

Transnational Organized Crime in International Relations

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Transnational Organized Crime as a Challenge to IR

Although it has never been central to IR theories, transnational organized crime (TOC) is inherently an international phenomenon that has an impact on international security, world politics, international trade, and human rights. Yet, TOC unquestionably occupies a niche within the domain of IR and should be explained and understood both theoretically and empirically. Otherwise, scholars of IR may portray a distorted picture of the contemporary international system.

This article proposes an analytical framework for issues related to TOC. Rather than focusing on particular criminal groups, selected criminals, or criminal networks, this article aims to evaluate several approaches towards TOC from the prism of major IR theories. Some of these theories fail to explain the essential features of transnational crime, while others provide more comprehensive analyses of TOC. This analytical endeavor scrutinizes the literature on transnational organized crime within a broader research agenda that can elucidate the role of non-state actors, networks, and information communication technologies. Specifically, the article argues that there is a common identifiable pattern of the rise of criminal networks that have become fundamental non-state actors empowered by resources created by an increased degree of globalization. Transnational networks have consolidated spatially dispersed resources from across the international system and converted them into an illicit business through peaceful coexistence with national governments and criminal counterparts. Such a shift of power from legal to illegal economies on a global scale has threatened the authority of nation-states by minimizing their capacity to contain expanding criminal activities.

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Conceptual Perspectives

There is no clear-cut definition about what elements constitute TOC. Definitions of this phenomenon vary to a great extent depending on the discipline, level of analysis, and selected methodologies of inquiry. The definitions are also constantly evolving depending on the ideas, perceptions, and conceptions of the particular time period and theoretical approach.

According to different theoretical perspectives, crime could be defined within a wide range of concepts varying from “legal-consensus” to “human rights.” From the IR point of view, definitions of TOC may be grouped into the following three categories: *realist*, *liberal institutionalist*, and *constructivist*. This article does not aim to evaluate the explanatory power of each of the definitions, but rather it intends to identify the important tendencies of how crime could be conceived and conceptualized.

The definition from the *realist perspective* sees crime as a social phenomenon that “involves both criminal offences and civil offences, in that each time of action or inaction brings with it some type of harm. Each should therefore attract some sort of penalty....The cross-cultural universal norm which recognizes criminal activities as universal...[that] cutting across diverse cultural backgrounds” (White and Haines 1996, 5). Crime within this perspective implies that the society’s status quo is legitimate and should be sustained. There is a core value system to which everyone in society should conform. The function of institutions is to preserve the dominant system of order for the benefit of the entire society as a whole. From this perspective the society is viewed as a *triangle* – “society as a hierarchy, since some people are situated at the top, possessing the wealth and power, and the majority are situated at the bottom. This vision of society implies conflict and inequality. The concept of crime is that it occurs in the context of struggles and hierarchies of control and power” (White and Haines 1996, 14).

Liberal institutionalism suggests a legal/normative definition of crime which states that “crime is whatever the state identifies as crime....If something is written into the criminal law, and is subject to state sanction in the form of a specific penalty, then that activity is a crime” (White and Haines 1996, 4). This approach suggests a *labeling priority* which means that the definition of crime “really exists when there has been a social response to a particular activity that labels that activity as criminal. If there is no label, there is in effect no crime” (White and Haines 1996, 5). Since liberal institutionalism prioritizes human rights, the definition of crime is usually adjusted presenting crime as “whenever a human right has been violated, regardless of the legality or otherwise of the action” (White and Haines 1996, 5). Within this perspective, the society is viewed as a *geometric circle* – “the society is harmonious, and people share the same values of community and equality. The concept of crime is that perpetrators are deviant, or outside the circle, and thus they need to be either pulled

back into the circle or kept outside the circle's confines" (White and Haines 1996, 14). In this perspective society consists of a variety of interrelated circles "representing different interconnecting institutions, such as the family, work, and school. Crimes are studied in relations to how these institutions impact upon, and reflect upon, crime" (White and Haines 1996, 15).

The *constructivist approach* to crime emphasizes the "zones of ambiguity" as the perspective on crime where criminal activities are interpreted to be embedded in the state regulation (Berdal and Serrano 2002, 15). The constructivist approach argues that crime is characterized as having elements of both *social process* and a *grounded reality*. Constructivists adopt a *non-geometric* form of social phenomena, claiming that "the focus is on individuals, as opposed to society as a whole, and the emphasis is on examining individual creativity and the way individuals construct their realities. The idea is that reality is socially constructed, and that how people act and react in relation of each other has a major impact in terms of defining behavior and individuals as being deviant, normal, or whatever. How people think about themselves and each other is a significant factor in how they subsequently behave in their interactions with others" (Berdal and Serrano 2002, 15).

