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NGO'S WITH AN ATTITUDE AND BAYONETS:

A CONSIDERATION OF TRANSNATIONAL CRIMINAL ORGANIZATIONS¹

REVIEWED BY JOHN D. BECKER

RENSELER LEE ET AL., *TRANSNATIONAL CRIME IN THE AMERICAS: AN INTER-AMERICAN DIALOGUE BOOK*, Edited by Tom Farer, Routledge, New York (1999).

JEFFREY ROBINSON, *THE MERGER: THE CONGLOMERATION OF INTERNATIONAL ORGANIZED CRIME*, Overlook Press, New York (2000).

Behind international terrorism, transnational crime presents one of the most significant threats to governments across the globe, and for many of the same reasons. Transnational crime extends beyond borders and in doing so exceeds the legal jurisdictions of sovereign nations. Transnational criminal organizations make use of advanced technologies, including communications, computer networks, and all available modes of transportation, in a manner analogous to multinational corporations. They have access to and utilize a wide variety of weapons and weapon technologies in the pursuit of illegal ends. And finally, transnational criminal organizations impact governmental institutions, social organizations, and the economic foundations of our society

Yet, the threat presented by transnational crime has been little studied or analyzed. Lack of analysis in turn has left policy makers with few options for establishing effective responses to the problem. The need for careful analysis of concrete situations and available financial, human, and institutional resources is readily apparent.

Transnational Crime in the Americas, edited by Tom Farer, seeks to fill that void, at least in regards to the Americas. Organized into ten chapters and a conclusion, this regionally-focused text starts by looking generally at the organized crime phenomena: its incident, functions, severity, and morphology. Next, consideration is given to its relative importance among candidates for inclusion on the national security agenda, as well as dissecting its connection to the offshore

1. RENSELER LEE ET AL., *TRANSNATIONAL CRIME IN THE AMERICAS* xvi (Tom Farer ed., Routledge 1999). Farer's metaphor is an apt and succinct one and one I seized for the title of this paper.

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economy and a comparison of U.S. and European perceptions and responses to the problem of transnational crime. Finally, detailed case studies are used to clarify the phenomena itself, its relationship to the politics and economies of various states, and the effects of implementing possible anticrime strategies. The policy implications of all of this data, specifically how measures short of war might apply here, are sorted out in Farer's conclusion.²

Rensseler Lee's opening chapter, titled *Transnational Organized Crime: An Overview*, is a concise introduction to the topic. Lee sees organized crime as being defined by three characteristics: 1) continuity of operations, 2) practice of corruption, and 3) a capability to inflict violence.³ He also recognizes that the post-Cold War environment has promoted organized crime, particularly in fractured states with weak central governments, like in parts of Latin America and Asia. Within the context of a changed world, transnational criminal organizations represent difficult targets for law enforcement agencies.

Lee notes that the U.S. response to this challenge has been to focus on the more identifiable and comfortable target—narcotics production and illicit sales. Counterorganization and military interventions have become the preferred means to hit and destroy this target. But the problem is that drugs don't equate to transnational organized crime *per se*. There is much more out there that nation-states have to deal with—money laundering, gambling, prostitution, and other traditional crimes—plus new threats to government institutions, like illegitimate political actions, smuggling and sales of weapons of mass destruction, and legal-illegal economic endeavors.⁴

By focusing on drug intervention, the United States is missing the mark on transnational crime. In turn, it is being wasteful of limited resources and unproductive in overall strategy. Lee suggests a reappraisal of U.S. drug policy weighing the potential costs, benefits, and trade-offs of different counternarcotics policies and different regulatory schemes. Doing so could result in a better anticrime effort and free up resources for the targeting of transnational criminal organizations.⁵

The next three articles deal with some of the economic concerns involved with transnational crime. Gregory Treverton's piece, *International Organized Crime, National Security, and the Market State*, considers how much the international system has changed since the end of the Cold War, as well as how

2. *Id.* at xvi. Short of the former Soviet Union, Farer notes that transnational crime is most prevalent in the Americas. This is due, in large measure, to drug trafficking and its concomitant money laundering, gun running, and violent crimes. The biggest danger is that drug politics, rather than transnational organized crime, becomes the focus of government and intergovernmental responses.

