1 Organised crime – what we know and what we think we know!

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What do we mean by organised crime?

Attempting to identify examples of organised crime in history very much depends upon the definition of organised crime that is adopted. In recent years many attempts have been made to discern factors which assist in an understanding of the primary characteristics of organised crime. However, taking perhaps a simplistic approach and regarding organised crime as involving the coming together on a regular and predictable basis of individuals for the commission of criminal acts with what is perceived as a structure of command if not organisation, serves well enough our purpose, to identify many early

2 See the discussion in H Abadinsky, Organised Crime (11th edn, 2016) Wadsworth, Chs 1 and 2; L Holmes, Advanced Introduction to Organised Crime (2016) Edward Elgar, Ch 1; F Allum and S Gilmour (eds), Routledge Handbook of Transnational Organised Crime (2012) Routledge; and R Kelly, K Chin and R Schatzberg (eds), Handbook of Organised Crime in the United States (1994) Greenwood Press, in particular M Maltz, ‘Defining organised crime’. The definition preferred by the present author is that settled upon in the US by state law officers in the mid 1960s as ‘working definition’ – ‘organised crime is a product of a self-perpetuating criminal conspiracy to wring exorbitant profits from our society, by any means – fair or foul, legal or illegal. It survives on fear and corruption. By one means or another it obtains a high degree of immunity from the law. It is totalitarian in organization. A way of life. It imposes rigid discipline on underlings to do the dirty work while the top men of organised crime are generally insulated from the criminal act and consequent danger of prosecution.’ As an encompassing definition it is far from satisfactory and is very much of its time, but it does provide very useful pointers primarily for traditional organised crime groups; see for example, W Jennings, ‘A note on the economics of organised crime’ 10 Eastern Economic Journal (1984) 315 and G Fiorentini and S Peltzman (eds), The Economics of Organised Crime (1997) Cambridge University Press, Pt 2.
examples. Gangs of smugglers, pirates and extortionists clearly existed in the Roman Republic and Empire. There are hints of organised criminality in classical Greek literature and what appear to be organised bands of robbers and smugglers in many other earlier societies. As we shall see, the coming together of individuals with a common purpose greatly increases the potential for effect and when applied to criminal or anti-social objectives the threat is all the more significant.

3 In so far as piracy threatened all those on the high seas and occurred in many cases off territory, it has long justified a co-operative approach – and remains, with other forms of serious maritime related crime, of concern today. See I Urbina, The Outlaw Ocean and Survival in the Last Untamed Frontier (2019) Bodley Head; E Ellen, Piracy at Sea (1989) ICC-IMB; and in particular I van Fespen, ‘Developing the concept of Maritime Piracy: A comparative legal analysis of international law and domestic criminal legislation’ 31 International Journal of Marine and Coastal Law (2016) 279.


7 While different legal systems have addressed the increased threat of harm resulting from concerted and organised behaviour in different ways, the early law in England appears to have focused, to some degree, on the potential for disorder. See, for example, J Baker, An Introduction to English Legal History (5th edn, 2019) Oxford University Press at 494; and, generally, F Sayre, ‘Criminal conspiracy’ (1922) 35 Harvard Law Review 402. It has particular relevance in the coming together of individuals to undermine markets; see B Rider, K Alexander, S Bazley and J Bryant, Market Abuse and Insider Dealing (3rd edn, 2016) Bloomsbury at 128 et seq. The ability to engage in criminality with resources beyond that of the individual manifests itself as a concern in addressing corporate crime and misconduct. See, for example, M Swartz and S Watkins, Power Failure – the Inside Story of the Collapse of Enron (2003) Random House. See also Serious Organised Crime Strategy (2013) Cm 8715 and the Serious Organised Crime Acts 2005, 2007 and in particular 2015. Section 45 of the 2015 Act creates the offence of participating in the criminal activities of an organised crime group defined as a group which has at its purpose, or one of its purposes, the carrying on of specific crim-
At a time when the formality of law did not exist why should we seek to distinguish between human beings combining on a regular basis to kill a mammoth for food⁸ on the one hand and raiding settlements on the other?⁹ To this, admittedly perhaps naïve, conception, can we not trace organised violence back to the time when we first came together to pursue an enterprise? Of course, our definitions tend to emphasise the economic objectives of such activity, but again from a historical perspective this motivation, indeed, arguably *raison d’être*, needs to be contextualised.¹⁰ Thus, in the context of the times and conditions, the exploitation in a concerted and planned manner of materials and even women to foster the very existence of the group had economic relevance in a very real and pertinent sense. Whether conduct that harms others in a society that lacks notions of law in the sense we might understand it today can be described as criminal is an issue perhaps best left to philosophers, but in considering the constituents of our perception of organised crime it is entirely possible and perhaps even relevant to cast back to the past and in fact the very long past. There we discover the threat presented by organised and focused violence to attain an economic objective.¹¹

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¹⁰ The vital importance of economic motivation in our current understanding of organised criminal activity should also be construed widely. See for example, the observations and findings of Commissioner Frank Costigan QC, *Royal Commission on the Activities of the Federated Ship Painters and Dockers Union*, Government of Australia, 1982, at 10.01 et seq.; and, generally, Fiorentini and Peltzman, supra at n 2.

¹¹ The use of aggression to obtain wealth and control over wealth is nothing new. Whether the use of militarised violence can properly be regarded as organised crime has largely depended upon the presence or otherwise of sovereign or at least state actors. The analysis has also depended upon whether the perspective is domestic or international. However, the development of personal liability in international criminal law and to an increasing degree international humanitarian law, as opposed simply to traditional state responsibility, further obscures the distinction. Piracy has, of course, long been considered an ‘international crime’; see supra at n 3. It has been argued that participation in organised crime should be
Having said this, it is difficult to find, at least in relatively easily accessible history, examples of recognition of the different qualities of organised crime in distinction from specific crimes. It is also pertinent to factor in the realities of violence and, indeed, war in early and sadly modern society. It is a nice question, but one beyond the present author, to attempt to determine the extent to which warlords with their bands are properly considered something different from organised crime. Certainly, there are examples of such groups considered in the same vein. The definitional issues have, however, so far defeated this, albeit the possibility of specific crimes favoured by organised crime groups such as corruption and possibly money laundering attaining this status is more realistic.

Except, arguably, in the threat to the stability of the state or other authority. See generally, M Levi, ‘The organisation of serious crime’ in M Maguire, R Morgan and R Reiner (eds), The Oxford Handbook of Criminology (6th edn, 2017) Oxford University Press. Recognition by lawyers and criminologists that addressing organised crime involved particular issues came late in the UK, for example, there is no mention of the phenomenon in R M Jackson, Enforcing the Law (1972) Penguin; or L Radzinowicz and J King, The Growth of Crime (1977) Penguin; see also at n 180.

Russia’s invasion of Ukraine has resulted in many characterising what has occurred in terms of state and individual actions as criminal from both a domestic and international perspective. The stigma of criminality, particularly in so far as it counters the authority of command, is a powerful weapon, the more so because resolution involves considerations beyond politics, diplomacy and the battlefield. See for example, G Posner, Warlords of Crime, Chinese Secret Societies (1988) Queen Anne Press. The relationship of organised crime to political authority in certain places such as the Shan states and Golden Triangle is highly complex. See for example, B Young, Golden Triangle (1987) Joint Publishing Co. The legitimacy in folk perception of organised bandits who assume a ‘political’ mantle is long and well recorded and illustrated not just by the legends of Robin Hood. See S Nai’an and L Guanzhong, Outlaws of the Marsh (3 vols) (1980) Foreign Language Press; and in particular F L Davis, Primitive Revolutionaries of China – A Study of Secret Societies in the Late Nineteenth Century (1971) Routledge. While today the relationship between the 14K Triad and the Kuomintang in Taiwan is historical (see for example, ‘Step up crackdown on Triads, says President Lien Chan’ 23 September 1996, Straits Times), it was a reality; see generally J Taylor, The Generalissimo, Chiank Kai-Shek and the Struggle for Modern China (2011) Harvard University Press. The relationship of the Chinese government and elements within the Chinese Communist Party with organised crime groups both inside and outside China, is also a matter of concern; see C Dobson, ‘China’s police chief met top Triad bosses’ 11 April 1993, South China Morning Post; ‘China’s police chief willing to unite with patriotic Triads’ and ‘Triads meet top Chinese minister’ 9 April 1993, The Standard (HK); and there are suspicions that Hong Kong gangs have operated against pro-democracy initiatives at least in sympathy with the Chinese Communist Party etc.; see for example, L Lewis,
being considered in medieval England as outlaws rather than insurgents.\footnote{See references supra at n 6.} Perhaps the answer can be found in our more modern identification of organised crime by virtue of its economic aspirations rather than the acquisition of power. However, there are many examples during, for example, the Hundred Years War of bands of disaffected and under-employed soldiers supporting a particular protagonist or their own agenda, simply for gain. Indeed, it is not uncommon to find examples of what would be considered traditional organised crime groups seeking to establish a mandate or at least some legitimacy by referring to a past, often largely imagined, when their founders sought to establish their own and their society’s freedom.\footnote{The largely mythical objective of Triad society members in China to ‘over throw the Ching and restore the Ming’ along with the fanciful stories of the White Lotus society and Shaolin monks, have been seen in this context; see for example, G Schlegel, \textit{The Hung League} (1991) Tynron Press; M Booth, \textit{The Triads} (1990) Grafton; D Lambert, \textit{Triad} (1987) Hamish Hamilton; and Davis, supra at n 14, Ch 1, in regard to the ideological background. Of course, the Taiping ‘revolution’ and boxer rising, also arguably manifestations of organised crime, made similar romantic claims; see for example, H Morse, \textit{In the Days of the Taipings} (1974) Chinese Materials Centre; the novel, E Wickert, \textit{The Heavenly Mandate} (1964) Collins; and B Putnam Weale (ed.), \textit{Indiscreet Letters from Peking} (1906, 5th edn) Hurst and Blackwell. The Italian Mafia was no less imaginative; see N Cawthorne, \textit{The History of the Mafia} (2011) Arcturus, at 8 et seq.; and H Hess, \textit{Mafia and Mafiosi, Origin, Power and Myth} (1998) Hurst. For a particularly interesting historical perspective; see J Leeman, \textit{Thug – A Million Murders} (1933) Sampson, concerning the thugs of India. As part of their self-justification some Yakuza refer to the master-less samurai or ronin and their traditional code of honour – see I Nitobe, \textit{Bushido} (1900) Leech and Biddle; and D Kaplan and A Dubro, \textit{Yakuza} (1987) Queen Anne Press. Indeed, recently there has been a tendency for gangs to move away from modern weapons, albeit this probably has more to do with the threat of the death penalty than honour; see R Lloyd Parry, ‘Yakuza put away guns after death sentence on boss’ 3 September 2021, \textit{The Times}.} As we shall see, the relationship between so called freedom fighters, who others might label as terrorists, and organised crime is rather more fluid and less well delineated than has long been argued.\footnote{Mr Duncan Smith MP, then leader of the Conservative Party, observed in 2001, ‘the boundary between terrorist activity and criminal activity has become increasingly blurred’ Carlton Club, London, 25 September 2001. See also P Webster, ‘Terror linked to organised crime …’ 26 September 2001, \textit{The Times}. There are examples of individuals within organised crime groups also having associations with terrorist organisations; see for example, in regard to the ‘Ndrangheta and Avanguardia Nazionale, T Kington, ‘Italy jails “Black Pimpernel” four decades after Bologna bomb’ 8 April 2022, \textit{The Times}. There are also examples of cooperation between terrorist groups with very different ideologies: R Wolfe, ‘IRA ‘Hired thugs attack Hong Kong democracy protesters’ 4 October 2014, \textit{The Times}.} It has been remarked that relatively few terrorist groups do in
fact achieve their political objectives, at least over time, and that there is consequently a tendency for them to morph into organised crime. While no relatively successful and closely knit group seeks oblivion and might well adapt to changed or inevitable circumstances, such a progression is not inevitable and perhaps like so much in this context depends rather more on the perspective of the beholder. The relationship between even identified terrorist structures and traditional organised crime is complex and not easily addressed from the armchair.