Limitations of Mainstream IR Theories

TOC has never occupied a central place in IR literature. The study of transnational criminal activities has, therefore, become an interdisciplinary endeavor. When analyzing the mainstream theories in IR, one is most likely to arrive at the conclusion that none of the core assumptions in IR theories sufficiently explain the essence of TOC. The analysis of TOC within IR theories is challenging since it falls out of the major thematic foci of IR, ie: criminals are not creating a state of their own, or acting on the orders of another state by carrying out a certain state-sponsored agenda. Transnational criminal networks rather function as independent entities, pursuing their own economic interests. Susan Strange insists that specialists in international relations should "come up with explanatory theories capable of adapting to the emergence of TOC as a major threat – perhaps the major threat to the world system in the 1990s and beyond" (Strange 1996, 121).

When trying to assess the adequacy of *(neo)-realist conceptualizations* of world politics to explain the phenomenon of TOC, one would inevitably encounter numerous constrains. The deficiency of (neo)-realism to explain the essence of TOC lies in its key premises, namely, that the international system is a perpetual anarchy and that sovereign states are the principle actors in it (Kenneth Waltz 1979). Moreover, neo-realists, like Kenneth Waltz, claim that globalization is only a *fad* that poses new challenges to states but there is no non-state actor who can be equal in capacity to a state (Waltz 1999). Here is the rising power of non-state actors absolutely ignored. The realist perspective on

TOC is too narrow and does not address the issues related to criminal activities transcending the borders of nation-states. Security in the realist theory is seen not as a common strategy in the era increased interdependencies but as a national prioritization distributed among unitary actors. Therefore, TOC is only viewed as a marginal threat to international security. Such conceptualizations do not correspond to the idea of transnational crime projected in this article which suggests that TOC is an unit of interconnected flexible networks which cut across nation-states establishing illicit markets and informal economies of goods and services.

As the realist approach did not answer questions asked by IR scholars, many theoreticians have referred to the liberal tradition in order to explain the rise of TOC. Indeed, *liberalism* explains why states choose to cooperate and create the instruments which would sustain global cooperation and coordination of activities and that “a natural harmony of interests (the ‘invisible hand’) will ensure people and states make rational calculations which make national interest and international interest one and the same” (Evans 1998, 33). If, in any case, a dispute occurs, there will be established juridical mechanisms under the rule of law which would settle the dispute down. Liberal institutionalists emphasize the role of a *social contract*, under which citizens would agree to abide by the law in the liberal democracy, yet, they fail to explain why certain citizens would not integrate into the system and would enjoy its loopholes seeking a personal benefit. TOC also expands its reach on the global level enjoying the convergence of technology and the liberalization of trade and immigration which erode the sovereignty of states holding limited legal jurisdiction to decide upon matters taken place outside the national borders or even in the cyber space. Although states attempt to create international institutions, which in the liberal view, should combat TOC, the international system with nation-states as its building blocks by its very nature is ill-suited to combat TOC.

Although the traditional liberal theory is still nation-state based, neo-liberal theoreticians upgraded the theory so that non-state actors figure more notably in the international system envisioned by neo-liberalism (Keohane and Nye, 2000). Liberal theoreticians view power as being distributed not just across states, but also embedded in other entities such as international institutions and NGOs. Neo-liberals (Keohane and Nye, 2000) offer a mixed-actor model - a theory based on spillover effects which are to bring global governance through norms, rules, processes and institutions. This is the system free of militaristic solutions where the major source of power is concentrated in the functioning international organizations (Keohane and Nye, 2000). Still, TOC is recognized as a marginal non-state actor. This article attempts to prove that transnational organized crime is a big threat in the international system with eroding nation-states but without steadfastly functioning global governance.

Post-International Approach to Crime: Rationale, Structure, Spheres and Elements of Reach

Post-international definitions of crime ask a different set of questions. Because globalization reshapes both the international system and local communities, crime is conceptualized at a different level that reflects on the new logic of the international system with its increasing economic and political interdependencies, as well as expanding information communication technologies. The suggested level of analysis of crime is the one based on transnational structures of criminal organizations cutting across time, physical and virtual spaces. The vast increase in international trade in the second half of the 20th century, the information and communications revolutions, as well as the development of a truly global financial system have all provided conditions facilitating the growth of transnational criminal operations. As globalization weakens the role of nation-states, national boundaries collapse allowing for the emergence of new markets – legal and illegal. Criminal organizations follow the logic of the market crossing the borders driven into the global economic environment less controlled by nation-states. Illicit criminal activities have now become intrinsically commingled with licit enterprises having made it almost unfeasible for respective national institutions to foil the illegal activity of the global scale. Information communication technologies when introduced into criminal activity only empower criminal networks with the new opportunities of instant coordination, rapid transportation, and most importantly, open new markets in virtual realities.