3. *Id.* at 1. Lee's discussion includes recognition that the post-Cold War environment has promoted organized crime, particularly in fractured states with weak central governments, like in parts of Latin America and Asia.

4. *Id.* at 6-25. Lee documents this breadth and variety of nontraditional criminal activity quite thoroughly.

5. *Id.* at 35. In the broader view, transnational crime threats present a clear and present danger to international stability.

much America has changed. The biggest change, he argues, is the emergence of the market state.⁶ By that, Treverton is referring to a more economically-oriented, less Westphalia-like state.

In a market state world, international organizations are devalued, law is devalued, and dramatic changes occur in private (versus public) responsibilities. Additionally, national security concerns shift to consider both old threats—like rogue states and terrorism—and new threats. New threats are termed “threats without threateners” and include such things as global warming and transnational organized crime. Threats without threateners can destabilize friendly governments, risk wider spread violence, affect the economic well-being of citizens, or sharply offend cherished values. As a result, Treverton thinks that international organized crime will challenge U.S. institutions and conceptions of governance.⁷

Jack Blum’s article, *Offshore Money*, argues that international organized crime and large-scale narcotics trafficking depend upon the money laundering and banking services provided by the world of offshore banking and finance.⁸ Blum notes that law enforcement agencies, financial regulators, and government revenue sources are all affected by this alternative economic system. Indeed, offshore money has both American and global impacts.

The problem is that the international legal system is decades behind the development of the international financial system. Accordingly taking timely action is difficult. The potential for fraud, abuse, even destabilization of the world economy is significant. Blum suggests dramatic measures are needed, including abolishing international business corporations (IBC’s), requiring all corporations to have responsible officers and boards of directors, and eliminating bank secrecy laws that protect criminal activity⁹

The final economic concern is addressed in Peter Andreas’s *Smuggling Wars: Law Enforcement and Law Evasion in a Changing World*. He notes the bifurcated trend of nation-states to both police prohibited activities, like drug, people, and dirty money smuggling, and open their borders for the movement of goods, people, and money in the face of globalization.¹⁰ Andreas’s analysis highlights the paradoxical, double-edged, and even interdependent relationship between the business of smuggling and the business of trying to thwart it.¹¹ His conclusion is that the game of smuggling and anti-smuggling efforts goes on and on and

6. *Id.* at 47. Treverton develops a 2010 scenario to illustrate this market state world. 42.

7. *Id.* at 55-56. Treverton concludes by suggesting two implications derive from his analysis: 1) international concern with organized crime will grow but international capacity to deal with it will diminish, and 2) destabilization will affect countries important to the U.S.—whether they spirals down or reshape themselves depends—only time will tell.

8. *Id.* at 57

9. *Id.* at 82-83. The problem with Blum’s recommendations is that they also impact on legitimate, transnational and international corporations.

10. *Id.* at 85.

11. *Id.* at 86.

ultimately becomes an end in its own.¹²

One perspective position and four case studies follow in next four chapters. In *Transnational Criminal Enterprise: The Europe Perspective*, Elizabeth Joyce looks at transnational crime through an EU lens. Joyce starts by acknowledging the European experience has been different than the American, in large measure due to its multiple states and multiple borders. This different perception has led to a view that sees transnational crime as less a security concern than a law enforcement concern. But she notes that the view is shifting to a more U.S.-like view, in large measure because of five phenomena and their connection to organized crime: terrorism, increased drug trafficking, the effects of the political and economic transformation of former Eastern Europe and the former Soviet Union, rampant EU fraud, and illegal immigration.¹³ Joyce concludes by noting that Europe may prove a helpful case for the United States and the states in the Western Hemisphere, with recognition to the problems that international law enforcement poses for national sovereignty

Francisco Thoumı narrows the focus of transnational crime by looking at a particular case: *The Impact of the Illegal Drug Industry on Columbia*. His thorough treatment suggests that the economic impact of the industry has been important but not overwhelming. Politically and socially, the drug industry has been more dramatic, impacting Columbian society and politics. The overall effect is more evolutionary, given the poorly-defined causal relationship between drugs and social problems and crisis.¹⁴