It is perhaps the concern of those interested in fashioning and maintaining the authority of the state that justifies and explains our interest in organised crime as a specific phenomenon. While there is scope for a great deal more deliber-

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20 See for example, D Sharrock, ‘Smuggled cigarettes and fuel seized at IRA farm’ 10 March 2006, *The Times*. The situation is made more complex by the relationships that organised crime groups and terrorists may enjoy. For example, the skills of organised criminal, particularly in moving money, may be useful for terrorists and their potential for violence useful for organised criminal. The extreme measures taken by the state and law enforcement, perhaps from another jurisdiction, also add complexity; see for example, M Bowden, *Killing Pablo* (2001) Atlantic Books; and see also G La Free and L Dugan, ‘How does studying Terrorism compare to studying crime’ in M Deflem (ed.), *Terrorism and Counter Terrorism: Criminological Perspectives* (2004) Emerald, at 53.

21 This was a real concern within the colonial government of Hong Kong; see for example, *Report on the Hong Kong Triad Riots* (1956) Governor of Hong Kong, Hong Kong Government Press. Towards the end of British rule in Hong Kong it was claimed that one of many Triads, the Sun Yee On, had over 40,000 members; see ‘Nine members of biggest HK Triad charged’ 3 December 1993, *Straits Times*. 

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ation and research, it is arguable that the concern of the crown and its agents in regard to the outlaw bands that existed, for example, in the fifteenth century in England, was largely based on fear of an alternative authority, particularly in so far as it impeded the efficient collection of revenues. The organised nature of what might manifest as random and isolated acts of violence albeit invariably associated with gain, was itself a direct threat to the limited and parochial resources of the state.

What being organised means in the context of criminal activity is itself a matter for debate. Like so much in this area, we can perceive organisation but perhaps find it rather more difficult to describe it, in particular to justify specialised legal interventions. Others in this book discuss in rather more detail the definitional issues, so suffice it to say here that the coming together of individuals in a shared purpose within some kind of structure would normally indicate an organised endeavour. Having said this, a concerted and even

Colonial legislation introduced in many countries to require the identification and registering of societies also was at least initially primarily concerned with stability and security; see for example, G Singh, Malaysian Societies (1984) SGS. Concerns were evident in many Imperial possessions as to the risks presented by Chinese and other immigrants; see for example Report of the Royal Commission on Alleged Chinese Gambling and Immorality and Charges of Bribery against Members of the Police Force (1892) Government Printer, Sydney; see also Leeman, supra at n 16.

Taxation, in its various forms, and authority are mutually supportive and it is therefore interesting to note that in many countries it was in the facilitation of revenue collection that policing authority manifested itself. Even in the modern world in many countries Financial Intelligence Units are located outside traditional law enforcement and are seen as part of the state’s fiscal apparatus; see at n 138.

Much of our learning focuses on the traditional Sicilian Mafia, however, even in Italy La Cosa Nostra certainly does not stand alone; see for example, R Saviano, Gomorrah – Italy’s other Mafia (2007) Macmillan; J Dickie, Mafia Republic – The Cosa Nostra, Ndrangheta and Camorra (2014) Hodder and Stoughton. In modern Italy there is a perception that these other networks have to some degree superseded the Sicilians; see for example, M Day, ‘Sicilian Mafia now outgunned by Calabria’s cocaine-trading mobsters’ 26 February 2015, The Independent – that is the ‘Ndrangheta; and see also T Kington, ‘Feared Mafia clan spread tentacles into Tuscany’ 19 April 2021, The Times.


Thus a conspiracy is not of itself organised crime. What is needed is a continuing criminal conspiracy; see generally Abadinsky, supra at n 1; and J Lynch, ‘The crime of being a criminal’ Columbia Law Review (1987) 920.
co-ordinated criminal act is not organised crime. To this, we must add at least the expectation of further activity that turns a specific act of criminality into an enterprise. Thus, our understanding of organised crime necessitates a degree of persistence, continuity and even regularity. Of course, criminal acts might be linked in terms of commission or in drawing down the benefits of the activity in question and still not constitute or allow the prediction of an enterprise. On the other hand, where criminal activity is structured to support other criminal acts, then we enter the realm of organised crime. It is also relevant


27 While the US Justice Department has characterised banks involved in money laundering as organised crime this is obviously debateable; see for example, R Davies and T Shipman, ‘HSBC let drug gangs launder billions’ 18 July 2012, Daily Mail. Distinct, albeit related, action was often perceived to be the situation in the UK and therefore there was understood to be little evidence of organised crime in the UK; see for example, D Campbell, *The Underworld* (1994) BBC Books; and J Anderson-Black, *Organised Crime* (1992) Blitz, Chs 4 and 5, in regard to the Krays and Richardsons; L Taylor, *In the Underworld* (1984) Blackwell; and generally L Holmes, *Advanced Introduction to Organised Crime* (2016) Edward Elgar; for analysis. Given the often loose structures of youth gangs, there has been debate as to whether they are properly regarded as organised crime; see C Ronald Huff (ed.), *Gangs in America* (1990) Sage. This has been an issue in regard to the estate gangs in Hong Kong. Of course, as we shall see there is a tendency in some cases for ad hoc participation to mature into something much more organised; see for example, F Selwyn, *Gangland, the Case of Beatley and Craig* (1988) Routledge; and K Chin, *China Town Gangs – Extortion, Enterprise and Ethnicity* (1996) Oxford University Press.

to consider the intentions and perceptions of those within the group.\(^{29}\) Both from an internal and an external objective standpoint, the discovery of codes and ways of behaviour within the group indicating an *esprit d’corps* or at least certain shared commitments, can be important.\(^{30}\) For example, in Hong Kong the regalia, ceremonies and membership titles of Triad gangs were considered useful by the police in establishing the nature and extent of organised crime.\(^{31}\) Admission rituals and secret signs within a group serve much the same purpose.\(^{32}\)

\(^{29}\) In Hong Kong, gangs that were not particularly well organised often tried to imitate what they considered to be ‘real’ Triads and it is interesting to speculate the extent to which this ‘wanabe’ factor actually resulted in them developing into something rather more sophisticated. Indeed, officers within the then Triad Society Bureau, thought that the publication by the Hong Kong Government of W Morgan, *Triad Societies in Hong Kong* (1960) Government Press, Hong Kong, which revealed almost forgotten practices and initiation ceremonies might have encouraged this. See on the international reach of Triads, K Chin, S Zhang and R Kelly, ‘Transnational Chinese organised crime’ 4 *Transnational Organised Crime* (1998) 127. See also D Kaplan and A Dubro, *Yakuza* (2003) University of California Press in regard to the formality of Japanese organised crime groups; R Whiting, *Tokyo Underworld* (1999) Pantheon; and T Thompson, *Gangland Britain* (1995) Hodder and Stoughton at 169.


\(^{31}\) See Morgan, supra at n 29; and generally, J Chesneaux, *Secret Societies in China in the Nineteenth and Twentieth Centuries* (1971) Heinemann in regard to traditions; and more recently F Robinson, *Triangle of Death – The Inside Story of the Triads: The Chinese Mafia* (1977) Routledge. The traditions developed particularly in Hong Kong have been followed in other Chinese communities; see for example, I Lam, *Secret Societies in Singapore* (1999) National Heritage Board.


This is little different in purpose to the rules, rituals and ceremonies of many non-criminal and highly respected organisations. Indeed, the once hidden Masonic rites,\(^{33}\) were taken by many in the past as indications of the criminal and subversive intentions of those involved. Establishing and promoting shared experiences and the loyalty that derives from such, reinforced with oaths from the perspective of a hostile observer might, indeed, look somewhat like subversion.\(^{34}\) It is not without interest that much of the regalia, rites and ranks of traditional Triads, and to a lesser degree of the Sicilian Mafia and Yakuza,\(^{35}\) hark back to the days of their contended role as ‘freedom fighters’ often against foreign oppressors.\(^{36}\)

It is interesting to consider the impact of internationalisation\(^{37}\) on almost every aspect of the issues we are discussing and the importance of digital technology

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\(^{33}\) See generally, S Knight, *The Brotherhood* (1985) Panther. There have been suggestions that the ‘Ndrangheta in particular has attempted to forge relationships with the Masons to facilitate political access; but see T Kington, ‘Investigators fear Mafia has forged new ties with Masons’ 25 November 2021, *The Times*.

\(^{34}\) The significance of an oath, suitably reinforced by dire consequences on betrayal, of absolute secrecy or a code of silence – *omerta* obviously plays an important and practical role in not only creating mystery and otherness, but also a barrier to outsiders; see for example, K Gutman, *Secret Societies* (2007) Kandour; and D Lambert, *Triad* (1987) Hamish Hamilton; and the novel, L la Plante, *Bella Mafia* (1991) Sidgwick and Jackson. It has been suggested that the possession of certain knives has underlined ‘status’ within UK youth gangs; see for example, D Gadher, ‘Hangs unsheathe machetes …’ 5 June 2022, *Sunday Times*.

\(^{35}\) The Yakuza is also referred to as the *boryokudan*, a term preferred by the National Police Agency of Japan as it tends to understate them as violent gangs rather than in some cases highly organised structures with political relationships – see for example at n 184. Indeed, historically there was a reluctance in Japan to recognise the extent of organised crime and in particular its ability to operate outside Japan. Rather in the same manner, some have even attempted to belie the impact of sokaiya and describe them much in the same vein as shareholder action groups, indeed, even as part of corporate governance; see at n 126.