Definitions of TOC significantly vary depending on the national context. This article would not be able to elucidate all the national variety of formulations. What is going to be done instead is the explanation of the intrinsic features of TOC which manifest its fundamentally transnational nature. Indeed, transnational crime is a form a very sophisticated criminal activity which can take a variety of geographical combinations: “(a) committed in more than one state”; (b) committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state; (c) committed in one state but involves an organized criminal group that engages in criminal activities in more than one state; (d) committed in one state but has substantial effects in another state” (UNODC 2006, 7).

Moreover, the concept of TOC encompasses five intrinsic elements which ensure its transnational make-up:

- 1) *Perpetrators* are the actual criminal actors who cross borders (whether physically or virtually via ICTs) “in the course of their activities or in efforts to evade law enforcement” (Williams 2001, 61)

- 2) **Products** are illicit goods (manufactures and services) or “licit products that are stolen and smuggled out of the country, or licit products that are taken out of the country in violation of export restrictions, of licit products that are imported to another country in violation of import restrictions or international embargoes” (Williams 2001, 61)
- 3) **People** are “illegal aliens who enter countries in violation of immigration restrictions, and women and children who are trafficked across borders to fulfill demand in the global sex trade” (Williams 2001, 61)
- 4) **Proceeds** are the profits from illicit activities. “Criminal enterprises, whether transnational or domestic in scope, are primarily about the pursuit of profit”. The illegal money is “moved through a variety of jurisdictions in order to obfuscate the trail” (Williams 2001, 61)
- 5) **Digital signals** are “the transmission of digital signals or what is, in effect, a ‘virtual’ as opposed to a physical border crossing. These signals can take the form of child pornography, malicious code that is designed to attack or destroy computer and information systems, or electronic bank robberies” (Williams 2001, 62).

ICTs have exercised an enormous influence on the increase of transnational crime. There has not been any evidence that there is a customary proportional relationship between the use of ICTs and the expansion of TOC, yet the argument that TOC is facilitated by ICTs has been proven accurate. Developments in cellular phones, PCs, Internet communication, fiber optics have increased opportunities and the speed of transnational communication and coordination for legal and illegal transactions alike. With the introduction of ICTs crime has become an extremely lucrative business attracting citizens by its easy and fast profits in a rather low-risk environment.

Based on the research conducted by the *United Nations Office on Drugs and Crime* (2006), it is argued that due to rapid technological advancement the very structure of criminal organizations is undergoing significant changes - from a hierarchical group (standard hierarchy) into a more dispersed group of associates (core structure). UNODC surveyed 40 organized criminal groups. Based on the coded survey half of the structures of the sampled criminal organizations had a *standard hierarchical structure* with (1) strong internal lines of control and discipline; (2) single leadership coordination; and (3) a strong social or ethnic identity (UNODC 2006, 80). Yet, the analysis of the other half of the sample suggested that there emerged a different form of organization of criminal organizations – a *core structure* - with (a) a limited number of strictly profit-oriented and opportunistic individuals; (b) forming a relatively tight and structured core group (c) surrounded by a loose network of ‘associates’ to maintain internal discipline (UNODC 2006, 35).

If it is presupposed that local crime has moved on a global level, it is important to track the factors which made the transition possible. Phil Williams offers a comprehensive set of factors dichotomized at two levels – *macro*

(globalization and the new environment) and *micro* (specific incentives to go transnational). Williams insists that criminal organizations are motivated to engage into transnational criminal activities at both levels “where it is necessary to identify the specific calculations that an individual criminal enterprise might make – intuitively or explicitly – before embarking to international ventures” (Williams 2001, 66).

On the *macro* level, one of the strongest incentives for criminal organizations to go global is most likely the general *transformation of the post-Cold-War landscape*. The collapse of the USSR and the dissolution of national political and economic barriers around the world led the way to substantial economic liberalization which has doubled the encouraging conditions for the outbreak of transnational criminal activity. In parallel to the expansion of the market of legal goods, criminal networks trading in illegal goods transcended national borders arranging profound connections with criminal networks around the globe. Moreover, as the erosion of national borders fostered *global movements of people* driven by “a mix of push and pull factors that range from ethnic conflict and environmental degradation to the desire for economic betterment” (Williams 2001, 68). “The increase in migration and the growth of ethnic networks that surpass a whole range of national borders has proved valuable to the operations of criminal organization” (Williams 2001, 68). Williams insists that although most of immigrants have become law-abiding citizens, they might also in cases of non-integrated into the adopting society communities, “provide recruitment based on ethnic loyalties, cover and support” for criminal activities (Williams 2001, 68).

