates the market and benefits from capital generation in legitimate and illegitimate market settings.

As with the crime and development nexus in general (Findlay 1999, Chap. 2), in conflict-ridden and post-conflict cultures terrorism can be a force in state formation. Terrorism and organised crime may come into contact as promoters of both political and economic change. Where states are stronger and legitimate markets more resilient, capital generated through organised crime may support political terrorism as it works to undermine state forms which in turn will create unstable market conditions in which organised crime will further flourish. Globalisation also pressures for cultural domination and in this way may either benefit from or contest organised crime and terrorism in a global setting.

In its harmonious conceptualisation, globalisation tends to universalise crime problems and generalise control responses. In this respect it complements and is complemented by the organised crime rhetoric of international law enforcement.<sup>15</sup> The simplification and

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<sup>15</sup> This rhetoric is picked up and promoted by Australian enforcement agencies with a brief to investigate organised crime—see National Crime Authority 1996, *Annual Report*, NCA, Melbourne

generalisation of organised crime in terms of common threats rather than unique enterprises supports control strategies reliant on more law enforcement powers rather than their diversification.

The unity of globalisation is as yet more convincing at a symbolic level. Crime represents unequivocal symbols around which global ethics are confirmed, such as the war against terror and its partial interpretation of *democracy* (Findlay 2004). Crime control claims an irrefutable mandate for global order and a symbolic terrain across which order rules. Consistently, the internationalisation of law enforcement responsibility for organised crime has ranged from the symbolic—and required of national jurisdictions an unambiguous (and largely uncritical) commitment—to a common language and problematisation of the organised crime menace in particular (Block & Chambliss, 1981)

### **The Local and the Global—Terrorism as an Organised Crime Threat in Australia**

There is much about the representation of crime as a global problem<sup>16</sup> which implies a more structural set of relationships than do the localised representations of crime as people and actions. There has been a recent trend in Australia and internationally, to move the conceptualisation of organised crime away from ‘bosses’, through ethnic and family groupings, onto enterprises (cartels, syndicates, networks). The depersonalisation of organised crime has transferred the control focus from the jurisdictional to the global, and has recognised the structural agility of criminal enterprises. This agility (and durability) explains the perpetuation of organised crime even when local control operations successfully prosecute the individual (see Robb 1996). With terrorism, the control talk is about cells in networks, and while the ‘Mr Bigs’ of terror evade capture, the organisations which they are said to lead (and their financing) is both an international and local law enforcement endeavour.

It is the threat posed both by terrorism and organised crime that motivates local jurisdictions to adopt international control agendas. Normally this would be resisted on the basis of the autonomy of criminal justice as a state domain even in the face of international crime threats (Findlay 1995). By concentrating on representations of organised crime and terrorism, as well as the state response through criminalisation, local authorities have translated the international significance of crime threat to justify local interventions which may have little real impact within the jurisdiction concerned. This is an example of the impact of internationalism on localised/criminal justice policy.

### **Social Situations of Organised Crime/Terrorism in Australia and Beyond**

Viewing global representations of organised crime as against actual social relationships which foster criminal enterprise (Robb 1996), any useful analysis will concentrate on the social “situation” of crime rather than elusive and unconvincing speculation about causes,

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<sup>16</sup> In referring to a problem as global, the interpretations of Galtung (1995, p 29) are useful:

- global in the sense of “worldwide”, being shared by a high number of societies
- global in the sense of “world-interconnected”, with causal loops spanning the whole world
- global in the sense of “world-system”, applying to world society as such.

consequences and trends. It is from a culturally specific grounding that explanations are possible as to why:

...certain forms of behaviour become prohibited by criminal law and are defined as 'crime'; certain acts and persons are selected by, and become subject to processes of law enforcement; certain acts and persons are fitted with the label 'criminal' through a process of adjudication; and criminal 'identity' is maintained, developed and transformed through the interpretation and reaction of others (see Hester & Elgin, 1992, pp 11–12).

In Australia today, it seems that the community's preferred perception of organised crime and terrorism as the product of foreign, violent and subversive cultures serves as the justification for the style and direction of law enforcement. Crime targeting in Sydney, for instance, is presently directed against certain ethnic communities and youth cultures. Australian enforcement authorities have adopted an American approach to the organised crime menace, and American popular culture has influenced community understanding of that menace as a local and global phenomenon.

Mafia-style mystique supports the community's need for a distinction between the 'real criminals' and the rest of society (see Box 1983). Such a distinction has been shaped into a series of firm expectations about Mafia-style organised crime, and Al-Qieda-style terrorism. By simplifying, generalising and thus mystifying organised crime, the complexity and ubiquitous influence of organised criminal activity, and its link with capital at all levels of commercial and economic life, is obfuscated (Findlay 1992). Whether it is the Australian or world 'mafias', commonality in representation, enforcement practice, political discourse and community appreciation of the menace tends to support and confirm an image of organised crime which is at once local and global.

As long as organised crime is understood as an alien conspiracy dominated by ethnic groups, it will remain difficult to understand how it actually operates. Effective state control incursion into organised crime, and more particularly regionally sourced terrorism as it touches Australia, depends on analysis that rejects or avoids these stereotypes.

As mentioned previously, concepts of crime have traditionally relied on some cultural or jurisdictional situation for their relevance and impact. Implicit in this is the expectation that crime stops at national borders, or at least that it has localised interests.

The jurisdictional boundaries of crime, however, can only be explained in terms of legal convenience and legislative limits. As piracy, smuggling, abduction, gun-running, and counterfeiting have been crime problems for centuries, so too the laws of individual nations have been largely powerless to control them.

Trans-national crime such as terrorism is new only in its technologies and reach, along with the manner in which law enforcement and international agencies have recently identified it as a priority. Again, the selective political representation of crime is the explanation for such a trend. For instance, as governments realise the potential for criminal enterprise to endanger world market structures, capital transfer, national security, and international transport and communication, crime targets are selected out for cooperative action while others, like environmental degradation on a scale well beyond the reach of harm ever caused through terror attacks, are largely ignored. Strategies have been developed for example, to prevent and prosecute commodity futures fraud and abuses, but an international approach to crimes against the environment is yet to be convincingly settled.

The other difference with trans-national crime, represented as a recent problem for globalisation, is the manner in which crime control is reshaped in order to address the difficulties with jurisdiction. Crime control is, in this context, at least a bi-lateral endeavour.

However, in many control strategies for trans-national crime the bi-lateral efforts are stimulated by globalised representations of crime and control priorities.

Australian criminal justice will become more interconnected within globalised crime control agendas into the new millennium, despite its current commitment to America's preference for bi-lateralism and autonomy. International criminal law is developing as a new and expansive level of legal regulation. It will support an international criminal justice process, within which Australia will become subsumed, which will not simply rely on discrete operational justifications such as war crimes, or organised crime. To this extent, all crime will have a trans-national potential and a globalised response. The essential interaction between local and global crime concerns will be the predominant feature of Australian criminal justice into the next century. Organised crime as terrorism cannot but help being a priority for international criminal justice, as well as international relations.

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