\(^{36}\) See generally, E Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movements in the 19th and 20th Centuries* (1959) University of Manchester Press. The extent to which criminal gangs co-operate internationally has, as we have indicated, probably been over-estimated, but nonetheless there are clear examples of close working relationships; see for example, the Torretta gang in Sicily’s use of the Gambino family in New York; T Kington, ‘Sicilian Mafia raids expose New York Godfather links’ 15 July 2021, *The Times*. See also P German, ‘Internationalisation of crime and technology’ in B Rider (ed.), *Research Handbook on International Financial Crime* (2015) Edward Elgar. The internationalisation of organised crime groups is a fact; see for example, ‘Triad scourge...
and communications. Secret meetings and clandestine locations have become less important and some argue that this has resulted in a weakening of loyalty within such organisations. On the other hand, those who observe the operation of traditional crime groups in China and South East Asia contend that while there is far less ‘dressing up’ and romance, the bonds are re-enforced in other ways, such as through greater financial and commercial dependency. Nonetheless, it would seem in traditional Western organised crime groups there is rather less cohesion and a greater tendency to looser essentially business driven ties.

Organised crime – an international issue

It is sometimes said that organised crime is really an issue for the more developed world and plays a lesser role in developing countries. While it is

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38 Note for example, Asia’s biggest crime group – the Company; see G Styllis, ‘Asian drug cartel suspect to face justice’ 14 June 2022, The Times. It is the case that many organised crime groups draw for their primary support on members of a particular ethnic and or cultural background. It was thought that Triads were particularly sensitive in this regard, but see A Higgins, ‘Black Watch troops joined Triad’ 2 January 1996, The Guardian; and J Braude, ‘Black Watch soldiers swore oaths to Hong Kong Triads’ 2 January 1996, The Times. There are also examples of Triads recruiting non-Chinese in India, Indonesia, the Philippines and in Europe; see D Connett, referring to the author, in ‘Lone voice amid the Chinese whispers’ 17 June 1990 The Independent.


40 This was, for example, a perception within the ICPO – Interpol Secretariat; see B Rider, The Promotion of International Cooperation to Combat Commercial and Economic Crime (1980) Commonwealth Secretariat, and in particular Appendix VI on ICPO-Interpol, Memoranda, Meeting of Commonwealth Law Ministers, April 1980, Barbados, Commonwealth Secretariat; and see B Halstead, ‘The use of models in the analysis of organised crime and development policy’ 4
true that most of the published research focuses, for historical and practical reasons, on more developed societies,\(^{41}\) it is not obvious that less developed economies are not attractive to organised crime.\(^{42}\) We have already noted the error in considering organised crime something relatively new. Obviously the need and opportunities for what might be described – at least tentatively – as organised crime will depend upon the structure of a particular society and in particular its communities.\(^{43}\) In tribal communities, for example, it is arguable that there is less crime and that which occurs tends to be more direct, personal and domestic.\(^{44}\) Such generalisations are, however, controversial, often ill-informed\(^{45}\) and unhelpful. Of course, criminals will see value in working

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\(^{41}\) Primarily on the US and Italy. Some societies and their governments remain coy about the existence and extent of organised crime activity; this has been an issue in Japan and remains so in China.


\(^{44}\) On the other hand, there are examples where tribal affiliations have been exploited by individuals who have developed essentially international organised crime networks, such as Ghana’s Dr Akah Blay-Meizah, which inveigled into its web even former high ranking officials in the Nixon Administration and British politicians; see T Shipman, ‘Fatman and the Nkrumah millions’ 25 March 1987, London Daily News. See also I Buuell, ‘Nigerian Mafia nets millions in bank fraud and benefits rackets’ 10 October 1993, Sunday Times.

\(^{45}\) That organised crime within a developing country can and does have impact in an inter-dependent world on others is obvious. The vulnerability of, for example, the City of London to laundering and receipt of the proceeds of such criminal...
together and activities such as smuggling, trafficking, cattle rustling, exploiting wildlife and extortion require ‘muscle’ and varying degrees of organisation. The impact and aftermath of colonisation is sometimes seen to have played a role. There are those who argue that colonial authorities, in the pursuit of their trade-based governance, spawned organised crime and perhaps even encouraged it.\textsuperscript{46} Racially based organised crime groups in, for example, the Malaysian peninsular and islands had the potential to balance threats and promote stability – of sorts.\textsuperscript{47} More insidiously, they provided a regularised facility for corruption on the part of those in government,\textsuperscript{48} a factor often activity has already been emphasised, but also the danger of criminals perpetrating their frauds and other crimes from what might be the relatively safe haven of a feeble and possibly corrupt haven; see for example, S Tendler, ‘Police launch drive against African fraud’ 4 February 1998, \textit{The Times}; J Bennetto, ‘Nigerian crime poses serious threat in Britain – intelligence agencies MI5 and MI6 are being used to clamp down on fraud and drug dealing by West African gangs’ 2 February 1998, \textit{The Independent}; and N Felding, ‘Nigerian loot laundered in the City’ 17 December 2000, \textit{Sunday Times}.


underestimated as a driver in colonial administration and for that matter in government generally. 49

Developing economies, given their appetite and need for funds, fragility and their weaker systems of governance, have in some instances been more or less willing recipients of suspect wealth. 50 There are examples where organised crime groups have ‘invested’ in projects in developing countries occasionally as part of a laundering cycle or simply as an investment. 51 Indeed, some countries, for a variety of reasons, have seemingly been prepared to accept funds for development from sources that were known or at least suspected to be organised crime. 52 Others have been prepared, for a fee, to assist directly in washing through their central banks or wider economy the proceeds of crime. 53 Indeed, a number of small and relatively fragile developing states have over the years become involved in laundering suspect funds as offshore financial centres – in

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51 There are examples where the degree of such involvement de facto results in a ‘criminal’ state; see for example, ‘Speed Tribe, inside the world of the Wa, Asia’s deadliest drug cartel’, special report, 16 December 2002, *Time Magazine*.

52 The author has encountered specific examples involving Zimbabwe, Mozambique, Seychelles, Ghana, Sierra Leone, South Africa, Philippines, Bahamas, Vanuatu, Thailand, Malaysia, Turkey, Romania and Australia. See in particular in regard to Pakistan, N Bennett, ‘Drug money fears halt state bond sale’ 23 March 1992, *The Times*; and ‘Storm hits offshore bank’ 4 August 1991, *Mail on Sunday*, referring to a case involving the author and St Vincent.


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some instances with the support and on the advice of organised crime. Less developed and transitional economies have also been at risk of penetration by organised criminals. There is evidence of investment other than for laundering purposes by criminal organisations in a number of developing economies. These range from substantial hotel building projects in places such as South Africa, Kenya, Zimbabwe, the Bahamas, the Philippines, Mauritius and Argentina by gangs operating out of Florida, to Yakuza funded investment in hardwood timber projects in the Pacific islands, Indonesia and the Philippines. Notwithstanding the processes of legitimisation – something we will return to – the criminals which buy into such economies and their political elite tend to stay and bring with them their criminal values, mores and lifestyles.


Penetration of legitimate businesses is not just a problem in developing economies; see for example, R Mass at 37 et seq. in C Fijnaut and J Jacobs (eds), Organised Crime and Its Containment – A Transatlantic Initiative (1991) Kluwer. A related concern is the tendency of organised crime to unfairly compete with other businesses and to force or price out legitimate competition.

This has been an issue in several Caribbean countries, including for a time the Bahamas and St Vincent and more recently note the allegations against the premier of the British Virgin Islands, H Tomlinson, ‘How Miami Vice snared premier’ 30 April 2022, The Times. Although involving different issues related to the criminalisation of states is the problem of rogue and essentially terrorist run ‘states’ and how to address their wealth; see for example, ‘Inside Isis Inc’ 1 December 2015 Financial Times. There are examples of alleged state complicity in supporting terrorism; see for example the claim for the state immunity in litigation involving the Doha Bank; see E Yeoman, ‘Qataris accused of funding Isis killings’ 3 March 2022, The Times, and in particular A Norfolk, ‘Qatar funded jihadist group in Syria’ and ‘World Cup host funnelled millions of dollars to terrorist’ 4 June 2001, The Times. Perhaps ironically Qatar has been one of the few countries to support some academics in addressing corruption; see ‘Qatar Emir Sheikh Tamim Hamad At Thani’s anti corruption awards given in Tunisia’ Al Jazeera, 9 December 2020.
The assets of organised crime

Organised crime’s need to protect and utilise the wealth that it accumulates does not only put small and fragile economies at risk of penetration and instability. Of course, there are those who argue, with some justification, that...
money does not ‘smell’ and the sources of wealth are irrelevant to its use. In other words, we should be more concerned about the use of suspect wealth than the fact that it is suspect. This is inevitably part of a much wider debate on the identification of wealth derived from or simply associated with criminal activity and what implications this may have. While many might recite the moral imperative to at least attempt to deprive criminals of their ill-gotten gains, or restrict their ability to enjoy them the reality is that in the vast majority of legal systems we have failed to achieve more than token effectiveness. Today, most analysts accept that a strategy based upon deprivation of suspect assets is almost certainly a ‘bridge too far’ for traditional legal mechanisms. A better strategy is to aim at disrupting the flow of tainted wealth within the so-called Kleptocrats’ 29 August 2021, *Sunday Times* and Leading Article, ‘Londongrad’ 28 January 2022, *The Times*. See also, D Byers and L Clarance-Smith, ‘Johnson has let UK become money-laundering haven’ 26 January 2022, *The Times*; and J Heathershaw et al., *The UK Kleptocracy Problem – How Servicing Post-Soviet Elites Weakens the Rule of Law*, Chatham House, Royal Institute for International Affairs, December 2021.


The significance of wealth generated by organised crime has long been recognised; see for example, A Bellingham, ‘Egypt’s war against traffic in dangerous drugs’ 1 February 1930, *Illustrated London News*.

See for example, the comments of Prime Minister Tony Blair in the forward to *Recovering the Proceeds of Crime* (2000) Cabinet Office. Both Prime Ministers David Cameron and Theresa May adopted a similar approach; note also the anti-corruption summit organised by David Cameron, www.gov.uk/topicalevents/anti-corruption-summitLondon-2016, which very much reflected these sentiments.