In *The Decentralization Imperative and Caribbean Criminal Enterprises*, Anthony Maingot argues that size matters in transnational crime and in small Caribbean polities and civilities, their respective sizes impacts their ability to act and react.¹⁵ He notes that the degree of centralized organization, in turn, can affect the roles that Caribbean governments play in involvement with the United States. Specifically Maingot looks at the islands of Trinidad and Tobago, Jamaica, Honduras, San Andreas Providencia, Dominican Republic and their linkage as roads to and from the United States.¹⁶

In another case study *Transnational Criminal Organizations in Bolivia*, Eduardo Gamarra considers family-based drug enterprises and their relationships with the police, the military and other criminal organizations and government regimes. Key among his findings is that Bolivia's TCO's (Transnational Criminal Organizations) have restructured, retooled and accommodated changing circumstances dictated by the changing marketplace, more effective law enforcement efforts, or transformations in the domestic political scene. Having flourished under military dictatorships, Gamarra sees TCO's doing likewise in the

12. *Id.* at 95-96. Like offshore money, the conclusion one comes to is that smuggling and efforts to stop it are constant or given in the international system.

13. *Id.* at 102.

14. *Id.* at 136-137

15. *Id.* at 145, 147,

16. *Id.* at 164-165.

transition to democracies.¹⁷

The last case study is Peter Smith's *Semiorganized International Crime: Drug Trafficking in Mexico*. Smith notes that drug trafficking has a negative impact on U.S.-Mexico relations. He analyzes this criminal activity and considers where it is heading and what can be done about it. In his analysis, Smith looks at the 1970's to 1990's transformation of *narcotrafico*, the economic and political implications of drug trafficking with Mexico, the impact of the drug issue on U.S.-Mexican relationships, and the range of public policy options available to Mexico.¹⁸ He concludes that Mexico's position is unlikely to change unless either U.S. drug policy changes or the Colombian traffickers abandon Mexico (of which there is already some evidence).

The book concludes with two final essays: *Bad Business: A Commentary on the Criminology of Organized Crime in the United States*, by Alan Block and *Fighting Transnational Organized Crime: Measures Short of War* by the editor, Tom Farer.

Block's pessimistic point is simple: it is foolish to believe that any group of countries, much less one country, even the United States can control international crime. Criminal syndicates respond to what Block calls an opportunity structure—demands for services and products that legitimate society does not provide—and have found and will continue to find ways to satisfy that demand.¹⁹

Farer's analysis returns us to the macro-level with which Lee opens the book; his concern is once again with states and how TCO's affect both the licit and illicit economies, as well as how TCO's present various threats to national security. The growing connection between TCO's and legitimate business is significant in that it blurs the lines of legality (and one expects morality).²⁰ Farer also sees actions like TCO-driven computer fraud, financial scams, car theft, illegal immigration, arms and drug smuggling, as making up the TCO phenomenon. And the TCO phenomenon is what we should be concerned with, as opposed to the present harms and dangers connected to particular lines of TCO enterprise.

The reason for this is simple: the impact of globalization on political, social, and cultural mores provides increased opportunities and influences for TCO's. Farer notes that it is only by establishing similar legitimate regulatory and enforcement structures, that will battle be done with the TCO's.²¹

He suggests that the solution of how to deal with TCO's, or at least how the United States deals with them, will be found at the intersection of answers to five questions: 1) What is the problem? 2) What are the U.S. goals in relation to the problem? 3) What is the price the United States will pay, at least in the foreseeable

17. *Id.* at 172.

18. *Id.* at 193-194. It is interesting to see in the aggregate how much, if any impact, Vincentes Fox has on this analysis, if any.

19. *Id.* Block pushes Smith's helplessness analysis to the extreme; we are stuck with what we have and no level of intervention, even by an organization like the United Nations will make any difference.

20. *Id.* at 249-252.