On the *micro* level, there is a set of distinct reasons too. The attractiveness of particular markets and selected national legal systems is of the most obvious. Criminal organizations are attracted to engage in transnational criminal activities as there is “a significant demand for the products and services they supply. In either instance, a host country might be a significant source of products that can be stolen and trafficked to meet a burgeoning market elsewhere” (Williams 2001, 70). Not only the consumer rates are important but also the national regulations where legal differences among state might encourage or, *visa versa*, draw away transitional criminal activity. The distinctiveness of illicit business lies not in the profit side – all enterprises seek to maximize profits – but in the risks transnational criminal organizations face in national legislations. “This is not to imply that transnational criminal groups will avoid high-risk states. If such states also provide attractive and lucrative markets, then they will also become host states. The criminal organizations will engage in illicit activities within them while trying to contain or minimize the risks by continuing to operate primarily from a low-risk jurisdiction” (Williams 2001, 71).

Erosion of a State vs. the Rise of Non-State Criminal Actors

The discussion over the erosion of a nation's sovereignty has a direct impact on how TOC is perceived. Although, there are opinions (Sassen, 1998 and James Rosenau, 1990) that globalization processes are transforming the essence of state sovereignty without actually eliminating the significance of the state, this article supports the alternative vision of the sovereignty-eroding international system. Such a view was theorized by such IR scholars as Susan Strange who claimed that the international system is undergoing crucial transformations leading to the excess of power of non-state actors tending to govern the world politics. Following the argument of the rise on non-state actors in international politics, Susan Strange attempts to develop an approach, which would escape the projection based on unitary state actors rejecting the state-centric approach, and define power in terms of the distribution of capabilities which, in her opinion, were slowly inclining towards non-state actors in international politics. The central theme in *The Retreat of the State* (1996) is that state power is becoming more diffused in world economy. Strange explains that power is transferred from nation-states to non-state actors. States are losing their power while markets, sometimes illegal markets, gain significance. She argues that IR fails to come up with "explanatory theories capable of adapting to the emergence of TOC as a major threat – perhaps the major threat to the world system in the 1990s and beyond" (Strange 1996, 121).

Strange makes an important contribution to the understanding of criminal groups. She accentuates that criminal groups challenge the state power and sovereignty to high extremes: "the models of international society conventionally accepted in the realist, the neo-realist and in the neo-liberal literature of international relations may have been rendered obsolete by changes in the world market that have indirectly eroded the authority of states" (Strange 1996, 118). She also acknowledges that there is a form of *symbiotic existence* between a state and non-state criminal groups. According to Strange, governments accommodate themselves to the eroding political environment welcoming collaboration with criminal groups as the means of their only survival. In connection to this, elaborates Strange, organized crime has become a socio-political and economic phenomenon transformed from criminal illegal activities into semi-legal disguised entrepreneurial enterprise frequently backed up by governmental officials.

Apart from that, Strange further explains that the proliferation of illegal markets has integrated criminal organization at the global level into transnational criminal networks. The result is a form of "*transnational diplomacy*" between "national mafias" based on the "shared interests" of exploiting illegal markets (Strange 1996, 121). Such a coordination and distribution of tasks has led to a proliferation of informal agreements that illustrate an anarchical

international society of mafias as there is of the civil society. Weakened state authority helped to create “a transnational anarchical society of mafias that were all engaged in activities deemed by governments to be the wrong side of the law” (Strange 1996, 119).