There are many reasons why most countries have failed to interdict more than a fraction of identified suspect wealth. There has long been concern about the efficacy of the traditional criminal law process; see for example, N Liverpool, ‘The seizure and forfeiture of property associated with criminal activity’ LMM (83) 22, Meeting of Commonwealth Law Ministers, Colombo, February 1983, *Memoranda of Evidence*, Commonwealth Secretariat and at nn 73 and 140. See also R Reuter and E Truman, *Chasing Dirty Money, the Fight against Money Laundering* (2004) Institute for International Economics.

criminal pipeline, and thereby disrupt the enterprise.\(^64\) Such an approach is intelligence intensive, with all that this implies for traditional law enforcement and the efficacy of legal procedures.\(^65\) While considerable emphasis is placed, at many levels, on the generation of information which with the expenditure of often considerable resources can be turned into useable intelligence, this rarely amounts to anything like the evidence that is properly required for legally mandated interventions. Financial intelligence can, of course, assist in the identification and taking of admissible evidence,\(^66\) but its primary utility is in the practices of disruption. This, itself, may become problematic if the interventions that follow its deployment are outside the conventional practices of law enforcement and the traditional legal system.\(^67\) Adopting the tools and stance of spies may be proportionate in addressing the risks presented by violent terrorists, but there is still a debate to be had as to their appropriateness in combating ordinary criminals, even if they are organised. Indeed, there are not only questions related to proportionality, but accountability within what we take to be the rule of law.\(^68\)

While it has become vogue, possibly with a degree of justification, to condemn the smaller, often island jurisdictions, that offered themselves up to money launderers in service to organised criminals and so many others seeking


\(^66\) See generally, OSCE Guidebook: Intelligence Led Policing (2017) OSCE, especially Ch 2; see also R Cormac, Disrupt and Deny (2018) Ch 14 from the perspective of the intelligence community. See also at n 125.


discretion in their financial activities, it should not be forgotten that the wealth does not stay in, or in most instances more than digitally touch, these ‘havens’. Wealth of all shades tends to gravitate to those jurisdictions that boast political and economic stability and have ready access to the international financial system. Wealth, suspect and otherwise, tends to end up, one way or another, in the developed world. Even where it is invested in projects, perhaps substantively, but often as part of a laundering process, in a state that is coy about co-operation, control will be based in a developed jurisdiction. Today it is widely recognised that to render the financial dealings of those who, for whatever reason, we wish to make transparent and possibly accountable, it is not enough to focus attention on just so-called offshore banks, but the whole

69 As the so-called Pandora and Paradise Papers indicate the vast majority of those using offshore financial facilities do so for tax and other reasons; see generally Pandora Papers, International Consortium of Investigative Journalists, 19 October 2021; ‘Pandora Papers; biggest ever leak of offshore data exposes financial secrets of rich and powerful’ 3 October 2021, The Guardian; ‘Pandora papers: what has been revealed so far’ 6 October 2021, The Guardian; ‘About the Pandora papers investigation’ 9 October 2021, Washington Post; and M Forsyth, ‘Paradise papers shine light on where the rich and elite keep their money’ 5 November 2017, New York Times; and in particular S Bhuiyan, ‘The Pandora papers open up Pandora’s box: integrity and crime’ 22 February 2022, Public Integrity. Of course, as we have pointed out, those who facilitate this may themselves be engaged in criminal activity, which might be described as organised crime. The extent to which endemic corruption facilitates and or is a symptom of organised crime in a society has long been debated, for example, in regard to Venezuela and South Africa; see for instance, F Flanagan, ‘Brothers linked to state capture scandal fight to evade extradition’ 8 June 2022, The Times in regard to the plundering of South Africa under President Jacob Zuma.

70 For an excellent discussion of all aspects of this topic, see K Hinterseer, Criminal Finance, the Political Economy of Money Laundering in a Comparative Context (2002) Kluwer. See also I Walter, Secret Money, the Shadowy World of Tax Evasion, Capital Flight and Fraud (1989) Unwin.

panoply of institutions and intermediaries – whether corporate or otherwise involved in servicing and facilitating this business.

While self-interest is a powerful driver and the financial benefits of those who do provide support and professional services to those who seek discretion in their financial arrangements are likely to be real, the contention by some commentators of a highly developed underground financial network involving

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73 The imperative for meaningful cooperation and the perception that financial intelligence was crucial after the atrocities of 9/11 increasingly rendered bank and commercial secrecy as a commodity that could be bought and sold unacceptable; see for example, ‘Finances of Terror’ 25 September 2001, *International Herald Tribune*; and J Drinkard, ‘US targets bin Laden cash’ 25 September 2001, *USA Today* – this was seen as a vital element in the so-called ‘war on terror’ (albeit largely ineffective – *The Final Report of the National Commission on Terrorist Attacks upon the US* (2004) US Congress, Ch 12 described it as draining the oceans to find one kind of fish); see for example, R Watson, ‘US targets banks in bid to choke off terror funds’ 25 September 2001, *The Times*; ‘CEO of terrorism – for bin Laden it’s all business’ 16 October 2001, *USA Today*; R Fisk, ‘It suits bin Laden if we call him the head of World Terror Inc’ 25 September 2001, *The Independent*; E Alde, ‘US freezes more of bin Laden’s wealth’ 8 November 2021, *Financial Times*. This together with increasing concern about the political and social implications of tax evasion (see for example, L Elliott, ‘Tax lost offshore could end world poverty’ 23 May 2013, *The Guardian* and ‘Developing nations deprived of £90 billion a year, says Oxfam’ 14 March 2009, *The Guardian*) led to a number of important initiatives designed to promote transparency and accountability in the offshore financial services industry; see generally D Thomas-James, *Offshore Financial Centres and the Law, Suspect Wealth in British Overseas Territories* (2021) Routledge. More recently, concern has focused on the interdiction of suspect Russian funds; see G Grylls, ‘Tory MPs want end of poisonous “cash laundromat”’ 14 February 2022, *The Times*; E Lucas, ‘Britain has become addicted to dirty money’ 31 January 2022, *The Times*; and C Philp, ‘Ukraine Crisis: US sounds alarm over Russian cash in London’ 28 January 2022, *The Times*; and see also the comments of Lord Faulks, reported by P Wintour, ‘No 10 pressured me to drop anti-money laundering measures, says ex-minister’ 15 February 2022, *The Guardian*. 
high level complicity in the City of London\textsuperscript{74} smacks of similarly sensational contentions about international organised crime structures.\textsuperscript{75} Of course, individuals can and inevitably will be corrupted and they might well have the ability to influence others and even misguide their institutions. There have been examples of businesses that have effectively become indistinguishable from organised crime.\textsuperscript{76} It is also the case that governments, particularly of

\textsuperscript{74} See for example, the documentary film \textit{The Spyder's Web} – an investigation into the world of Britain’s secrecy jurisdictions and the City of London, directed by M Oswald and also referring to observations of John Moscow, the lead prosecutor in the BCCI case in New York, ‘Firms told of cottage industry in laundering’ 7 June 1999, \textit{The Lawyer}. Of course, the institutions of the City of London could do rather more to dispel such criticism, which has long been voiced: D Atkinson ‘Dirty money threat to City’ 14 September 1999, \textit{The Guardian}; Leading Article, ‘London Laundromat’ 18 August 2018, \textit{The Times}; A Persaud, ‘London the money laundering capital of the world’ 27 April 2017, \textit{Prospect}; and N Shaxson, ‘The City of London is hiding the world’s stolen money’ 11 October 2021, \textit{The Times}. Perhaps one of the most dramatic examples of the establishment of a highly corrupt international banking facility for criminals and terrorists and many others remains the BCCI; see M Potts, N Kochan and R Whittington, \textit{Dirty Money, the Inside Story on the BCCI – The World’s Sleaziest Bank} (1992) National Press, especially Chs 9, 10 and 11; P Truell and L Gurwin, \textit{BCCI – the Inside Story of the World’s Most Corrupt Financial Empire} (1992) Bloomsbury; J Ring Adams and D Frantz, \textit{A Full Service Bank – How the BCCI Stole Billions around the World} (1991) Simon and Schuster; N Kochan and B Whittington, \textit{Bankrupt – The BCCI Fraud} (1991) Rowland, particularly at 113 et seq. There were allegations and suspicions of government connivance and even use, although the heavily redacted official report of Lord Bingham in the main did not confirm this; see Bingham LJ, \textit{Inquiry into the Supervision of the BCCI} (1992) HMSO.


smaller and arguably more vulnerable societies, have been penetrated and cor-
rupted.77 There is far less compelling evidence that major financial centres have

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77 See for example, the report of the Royal Commission of Inquiry into Drug Trafficking and Government Corruption (1983) Government of the Bahamas, and the earlier report of the Commission under Sir Ranulph Bacon (1966/7) Government of the Bahamas. There are examples where those at the top of govern-
ment become so implicated in the activities of those associated with organised crime the state itself becomes tainted. An example, would be Noriega’s Panama; see J Dinges, Our Man in Panama: How General Noriega Used the United States and Made Millions in Drugs and Arms (1990) Random House. But see also the concerns relating to the BVI and Turks and Caicos Islands, D Brown, ‘Cash and cartel trouble in paradise’ 23 January 2021, The Times. See also P Eddy, The Cocaine Wars (1988) Investigative Reporting Inc, particularly ‘Nations for sale’ Pt 2. It was also alleged that the government of St Vincent had become danger-
ously close to aspects of the affair referred to in n 76 supra; see also ‘Storm hits offshore bank’ 4 August 1991, Mail on Sunday. See also in regard to Nauru, D Hilzenrath, ‘US calls speck in the Pacific am open invitation to financial crime’ 29 October 1999, International Herald Tribune; and P Delves, ‘The tiny Pacific island … is transforming itself into a money laundering centre for Russian cash’ 29 October 1999, The Times – but see also P Lashmar, ‘Invasion of the rouble barons – how the Moscow mafiya gangs took a grip on London’ 12 September 1999, The Independent on Sunday; and Leading Article, ‘Rotten Rubles, dirty Russian money is a threat to national security’ 21 May 2018, The Times. See also the ‘racy’ accounts in B Browder, Freezing Order (2022) Simon and Schuster; and in particular, C Belton, Putin’s People (2020) Collins, Chs 11 and 13. See also T Gosling, ‘Slovakia’s “mob boss” former PM made a Mafia state of his country’ 24 April 2022, The Times.
knowingly become complicit in accommodating organised crime structures.\textsuperscript{78} This is not to say, however, in the minds of some, that the City of London has done relatively little,\textsuperscript{79} as compared with its rhetoric, to positively discourage late stage participation of institutions in the laundering cycle.\textsuperscript{80} Financial crime is in most parts of the world, in terms of conventional criminal justice, relatively low risk.\textsuperscript{81} Consequently, financial and business-related crime has proved an attractive area of activity for organised criminals. Indeed, given the emphasis that has been placed on pursuing wealth associated with criminal activity, it is also not surprising that organised criminal groups have themselves engaged in hiding their ill-gotten gains and become involved directly or indirectly in money laundering. Apart from corrupting and subverting those who in the ordinary course of their business look after other peoples’ wealth, there is evidence that to facilitate money laundering some have attempted to penetrate the financial and banking system.\textsuperscript{82}

\textsuperscript{78} But see for example, R Brooks, ‘Special Report, London’s dirty laundry’ 3 August 2012,\textit{ Private Eye}. Of course, much depends upon the definition of complicity; see P Wintour, ‘HSBC boss: I’m ashamed but not culpable’ 26 February 2015,\textit{ The Guardian}.