21. *Id.* at 268.

future, to achieve these goals? 4) What are the chances of marshalling the required degree of support from the U.S. public and other states? And 5) Assuming the maximum investment of human and material resources, is it possible to solve the problem, and if so, for how long?²²

What that translates into is the following definition of a victory over transnational crime: the decimation of existing criminal organizations, the crippling of their networks and logistical systems, and continuing repression sufficient to prevent the restoration of TCO's to their present level of participation in the global and certain national societies.

Clearly this sounds like war and Farer notes that is exactly what the pursuit of victory entails. If transnational crime is the new threat (or at least one of the major new threats) which replaces communism in the Cold War, the only way to fight it is as a war is fought. He argues that the best, and preferred, way is through the means of low-intensity conflict. This could include a range of options from legalization of drugs, thus cutting off the source of profits for TCO's, to interdiction against the sources and supplies of TCO's goods and services, to liquidating the leadership of TCO's, to going for the money of TCO's, including offshore sources.²³

Farer ends by noting that the challenges of fighting a low-intensity conflict against transnational organized crime are many. They are better handled by the previously mentioned new international law enforcement agencies but until they are developed, make-shift solutions are the only solution. It is also important to remember that transnational crime is only one of the threats posed to national security of the United States (and other nation-states) in the post-Cold War world.

It is clear that this is not the first time that war has been waged against a particular form of crime in the United States. Two examples come to mind. The first was the war against prohibition in the 1920's. The second was the war against drugs, starting during the Reagan administration. Both of these wars were forms of low-intensity conflicts. It appears the difference between these earlier wars is not necessarily scale but rather one of scope. That scope is discussed in fuller detail in Jeffrey Robinson's *The Merger: The Conglomeration of International Organized Crime*.

In fifteen chapters, with a short prologue and epilogue, Robinson's work sketches out a detailed account of the complexity of organized crime in today's world. This international organized crime network connects the Sicilian mafia with the Chinese Triads to the Russian, Hungarian, and Czech maffiyas, and onto the Columbian drugs cartels, to name but a few of the key players. What links these criminal gangs together are the same things that connect multinational corporations: digital communication, world markets, and the Internet.²⁴

Robinson's book is full of vignettes and illustrations of how modern criminal

22. *Id.* at 275.

23. *Id.* at 276-282. Farer suggests that all of these strategies and tactics could fall under the umbrella of low-intensity conflict, but with restraint, respect, and sensitivity.

24. JEFFREY ROBINSON, *THE MERGER* inside cover slip (Overlook Press 2000)..

gangs increasingly operate as quasi-multinational corporations. The world, if you will, is smaller. For example, Russian gangs run prostitution rackets in Paris, cooperate with Columbia cartels to launder money through *bureaux de change* and are believed to have invested with some Italian gangs in business along the Riviera. Asian organized criminals are using their traditional base in Holland to ship amphetamines to groups in Australia, which include Lebanese, 'Ndraghenta and Romanian. Czech mobsters have forged alliances with criminals in the Middle East to assure a constant supply of heroin, which they then move through Austria into Germany, France, and increasingly Britain. Some of these same Middle Eastern criminals—usually Lebanese—have become middlemen, linking Eastern European criminals with Balkan drug-trafficking organization.²⁵

In effect, what this has done is remapped the world. No longer are borders barriers and no longer do nationalities and localities define who is who or where is where.

In addition to the centrality of smuggling operations, drug trafficking, and gun running discussed early, Robinson sees counterfeiting as being a major endeavor and profit-maker for transnational crime. Compounding the problem is business overlap, and with it, difficulty in sorting out what exactly is what. Illegal aliens are smuggled into the United States, and in order to pay off their debt for entry, work in sweatshops for associated gangs that are engaged in producing pirated software and music CDs. And in a raid of that factory, police also found large caches of loaded weapons, dynamite, and C-4 plastic explosives.²⁶

And yet, they (TCO's) have the advantage here, Robinson argues, "as long as we live in a world where a seventeenth-century philosophy of sovereignty is reinforced with an eighteenth-century judicial model, defended by a nineteenth-century concept of law enforcement that is still trying to come to terms with twentieth-century technology, the twenty-first century will belong to transnational criminals."²⁷