Claire Sterling, a journalist for *The Reporter* and the author of the book *Crime without Frontiers: the Worldwide Expansion of Organized Crime and the Pax Mafiosa* (1995), adopted the arguments advanced by Strange and coined an incorporating term *Pax Mafiosa* modeled from the stability of *Pax Romana*. This concept describes a period of relative peace through a symbiotic co-existence between state authorities and criminal groups, as well as between rival criminal mafia who choose to cooperate driven by mutual profits in the favorable international setting of the free market. Sterling is pessimistic in her arguments. She explains that since criminal organization have become global and “substituted internal conflict with cooperation and common strategy, sharing resources and governmental patronage - international community is not capable to cope with the insecurity” (Sterling 1995, 53). Sterling quotes *Anti-Mafia Commission Report to the UN Assembly* (1990) where she acknowledges that “organized crime was ‘taking on the characteristics of an extremely dangerous world calamity’...International criminal organizations have reached agreements and understanding to divide up geographical areas, develop new market strategies, work out forms of mutual assistance and the settlement of conflict...and this on planetary level. We are faced with a genuine criminal counter-power, capable of imposing its will on legitimate states, of undermining institutions and forces of law and order, of upsetting delicate economic and financial equilibrium and destroying democratic life” (Sterling 1995, 55). She insists that criminal syndicates go where money is. Sovereign states are incapable of taking any measures in the environment where they are “hampered by all the baggage of statehood - patriotism, politics, accountable governments, human rights, legal structures, international conventions, bureaucracy, diplomacy – whereas the bid syndicates have no national allegiances, no laws but their own, no frontiers” (Sterling 1995, 211).

Transnational Un-Civil Society: **TOC as a Fundamental Non-State Actor**

The international system in the beginning of the new millennium is more open, complex, diverse, interconnected and risky than ever before. Networks have substituted the old morphology of societies having become the perfect means of accomplishment of a variety of both positive and negative purposes. Their main asset is that they flow around physical and virtual barriers, as well as across juridical boundaries. Contemporary global order is the direct outcome of multiple, interlocking patterns of transnational interaction driven by the networking logic. Within the broader context of transnational interaction,

strategies of TOC are one of the many components of an overall agenda designed by the new international setting –the network society (Castells 2004).

Citizens from all over the world have shown an unprecedented capacity of self-organization and mobilization, making full use of information, communication, and transport technologies to realize their goals. As much as globalization generates the emergence of a strong civil society it engenders the *shadow side* of globalization. The instruments and resources civil society organizations employ for their advantage and coordination are also used by criminal networks.

Criminal organizations represent a more malevolent kind of transnational actors, but one that is as “deeply entrenched as any non-governmental organization” (Williams 2001, 66). Not all global citizens have a sense of citizenship and belonging to a certain state, a sense of responsibility and obligation. Having preferred to exploit new opportunities to accomplish their goals, they create an *un-civil society* – a manifestation of globally collaborated by criminal networks disruptive, unwelcoming and threatening activities in the forms of terrorism and TOC. Opposite to the widely idealized image of civil society, civil groups are not always promoting proper in the utilitarian sense values. Civil groups might also advocate controversial ideas, reversed interpretations of universally-accepted social norms and human principles. “Of much deeper concern are the dark sides and murky corners of what has been called the ‘uncivil society’”. Global terrorism and the drug trade are potent expressions of the destructive power of non-state criminal networks and of their capacity to inflict tremendous damage not only to specific countries but to the international order as a whole” (Cardoso 2000, 4).

Summary

This article analyzes and synthesizes the key theoretical standpoints in IR concerning TOC, and identifies some of the critical tendencies in the transformation of the international system with respect to global criminal activities.

First, the role played by criminal networks should not be overlooked in the discipline of IR. The traditional emphases in IR concerning the understanding of conflict and cooperation among state actors have to be adjusted to encounter the rising significance of non-state actors’ politics. As opposed to adopting either a realist or a liberal perspective, a more useful way of thinking about TOC is through the theories of IR that recognize the prerogative of global non-state actors. In doing so, these theories should not only focus on civil society (non-state) actors such as *La Strada*, *Amnesty International*, or *Greenpeace* but also systematically analyze a full range of trans-border activities conducted by *un-civil society*, such as *Hizbullah*, *Yakuza*, *human trafficking*, and *drug trafficking groups*.

Second, the convergence of technology and liberalization of transnational flows of illegal goods and services have created countless opportunities for TOC. The range of activities pursued by global criminal organizations has broadened quantitatively as well as developed qualitatively. This greater success of transnational criminal enterprises has been, moreover, secured by the peaceful coexistence among geographically-dispersed counterpart criminal syndicates, and the interdependence between national governments and criminal organizations. Criminal actors are no longer unitary and independent players but rather constitute important nodes in the interdependent matrix of state and non-state actors. The problem is not simply that states are losing their sovereignty by continuously engaging in global networks. The real predicament is that the authority of states to command and regulate has been vitally damaged by the interdependencies brought about by globalization processes and the power vacuum they have produced. Due to the scale of transnational crime, it is unlikely that national anti-TOC programs can be successful if limited solely to national jurisdictions. Multilateral efforts through international cooperation have to be reinforced in order to overcome the disturbing uncertainties and challenges posed by TOC.

The role played by criminal networks should not be overlooked in the discipline of IR.

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