\textsuperscript{79} Lord Faulks commented that the UK was a ‘laughing stock’ for its failure to take steps to curb money laundering, reported by P Wintour, ‘No 10 pressured me to drop anti-money laundering measures, says ex-minister’ 15 February 2022,\textit{ The Guardian}. Of particular concern over many years has been the willingness of lawyers to facilitate questionable transactions; see for example, R Mendick, ‘Money laundering puts City in a spin’ 11 December 1998,\textit{ The Lawyer} and International Consortium of Investigative Journalists, ‘Lawyers, accountants and other professionals play key role in cross-border financial crime’ 25 February 2021; and in particular see\textit{ Ending the Shell Game, Cracking down on the Professionals who enable Tax and White Collar Crimes} (2021) OECD, especially Ch 3 in regard to disruption. There has been considerable criticism of the role of lawyers in supporting Russian oligarchs; see R Mason, ‘Law firms aiding oligarchs may face penalties’ 1 March 2022,\textit{ The Guardian}. The inability of the legal system in the UK to address even fraud has exacerbated concerns; see for example, M Dathan, ‘Fraud soars but police abandon 22,000 cases’ 20 September 2021,\textit{ The Times} and see at nn 123 and 126.

\textsuperscript{80} See for example, V Houlder, ‘City poses high risk of money laundering’ 16 October 2015,\textit{ The Times}; and see reference to John Moscow, supra at n 74. and P Hosking and S Tendler, ‘Warning over Mafia gangs infiltrating British banks’ 16 November 2005,\textit{ The Times}; and J Kim, ‘Experts: USA being infiltrated’ 24 August 1999,\textit{ USA Today}, in regard to Russian organised crime.


\textsuperscript{82} See supra at nn 74 and 80. The ability of organised crime to protect itself through corruption has already been noted. Corrupt associations between serious crim-
Legitimisation

There is also the thorny issue of ‘repatriation’ of suspect wealth back into the lawful economy. Our seriously under-developed understanding that we have of the significance of wealth that has been touched by illegalities in the operation of the wider economy, and our lack of tools to distinguish what might be detrimental to stability, exacerbates this problem. It has been remarked that a robust identification of suspect wealth over time, might well result in a very significant proportion of the world’s economy being, at least theoretically, branded as tainted.\textsuperscript{83} Our current laws, reflecting this lack of conceptualisation, generally have no mechanism to recast dirty wealth for legitimate purposes as clean. Potential criminal liability is only mitigated by the practicalities of proof. These issues pertain not only to what we regard as conventional criminal property, but to, for example, wealth connected to ‘rehabilitated’ terrorists.\textsuperscript{84}

Taking some liberty with the historical record, it has been remarked that, at least in some places, the ‘robber barons’ of the past are the ‘aristocracy’ of

\textsuperscript{83} See generally, B Rider and M Ashe (eds), Money Laundering Control (1996) Sweet and Maxwell. President Clinton was credited with the comment that there might well become a point in time when according to our notions of tainted money a significant proportion of the world’s economy would accordingly be ‘dirty’. Notwithstanding the debate as to the amount of wealth actually under the control of criminal organisations and arguably former criminals, the economic implications of many forms of organised criminal activity is far greater; for example, the financial, social and medical implications of the illicit drug trade.

\textsuperscript{84} Such issues have been highly relevant in, for example, South Africa, Colombia and Sri Lanka. There is, of course, very significant differences in the nature and character of funds deployed for terrorist purposes and those in the organised crime pipeline, however, there are also similarities; see C Blackhurst, ‘Freezing the finances of terrorists is not as easy as Bush may think’ 26 September 2001, The Independent. The amount actually seized, under legal process, by governments in relating to terror is small, the emphasis being placed on disruption of funding. The modelling and analysis of terrorist finance is different from organised crime; see N Ridley, Terrorist Financing, the Failure of Counter Measures (2012) Edward Elgar.
This quip has been applied to organised crime and even terrorists. In regard to some traditional criminal organisations there appears to be evidence of a desire on the part of those who have been financially successful for their offspring to move up the social and certainly educational ladder. Whether this ‘goodwill’ extends to isolating them from their criminal business is debatable; indeed, their acquiring professional skills and standing may be of advantage to the family’s enterprises. In the case of one highly placed ‘official’ in a Triad gang in Hong Kong, his child’s legal education and later position in a leading international law firm facilitated the internationalisation of business to Canada, New Zealand and then the UK. Nonetheless, human nature would tend to argue in favour of a desire to see the next generation more established and secure – with at least an aura of legitimacy. Therefore it has been questioned whether attempts to disrupt this natural process of legitimation are desirable? Some argue the best strategy is to encourage the process – rendering those who have accumulated wealth to morph into a ‘conservative force’ in society selfishly protecting their privilege and status? Similar arguments have been deployed in regard to terrorists. Perhaps most terrorist groups fail to achieve their political objectives, but continue to enjoy their coherence, influence and wealth-seeking to protect their societal relevance, morphing into what might be perceived as acceptable. There have been examples around the world of governments constraining their intervention against identified suspect wealth in the hands of former terrorists who are considered to be on the road to political acceptability. Having said this, it is rare where the instruments of a state have the ability to be so focused, and to work the process needs to be discreet.87

There are a number of different permutations of this sentiment. On the other hand, it might be argued that wealth does not descend well through the generations and perhaps this is a compelling reason for those who have acquired it irregularly to encourage their descendants to acquire status independent of wealth. It is debatable as to the extent the history of the Sicilian gangs have regressed in respectability; see R Dainotto, The Mafia – A Cultural History (2015) Reaktion. It has been observed that some become indistinguishable from organised crime groups primarily concerned to maintain their material wealth and influence. We have also referred to accommodations between terrorists and organised crime; but see C Schori Liang, Shadow Networks: The Growing Nexus of Terrorism and Organised Crime, GCSP Policy Paper No. 20 (2011) Geneva Centre for Security Policy; B Rider, ‘The financial war on terrorism’ in Combating the Financing of Terrorism (2003) Geneva Centre for Security Policy. Funders of terror appear to be equally adaptive; see J Murray Brown, ‘Ex-Noraid chief backs IRA rebels’ 18 July 1998, Financial Times.

There is anecdotal evidence that such a strategy was employed by some agencies in Northern Ireland and see for example, ‘It’s one arrest rule for mullahs and another for the IRA’ 27 February 2005, Sunday Times and more recently in Colombia and Sri Lanka. In the case of Colombia problems have arisen as a result
A related issue is the extent to which governments, or more specifically their agencies, might find legitimate value in using and even collaborating with organised criminals.88

There have allegedly been examples where governments have found it expedient to utilise organised criminals directly or more usually indirectly.89 Intelligence agencies, particularly in regard to gathering information and interventions, have, it seems, utilised underworld connections, as have more traditional law enforcement. Given the almost inevitability of sympathetic states, the relationship between terrorists and state actors has been better documented. As we have already mooted, whether in the modern world there remains any value in distinguishing terror from organised crime is debatable.90 In the modern world there is less appetite to do so. The role of organised crime groups in post conflict and transition societies has also attracted discussion in recent years.91 There have been cases where, after many years of bitter conflict, organised criminals, particularly those operating in the black markets, are

of the relationship of some terrorist to the cartels who have not been brought into the ‘peace’ concordat; see for example, I Alexander, ‘Ex-guerrilla poised to be first left-wing leader of Colombia’ 28 May 2022, The Times. Of course, organisations and their aspirations and thus, acceptability, change, the IRA is a good example; see T Coogan, The IRA (1971) Fontana.

88 See for example, ‘Mafia at war, did the Americans do a deal with jailed mob boss Lucky Luciano?’ Military History 23 (August 2012); G Mariano, Storia della mafia (1997) Abebooks, at 145 but doubted by Dickie, supra n 43, at 197.

89 In some instances it has been argued that this is an acceptable path to rehabilitation particularly if the individual has skills of utility to government such as computer related. Indeed, this has been specifically commended as a strategy; see Demos, Move on Upstream: Crime Prevention and Relationships, 30 May 2022; and see H Hamilton, ‘Felons could help to fight crime better than police’ 30 May 2022, The Times. In other situations, active criminals have been used as informants and agents. Indeed, a significant aspect of organised crime interdiction strategy has been ‘turning’ criminals in this manner.

90 One of the reasons why ICPO-Interpol was arguably slow, possibly even reluctant, to get involved with terrorism was its strict adherence to an ‘ordinary crime’ mandate under Article 3 of its Constitution and obligation to eschew political offences and crimes. Before the US upgraded its interest and investment in Interpol in the 1990s, Interpol’s capacity to address organised crime, at any level, was very limited and piecemeal. It must also be remembered that Interpol’s role remains limited; see generally, F Bresler, Interpol (1992) Sinclair-Stevenson, particularly Chs 17 and 22; see also Rider, The Promotion of International Cooperation, supra n 40. There has been a tendency to glamorise Interpol, raising unrealistic expectations; see F Sondern, ‘Interpol, scourge of the international underworld’ 72 Readers Digest (February 1958) 17.

91 For example, a course of public lectures organised by Dr Frank Madsen under the auspices of RUSI at the University of Cambridge, RUSI, Roundtable: Transnational
one of the very few reliable networks left in place. Peace keepers and others concerned with state building have, to varying degrees, recognised this and been cautiously prepared to enlist their support, in some instances as part of a process of capacity building. In a similar vein, it is arguable that efforts were made to fuel the so called ‘blat’ economy in the former USSR by ‘facilitating’ the operations of smugglers and black-marketers to consolidate the move from collectivism to capitalism. There are other examples where the opposite has occurred for political or other reasons. Nonetheless, the relationships between former officials of the secret state within the former USSR, those engaged in the transition or perhaps rape of the public economy, and known organised crime networks appear to be increasingly well documented.
Addressing organised crime

The political will to address even the existence of organised crime networks manifests itself in different countries at different times in different ways. In the US, for example, the desire to make prohibition work, necessitated a reappraisal of the capacity and willingness of criminals to organise and achieve a degree of sophistication that, at least in the US, was comparatively novel. Furthermore, the very nature of the way in which prohibition was legislated in the face of demand-driven response by criminals, necessitated the involvement of agencies, such as the Internal Revenue Service and US Customs Service, providing a path for the future. While it may be debated whether the market for illicit booze and what went with it, created the American Mafia as it has been perceived, it certainly played a role. Scarcity of supply will almost always present an opportunity for organised crime. The vast amounts of wealth and harm generated by the illicit drugs trade and the apparent failure of tradi-
tional law enforcement to impact on either demand or supply necessitated a response that was cast more in the nature of a national security threat.\textsuperscript{100}

In the UK, the situation was rather different. While war resulted in rationing and restriction of supply, which was inevitably seen as an opportunity by criminals and those who slipped into criminality, it was across a broad and dissipated spectrum. The UK has not had its prohibition moment! Having said this, today as in the US the threats presented by organised crime are rightly considered a national security concern.\textsuperscript{101} There has, of course, always been crime and much of it was quite organised.\textsuperscript{102} Nonetheless, official perceptions – often a result of disconnected and essentially parochial police observation – reflected a view which largely rejected the possibility of developed crime networks.\textsuperscript{103}


\textsuperscript{100} In characterising this threat to, in particular, the youth of the US and the corruption of its institutions, President Reagan was able to mobilise resources normally and in some instances constitutionally reserved for defence of the state; see generally E Vulliamy, \textit{America, War along the Borderline} (2020) Vintage.