Even worse, he argues, the future of crime will involve more and more connections between transnational criminals and legitimate businesses. For example, in the new millennium, Robinson can foresee a scenario where the main targets of TCO's will be a global bank, which uses a electronic data interchange (where certain services, like billing and invoicing, is outsourced to specialist companies overseas. They could establish it legitimately, growing a base of customers over several years, gaining their trust and confidence, and then, suddenly empty out all the accounts, and resulting not in significant losses to their bilked customers but also seriously crippling part of the banking industry and certain economic sectors.²⁸

The only solution, for Robinson, is for states to overcome the sovereignty

25. *Id.* at 180. The intercontinental connections that Robinson brings out eventually numb the reader, with example after example, construed after a nice, developed history of that phenomena.

26. *Id.* at 232.

27. *Id.* at 19.

28. *Id.* at 336.

problem and work together by instituting transnational criminal law enforcement organizations. This is because crime is no longer a local issue. And nations must get beyond the written agreements and the rhetoric to the nuts and bolts of viable and effective means to combat TCO's.²⁹

There are a couple of areas which deserve more attention in light of the events of September 11, 2001 and are not really mentioned in these texts. First, a major danger with TCO's can be found in the business analogy of mergers,³⁰ and specifically mergers with terrorists organizations.

In many ways, TCO's resemble terrorist organizations like Al-Qaeda. They possess the same technologies—computers, cell and satellite phone, and other electronic business devices—and often similar financial resources, as well as possessing lack of restraints (or concern) about using violent means to achieve illegal or immoral ends. One can imagine—and I suspect it is already happening—transnational criminal organizations finding and providing weapons to terrorist organizations. In extreme cases, this might include weapons of mass destruction. The cost-benefit analysis to the TCO might not only include the immediate profits of the sale, but also the improved image as a viable resource for other terrorist groups and access to other markets in terrorist controlled or dominated areas.

Second, as noted in the texts, the transparency which exists between nation-states in Europe is promoting TCO's and the levels of criminal activity worldwide. At the same time, the EU is serving as a model for other economic development and unions. East Asia is moving in that direction and even the current Bush administration is discussing the possibility of one in the Middle East. Likewise, one can imagine economic unions in Latin America and Africa—ranging from some type of NAFTA arrangement to a fully extended EU treaty agreement. At the far extreme, a borderless worldwide economic arrangement would promote not only economic growth but also the growth of criminal activity.

Third, the question becomes how and by what means does the present world order deal with TCO's in their new and emerging roles? As Farer and Robinson note, the only real answer is to raise and resource similarly structured anti-TCO's. The problems, of course, are many. As indicated by the United States's recent refusal to participate in the International Criminal Court, as well as by its repudiation of a major U.N. role in post-war Iraq, it is unlikely support will be found for other international organizational solutions. And in a unipolar-dominated world, such support is vital to the success of any long-range, workable solutions.

Similarly, any international, interdependent anti-crime organization would need the support of other major powers, like the European Union, Russia, China, and India. In other words, a U.N.-like effort, as seen in the Korean and Persian Gulf wars would be required. If as Farer suggests this is really a war—a global war—it requires the resources of a war—moral, political, and strategic as well as

29. *Id.* at 337-345. Robinson's epilogue reaches many of the same conclusions that Farer's text does, but interestingly doesn't include that work in his own bibliography.

30. No pun intended with Robinson's book title.

military ones.

Overall, *Transnational Crime in the Americas* is a useful and thorough introduction to the topic of transnational crime and transnational criminal organizations. Prepared prior to 9-11, it still is relevant to conceptualizing the future impacts of TCO's in an increasingly interdependent and interconnected world. *The Merger* in turn, provides insightful details and accounts of TCO operations globally and contextualizes those organizations. Similarly, *The Merger* provides illustrative examples that flesh out the academic arguments discussed earlier.

Together these two texts provide a solid sketch of transnational crimes and TCO's, as well as the various ways in which they are impacting our world and national security concerns.