\textsuperscript{101} The mobilisation of defence resources has occurred differently in the case of the UK. The need to patrol proximate seas and protect penetrable land borders is largely absent, although, of course, the Royal Navy has played a role on occasion as have highly selective military interventions. In the UK of much greater significance has been and will continue to be the contribution of intelligence and in particular the role of GCHQ. Historically, military resources were used in Hong Kong and in support of initiatives in South East Asia.

\textsuperscript{102} See for example, in Victorian England the organisation of prostitution and in particular the ‘white slave trade’, H Montgomery Hyde, \textit{The Cleveland Street Scandal} (1976) WH Allen. We have already mentioned the Krays, but see C Kray and R McGibbon, \textit{Me and My Brother – Inside the Kray Empire} (1988) Grafton Books; J Pearson, \textit{The Profession of Violence – the Rise and Fall of the Kray Twins’ Vicious Criminal Empire} (1972) Granta; R Donoghue and M Short, \textit{The Kray’s Lieutenant} (1955) Smith Gryphon; and J Dickson, \textit{Murder without Conviction} (1986) Sphere. See also C Chin, \textit{Peaky Blinders – The Legacy} (2020) John Blake; C Chin, \textit{The Real Peaky Blinders} (2015) Page. Given the nature of organised crime those involved often seek political cover and affiliations for protection, business and status; this was true of the Krays as it has been for others; see for example, J Davis, \textit{Mafia Kingfish, Carlos Marcello} (1989) Signet, Pts 1 and 11 and in particular F Ianni and E Reuss–Ianni, \textit{The Crime Society – Organised Crime and the Corruption of America} (1976) Meridian.

\textsuperscript{103} In part this was a result of existence of numerous police forces with little co-ordination and exceptionally limited intelligence capability. Occasionally, a force did recognise a problem existed, indeed, organised crime was clearly operating in the ports; see G Hardwicke, \textit{Keepers of the Door, History of the Port of London Police} (1973) Peel Press; and see also E Ellen (ed.), \textit{Ports at Risk} (1993) IMB. Attitudes gradually changed with the establishment of the National Drugs...
There were, of course, exceptions, particularly during and immediately after the world wars and especially in regard to the UK’s overseas interests. However, even in the colonial context, much of the concern was primarily a result of insecurity rather than a desire to protect the local population from exploitation and worse. For example, while the authorities in Hong Kong almost from the inception of colonial rule recognised the power of Triads, the major preoccupation of the ‘management’ was and remained security. There are parallels in other parts of the world including the Malay peninsular and in particular Ireland. Indeed, the creation of special branches within the police Intelligence Unit in the 1980s and later National Criminal Intelligence Service in the late 1990s, however, in practice much depended upon the competence of very few junior officers, some with a military intelligence background. The development of regional crime squads with an intelligence focus also improved co-ordination. The importance of intelligence and its revelation of organised crime networks extending overseas was thrown up by the Brinks-Mat case; see W Pearson, Death Warrant – Kenneth Noye, the Brinks-Mat Robbery and the Gold (2006) Orion Books; A Hogg, J McDougall and R Morgan, Bullion, Brinks-Matt – The Story of the Biggest Gold Robbery (1988) Penguin and W Clarkson, Kenny Noye, Killer on the Road (2000) Blake; and recently in regard to allegations of corruption, F Hamilton, ‘Officers took cash to get suspect bailed’ 2 June 2022, The Times. The earlier Great Train Robbery also had all the hallmarks of organised crime, although there remains doubt as to how opportunist the organisation in fact was; see G Satchwell, Great Train Robbery Confidential (2019) The History Press. Of course, the British have certainly participated in organised criminal groups elsewhere; see G Nown, The English Godfather (1987) Ward Loch. See E Smithien, Crime in Wartime; A Social History of Crime in World War 11 (1982) George Allen and Unwin.

When a need for expertise was recognised, it was often supplied from the various colonial police services, later via the Special Branch or specially convened formations. Investigating laundering aspects in the Brinks-Mat case exposed developed overseas networks particularly in the Caribbean – Operation Cougar was criticised by some who questioned the interest of London rate payers, who funded the Metropolitan Police, in pursuing overseas criminals!

There was always a concern that organised criminals in Hong Kong had close connections with gangs operating in the PRC. There is evidence that, at least, some Triads arrived at an accommodation with the Chinese Communist Party in regard to their post 1997 operations; see for example, N Sheridan, ‘Gangster No 1 awaits Chinese bullet’ 30 August 1998, The Times. This has also long been a concern in the Caribbean; see for example, I Griffith, ‘Security and the Drug Trade’ 7 Caribbean Affairs (1994) 17; S Ali, Risky Business (2010) The Caribbean Law Company. Similar concerns also apply to corruption; see for example, W Adebanwi, A Paradise for Maggots (2010) Wale Adebanwi, referring to the situation in Nigeria.
underlined this.\textsuperscript{108} The turning point for many countries – including the UK – has been the threats presented directly and indirectly by the drugs trade.\textsuperscript{109}

Even as late as the 1990s concern was expressed in evidence to the House of Commons’ Home Affairs Committee about an attitude which appeared to exist in some quarters that organised crime among ethnic minorities was primarily of significance when it impacted on the wider community.\textsuperscript{110} In part these and similar attitudes reflected the institutional inability of agencies within the UK to perceive, let alone address, such issues.\textsuperscript{111} Formal structured policing came relatively late to the UK and was then fragmented into a large number of small local forces. Perceptions even in the larger and arguably more professional forces as to the very existence of organised crime were at best ambiguous. A senior detective in the Metropolitan Police Force was vilified in the mid 1970s for suggesting that the UK had a serious organised crime problem.\textsuperscript{112} Whether such myopic views were a result of ignorance, lack of concern or even corruption\textsuperscript{113} may be debated, but it was not until the 1990s that senior

\begin{itemize}
\item \textsuperscript{108} See R Allason, \textit{The Branch – A History of the Metropolitan Police Special Branch 1883 to 1983} (1983) Seeker and Warburg.
\item \textsuperscript{109} See for example, D Shaw, ‘All-out war on drug scourge’ 28 August 1997, \textit{Evening Standard}.
\item \textsuperscript{110} There is always the potential for excessive sensitivity in the perception and response to crime within a particular sector of the community that can be characterised by its ethnicity or religion; see for a recent example, S Swinford, ‘Legal fears delay review on terrorism’ 30 May 2022, \textit{The Times}; L Dearden, ‘Fight against grooming gangs hindered by fear of being branded racist …’ 6 February 2022, \textit{Independent}; and G Hill, ‘Asian grooming gangs: how ethnicity made authorities wary of investigating child sexual abuse’ 20 January 2020, \textit{The Conversation}. There is also an issue as to whether agencies have the capacity to investigate within a particular community in terms of understanding, access and surveillance.
\item \textsuperscript{111} Possibly symptomatic of a ‘lazy’ approach to the threats posed by organised crime, over many years the same figure was banded about within the police and government as to the economic impact of organised crime in the UK; see for example, O Blackman, ‘Crime Inc UK’ 28 June 1992, \textit{Sunday Express}; and S O’Neill, ‘British crime lords rule £ 40 billion underworld’ and ‘Britain’s criminal economy’ 8 August 2008, \textit{The Times}.
\item \textsuperscript{112} See D Powis, \textit{Crime in London} (1986) London Met Achieves, City of London. There was also determined opposition, within the police, to, for example, the Commonwealth initiative; see below at n 119 and even lukewarm regard for concerns within ICPO-Interpol.
\item \textsuperscript{113} See A Jennings, P Lashmar and V Simpson, \textit{Scotland Yard’s Cocaine Connection} (1990) Jonathan Cape. Where organised crime has been identified in the UK sadly there are often at least suspicions of police corruption; see more generally, Leading Article, ‘Met misconduct, Britain’s biggest police force has tolerated corruption and faces a crisis of confidence’ 23 March 2022, \textit{The Times}. The UK is not
\end{itemize}
police officers started to take organised crime, as opposed to serious crime, at all seriously. The dawning of realisation that the UK, in common with the

alone in this, organised crime will almost inevitably seek to achieve an ‘accommodation’ with law enforcement and in many cases it will be pushing at an open door.

There were individual officers who had a rather different perspective; see for example, *Gangbuster, Tales of the Old Grey Fox, the Memoirs of the Legendary Commander Bert Wickstead of Scotland Yard* (1985) Futura. The development of regional crime squads played a particularly important role in fostering not only a more realistic view as to the extent of organised crime but also, albeit to a limited extent, its disruption.

While the Home Office has been keen to highlight the dangers of organised criminal activity in the UK, it has remained coy about the financial sector; but see R Ford, ‘Criminal gangs are running swathes of Britain says Theresa May’ 12 June 2014, *The Times*; and see J Adams, ‘200bn in drugs cash heads for London markets’ 19 November 1995, *Sunday Times*; and M Bentham, ‘Crime in banks a threat to national security’ 16 February 2015, *London Evening Standard*. While many instances of financial misconduct are highly organised and orchestrated, relatively few have been clearly shown to have involved traditional organised crime. There have been cases involving organised crime involvement in manipulation and insider dealing. There are also examples, where organised criminals have offered their services to fraudsters and others. See generally, B Rider ‘Organised Crime in the UK’ Memorandum 15, *Organised Crime, Minutes of Evidence and Memoranda*, Home Affairs Committee, House of Commons (HMSO) 16 November 1994. Note in particular the comments of Sir Callum McCarthy, then chairman of the FSA, ‘there is increasing evidence that organised crime groups are placing their own people in financial service firms so they can increase their knowledge of firms’ systems and controls and thus learn to circumvent them …’. P Hosking and S Tendler, ‘Warning over Mafia gangs infiltrating British banks’ 16 November 2005, *The Times*. Similar concerns have been expressed in regard to infiltration of law and other professional firms; see R Mendick, ‘Police probe City firms’ links to organised crime’ 12 The Lawyer 46 (24 November 1998). This has long been recognised as an issue in the US; see J Kim, ‘Experts: USA being infiltrated’ 24 August 1999, *USA Today*. Of course, it is not surprising that criminals are interested in financial institutions as that is where the money is and it is such institutions that are important for laundering; see for example, T Burlingame, ‘Criminal activity in the Russian Banking System’ 3 *Transnational Organised Crime* (1997) 46. See also B Freemantel, *The Octopus: Europe in the Grip of Organised Crime* (1995) Orion. See also B Rider ‘Wages of sin – taking the profit out of crime – a British perspective’ 13 *Dickinson Journal of International Law* (1995) 391; B Rider, ‘The crusade against money laundering – time to think’ 1 *European Journal of Law Reform* (1999) 501; and B Rider ‘Cyber organised crime – the impact of technology on organised crime’ 8 *Journal of Financial Crime* (2001) 332. The Government has increasingly become concerned about the level and sophistication of organised crime in the UK and made it an offence to participate in the activities of an organised crime group under Section 45 of the Serious Crime Act 2015. See also *Serious Organised Crime Study*
US, Australia\(^{116}\) and Canada\(^{117}\) and many other countries, had a serious organ-


\(^{117}\) In Canada, concern was focused in particular on Chinese criminal gangs operating in Ontario, while the RCMP had a national capability much of the early work was undertaken by Toronto Metropolitan Police. As in Australia (see for example, *Royal Commission into alleged Chinese gambling and immorality* (1891) Legislative Assembly of New South Wales Votes and Proceedings, 1891–92, Volume 8), there had long been concerns; see generally P Li, *The Chinese in Canada* (1988) Oxford University Press; and J Capleau and J Gray, *Report of the Royal Commission on Chinese Immigration* (1855) Ottawa. The perceived threat increased significantly with migration to Vancouver and Toronto as a result of the uncertainty around Hong Kong’s status. See in regard to other organised crime threats, S Dubro, *Mob Rule – Inside the Canadian Mafia* (1985) Macmillan. See also J Finckenauer and K Chin, ‘Asian transnational organised crime and its impact on the US: developing a transnational crime research agenda’ 10 *Trends in Organised Crime* (2006) 18 for a broad perspective.
Organised crime problem was a result of many factors. In part, perhaps the greater part, it was as a result of better intelligence and access to intelligence.

Agencies within the Western intelligence community started to use and deploy the intelligence that they had built up almost as an adjunct to their defence role. Mention has already been made of the use of criminals as informants and even agents. Britain’s primary intelligence agencies, partly on the back of the expertise developed in identifying enemy wealth and risk during the Second World War, acquired a degree of competence in gathering financial intelligence and disrupting the financial operations of Soviet and associated agencies, particularly in places such as Hong Kong. Consequently, money laundering as a threat and also as a facility was not unknown to the intelligence community. In the early 1980s, the General Secretariat of ICPO-Interpol benefited from the ‘loan’ of a small number of intelligence analysts from US agencies who were less in demand as a result of what was then thought to be a waning of the Cold War. These analysts, some trained by the US Drug Enforcement Administration in financial flow analysis and financial profiling, played a major role in revealing the existence of significant criminal networks in Europe and beyond. Similar initiatives took place in the Commonwealth, spearheaded by a specialist unit drawn in part from the intelligence community, within the Commonwealth Secretariat, specifically mandated by Commonwealth governments to disrupt economic criminal activity by organised crime. The European Commission became increasingly concerned about the exposure of the European financial system, and in particular the EU itself, to organised crime. With these pressures and an ever increasing aware-

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120 The unit was also mandated to disrupt economic sabotage in particular from agencies in South Africa.

121 Partly as a result of such concerns the European Commission conducted a review in 12 European countries of inter alia criminal penetration of the financial
ness of issues within domestic intelligence and security agencies, politicians had little choice but to recognise the threat.\footnote{122}{Notwithstanding this increased international awareness and various UN and regional initiatives, it is debatable as to whether much changed on the ground; see for example, J Morton, \textit{Gangland International; the Mafia and Other Mobs} (1998) Little Brown. Indeed, some would argue that the action in the 1980s ‘morphed’ into mere discussion in the 1990s!}

Police forces, while reciting the mantra that they were, at least in their actions, intelligence led, soon discovered that the traditional criminal justice system is as good at dealing with organised criminal groups as it is financial crime.\footnote{123}{See for England and Wales the Crown Prosecution Service’s \textit{Organised Crime Strategy}, which while recording high conviction rates for relevant offences involves only a small number of prosecutions. In regard to financial crime, notwithstanding over 103,000 reports of business crime in London between 2012 and 2013 the \textit{Financial Times} reported that only 758 were considered by the police as solvable and of the 81,631 reports of business-related fraud in 2013 to 2014 only 9 resulted in successful judicial outcomes; see H Warrell, 23 July 2014, \textit{Financial Times}; and see also A Ellson, ‘Only two insider trades caught by City watchdog in half a decade’ 13 June 2022, \textit{The Times}. There has been considerable criticism of the efficacy of in particular police responses to reported cases of fraud and the inadequacies of the City of London Police’s reporting centre – Action Fraud, which is to be replaced by a new facility within the National Crime Agency; see ‘That’s just criminal; Police’s failed fraud helpline is scrapped’ 30 July 2021, \textit{Daily Mail}. See also M Dilworth, reporting convictions for fraud in the UK slumped by 62 per cent since 2011. In 2019 of the estimated 3.7 million incidents of fraud only one in five were pursued and overall only one in 700 resulted in a conviction; see 26 July 2021, \textit{Daily Mail}. This is a problem in many jurisdictions; see for example, ‘Losing the war, the global system for fighting financial crime is expensive and largely ineffective’ 17 April 2021, \textit{The Economist}; and see M Peel, ‘US failing to do enough on financial crime’ 23 June 2001, \textit{Financial Times}.}

They lacked investigative expertise and the legal and other tools required to bring matters before the courts.\footnote{124}{See B Rider, ‘Intelligent Investigations: the use and misuse of intelligence – a personal perspective’ 20 \textit{Journal of Financial Crime} (2013) 293.} Of course, laws and procedures can and have been amended, but in some measure, as with financial crime, combating organised crime has been taken out of traditional policing. For the last decade or so, the primary strategy is of intelligence-led disruption of the operations system; see C Nakajima (ed.), P Rutledge and B Rider (principal consultants), \textit{Insider Fraud in the Retail Banking Sector} (2009) European Commission. The EU has recognised the threat of organised crime at many levels and has commissioned a number of studies and other initiatives, including those under the Falcone Programme. See generally, P Bakowski, \textit{The EU Response to Organised Crime} (2013) Library of the European Parliament. Europol has also made organised crime (in sympathy with ICPO-Interpol) a priority area; see for example, \textit{EU Organised Crime Threat Assessment} (2011) OCTA, Europol.
of such groups, much in the same way as with terrorists.\footnote{125}{See in particular, Keene, \textit{Treat Finance}, supra n 64, and Leong, supra n 64. Disruption in the case of terrorism has become rather more sophisticated and linked to other initiatives; see at n 128. See also N Watts, ‘Security Services flawed … focus needs to be on more than just disruption’ 28 February 2015, \textit{The Guardian}.} Given that most organised crime is concerned with economic crime,\footnote{126}{See generally, B Rider ‘The policing and control of syndicated and organised crime activity in Britain’ \textit{Il Riciclaggio del Denaro nella Legislazione Civile e Penale} (1996) 1; B Rider and A Shipman, \textit{Organised Crime International} (1987) World Security and Defence Reference Book (Cornhill, updated and republished 1990); and B Rider, ‘Fighting international financial crime’ 8 \textit{ICC Commercial Crime International} (1990) 1. While there are very many examples of organised crime groups engaging in a raft of financial crimes ranging from boiler room operations to organised exploitation of inside information, an interesting example is presented by the Yakuza and particularly sokaiya activity in Japan; see generally ‘Japan, power of the Yakuza, special report’ November 1991, \textit{Far Eastern Economic Review}; and see for example – just within a few weeks of each other – ‘Nikko execs resign over sokaiya ties’ 4 October 1997, \textit{Japan Times}; ‘Daiwa executives allegedly approved illegal loans to sokaiya’ 28 September 1997, \textit{Japan Times}; ‘Former Yamaichi chief held … linked to 79m yen payoff to sokaiya’ 3 October 1997, \textit{Japan Times}; ‘Sokaiya scandal embroils more companies’ 28 October 1997, \textit{Financial Times}; and G Tett, ‘Punishment for Daiwa and Nikko’ 9 December 1997, \textit{Financial Times}. Organised extortion and racketeering by these gangs was not and is not confined to Japan; see referring to the present author, ‘Extortion now a prevalent crime in corporate world’ 29 March 1994, \textit{Business Times} (Malaysia); D Campbell ‘Japanese Mafia moving into Britain’ 28 September 1992, \textit{The Guardian}; and articles in \textit{The Australian Financial Review}, 19 March 1993, and \textit{Straits Times}, 10 September 1992. One of the reasons that business and financial crime is attractive for organised crime is the poor record in policing such activity. See for example, \textit{Report of the Fraud Trial Committee} (1986) HMSO, at para 1. The British government has come in for considerable criticism over the years for not providing sufficient resources for the adequate investigation and prosecution of serious economic crime; see for example the comments of the Court of Appeal in \textit{R v. Manning} [1998] Crim LR 198; ‘Court of Appeal condemn Government’s failure on fraud’ 25 June 1998, \textit{The Times}. See also \textit{The Attorney General’s Fraud Review, Final Report}, 26 July 2006, UK Government. Successive Governments have sponsored a number of initiatives particularly at the policy level. In practice these have not achieved any obvious improvement in the perceptions of how effective the law is let alone making sure criminals pay for their crimes. Indeed, the minister responsible for counter-fraud strategy, Lord Agnew of Oulton, resigned in disgust at the Government’s failure to pursue in particular those who had committed fraud against the government during the Covid 19 pandemic. He stated that the Treasury had ‘no knowledge or interest in the consequences of fraud to our economy or society’ and the government had been ‘almost impregnable’ to his ‘endless exhortations’ to take the matter seriously, O Wright and C Smyth, ‘Minister resigns over billions lost to fraud during pandemic’ 25}
ities – criminal and otherwise – will be economically motivated, the use of, in particular, financial intelligence can have significant advantages in containing and disrupting their operations.127

However, there are real issues with the emphasis that is placed on disruption as a primary strategy.128 ‘There are proper concerns about efficacy, accountability, proportionality and, in many instances, invisibility.129 This approach has also resulted in police agencies operating more like, and increasingly alongside, specialised non-policing services, and in particular intelligence agencies. This move away from traditional policing creates its own problems, not least in achieving effective and predictable international co-operation. On the other hand, it is clear that mechanisms and laws designed to identify and interdict property and wealth associated with criminal activity, and especially the laundering of criminal property, have achieved results.130 Indeed, this harks


128 As we have seen, disruption through interventions is the primary strategy in the UK; it is part of a ‘strategy parcel’; see for example, Home Office: More than 600 Organised Crime Groups Disrupted by ADDER projects – Addiction, Diversion, Disruption, Enforcement, Recovery, 25 January 2022, Home Office. Sir Craig Mackey emphasised the importance of society ‘buying into disruptive strategies’ in his Independent Review of Serious and Organised Crime, 27 February 2020, Minister for Security, UK. We have already noted that there are differences in the nature and processes relating to criminal property as used by organised crime and terrorists; see for example, J Doran, ‘Brown pledges new offensive on assets’ 26 September 2001, The Times and see supra n 125.

129 There have been prosecutions that have failed as a result of intelligence related interventions; see for example, N Fielding, ‘MI6 agent wrecked £15m Cayman trial’ 19 January 2003, Sunday Times and other cases have not been commenced often as a result of the need to protect sources and other assets.

back to the experience of the US Treasury and the use of tax law in combating the gangs that sought to take advantage of prohibition.\(^{131}\) Of course, focusing on the creation and deployment of financial intelligence and interventions related to criminal property are only one area where there have been important developments. Equally important is the use of interceptions and electronic monitoring.\(^{132}\) Robust investigative strategies, tasking across disciplines and responsibilities, together with more realistic procedures and co-operation all have a role to play.\(^{133}\)

While it is certainly the case that many, albeit far from all, police agencies are far more alert to organised criminal activity and at least in some cases arguably better able to interdict it, anecdotal evidence appears to show no less of a threat to our societies.\(^{134}\) While the intelligence community took a real interest in organised crime when there was arguably less pressure from state actors, this has changed.\(^{135}\) UK intelligence agencies now recognise that they have inadequate resources to engage the diverse way in which state actors, and...
in particular Russia and China, operate.\textsuperscript{136} While in some respects the threat of infiltration and cyber disruption resemble, and may actually involve, organised crime groups, the consequences and therefore priorities are quite different.

The creation, in many cases a result of international soft law,\textsuperscript{137} of a network\textsuperscript{138} of financial intelligence units across the world, while in some respects beneficial, is in no way capable of taking up the challenge presented by organised crime, without the active support of the wider intelligence community. Indeed, in a good many countries these units are legally and constitutionally outside the formal law enforcement structure and are not seen as primarily tools for law enforcement. To some degree the situation is akin to the role played three decades ago by exchange control units in central banks – their information and occasional intervention proving highly effective in closing down economic criminal activity, albeit they were firmly outside the criminal justice system.\textsuperscript{139} The complex anti-money laundering systems which we now have in place, particularly at the compliance level, while sitting alongside regimes designed to interdict criminal property, have not proved effective in depriving criminals of their ill-gotten gains.\textsuperscript{140} It would be hard to justify the costs on red Mafia’ 5 December 1999, \textit{Sunday Times}; H Muir, ‘Britain helps foil £26m cocaine run by Russian gangs’ 12 August 1997, \textit{The Times}.

In recent years there has been a spike in concern in regard to alleged infiltration and the acquisition of influence by ‘agents’ of the PRC; see for example, C Hamilton and M Ohlberg, \textit{Hidden Hand, Exposing How the Chinese Communist Party is Reshaping the World} (2020) Oneworld, in particular Ch 8. Concern about the acquisition of influence (and worse) in the academic world has been of particular concern; see for example, Leading Article, ‘Intruder alarm’ 14 January 2022, \textit{The Times}; G Greenwood, ‘Cambridge College took “high risk” China cash’ 4 April 2022, \textit{The Times}; S Dunning, ‘Centre of attention, the cosy links between Cambridge and the CCP’ 5 February 2022, \textit{The Spectator}, 23; N Badshah, ‘Tory peer’s wife at conference linked to Chinese spy agency’ 31 January 2022, \textit{The Times}; and also G Pogrund and S Dunning, 30 January 2022, \textit{Sunday Times}. See also in regard to MI5, R Camber, ‘Chinese spy who targeted PM’ 14 January 2021, \textit{Daily Mail}; ‘Chinese agent … Infiltrated Parliament’ 14 January 2022, \textit{The Times}; and B Ellery, ‘Universities facing new China crackdown’ 13 June 2022, \textit{The Times}.

The development of Financial Intelligence Units owes much to the Financial Action Task Force and similar regional initiatives, but also substantive international law; see for example, the UN Convention against Corruption (2003).

While there are regional groupings, the Egmont Group is of particular international importance.

Of particular note would be the Special Investigation Team Economy and Trade (SITET) in Ghana and the National Economic Conduct Inspectorate (NECI) in Zimbabwe.

For example, the UK National Audit Office estimated in the UK confiscation of criminal assets was no more than 26 pence in every £100 of criminal property and

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and legal-regulatory risks involved in creating and operating these expensive systems simply on the basis of the amounts of criminal wealth taken out of the criminal pipeline.\(^\text{141}\) The purpose that at least some have achieved is the creation of financial intelligence, which, as we have seen, can be utilised in other, perhaps non-legal, interventions.\(^\text{142}\) The notion, however, that such laws and procedures constitute a silver bullet in fighting organised crime smacks more of fairy tales than reality.

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141 See for example, B Rider, ‘Recovering the proceeds of corruption’ 10 Journal of Money Laundering Control (2007) 5, especially at 26 et seq.; and A Kennedy, ‘An evaluation of the recovery of criminal proceeds in the UK’ 10 Journal of Money Laundering Control (2007) 33. There is a debate as to the wisdom of placing banks and other financial institutions in the forefront of fighting terror and serious crime as ‘information sources’. The costs and risks it has been argued are disproportionate to the benefits obtained; see J Hurley, ‘Dirty cash crackdown hurts banks’ 23 August 2021, The Times; and Editorial, ‘Shareholders punished for the sin of the trader’ 22 May 2015, Financial Times. The amount of money finally confiscated is only a fraction of the financial penalties imposed on banks for breaches of compliance.

142 See in regard to the Home Office’s ADDER strategy, supra at n 128.
What we do not know

Hopefully, it should be reasonably apparent by now, that there are so many issues in regard to organised crime that we really do not know a lot about. There is a lot of myth generated to replace genuine ignorance. There are some very basic questions, such as why identifying the involvement of organised crime really matters in the proper and efficient policing of the law. Rather similar is the debate as to whether imposing criminal liability on corporations actually serves any purpose. After all companies have to act through humans, so why not simply focus criminal responsibility on these actors? However, where organisations are involved in a criminal or other activity, their concentration of power and perhaps wealth creates another dimension – at least in the minds of those impacted – and may complicate the facts and obscure personal responsibility. Establishing connections within an organisation and from one organisation to another may also have real practical consequences for investigation, and in particular tracing and recovery of property. Where we consider that the very objectives of the organisation are anti-social then might it not be efficacious to ban or criminalise membership? While a strategy that has a long pedigree, it has not proved particularly effective on its own. The ability of organisations to morph into others, and in more recent years the

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143 The recognition in most legal systems of the separate legal personality of an incorporated company gives rise in many jurisdictions, albeit not all, to the possibility of the company being held responsible for criminal acts and other violations of the law. Problems arise, however, in fixing the corporate entity with the requisite degree of culpable knowledge; see The Law Commission for England and Wales, Discussion Paper – Corporate Criminal Liability, 9 June 2021.

144 Banning and deportation were used with some effect within the British Empire and some of legislation relating to the registration of societies owes its heritage to this approach. The Fascists in Italy banned and attacked the Mafia and other organisations, which effectively competed with them; see for example, M Finley, D Mack Smith and C Duggan, A History of Sicily (1986) Chatto and Windus, at 208 et seq.; and D Duggan, Fascism and the Mafia (1989) Yale. The Nazis in Germany were a little more ‘catholic’ in their tolerance and use of organised crime. It remains a matter for debate the extent to which organised crime was allowed to re-establish itself in Italy as a bulwark against socialism; see generally, J Follain, A Dishonoured Society, The Sicilian Mafia’s Threat to Europe (1995) Warner Books. Similar comments have been made about the re-establishment of the Yakuza and Triads after the Second World War and in particular their activities in places such as the Philippines; see T Gould, Paper Fan (2004) Thunder’s Mouth Press.
adoption of decentralised and so called disorganised cellular structures, has greatly impeded such simplistic approaches.\textsuperscript{145}

Associated with this is our uncertainty as to the extent of organised crime groups and the determinants of membership.\textsuperscript{146} In traditional criminal groups, or those which seek to emulate them, there might well be a formal admission process, in some instances with a degree of ceremony. However, although again the evidence is largely anecdotal, the older traditions it would seem are rarely followed today. Indeed, even formal meetings have been superseded by more discreet and often digital communications.\textsuperscript{147} The way in which business is done in the modern world has led to many criminal enterprises moving away

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\textsuperscript{147} The development of technology and in particular the Internet has provided organised crime with significant communications and other capabilities. On the other hand the technology does present security issues and some agencies have developed capabilities far beyond simple interception of signals. The taking over of parts of the Web and the creation of a Dark Web by and for organised criminals is a real challenge for law enforcement; see ‘One in three “dark net” cocaine deals takes place in Britain’ 31 January 2022, *The Times*. Furthermore, there are serious criminal activities of an organised nature which are greatly assisted in terms of their market and deliverability by digital communications; see for example, B Rider ‘Cyber organised crime – the impact of technology on organised crime’ 8 *Journal of Financial Crime* (2001) 332; and B Long and B McLachlan, *The Hunt for Britain’s Paedophiles* (2002) Hodder and Stoughton. See also I Shelley, *Dark Commerce – How a New Illicit Economy Threatens Our Future* (2018) Princeton University Press, in regard to ‘new’ markets. Virtual currencies add a further dimension; see for example, T Knowles, ‘Police snatch £180 m of cryptocurrency from crime lords’ 14 July 2021, *The Times.*
from the strict structures of the past into more loosely organised, possibly con-
federated, groups. For example, it is often said that it is only at the lower street
and housing estate levels that hard organisation is regularly encountered, as
this, still in context, reinforces the cohesion and ethos of the gang. These lower
level groups while presenting real, perhaps greater, threats to communities
because of their proximity tend not to engage in activity which requires high
levels of investment and continuity. Nonetheless there is, as has so often been
seen in, for example, Hong Kong, the potential for individual members to pro-
gress in their criminal careers and become promotional of higher end criminal
activity. The ability of such individuals to then exercise influence and control
over their former street colleagues presents a clear risk. There is evidence in
the UK and northern Europe that some of the so-called county-lines drug
distribution networks have developed in this manner.

An important point to note, however, is that criminal enterprises\textsuperscript{148} do not
necessarily or today want rigid structures comprising of the traditional ‘made’
member. Loyalty, one of the characteristics of traditional organised crime, is
a much more fluid and perhaps commercial concept in organised crime in the
modern world. Individuals and other organisations\textsuperscript{149} will be brought in and
used as needed. While there has always been some degree of specialisation in
the underworld, with the internationalisation of business and in particular the
emphasis that is placed on interdicting criminal property the level of expertise
required has significantly increased. Many of those with the requisite con-
nections and capacity would not find it practical or attractive to be tied in to
a single organisation. Consequently, there are, as arguably there have always
been, many different gradations in association with organised criminal activ-
ity. The intelligence tools that are utilised to establish linkages reflect this in the
emphasis that is placed on financial analysis and increasingly communications
analysis and monitoring. Therefore, estimating even ‘guestimating’ the ‘mem-
bership’ let alone the association of those relevant to organised crime activity is
problematic and perhaps, other than for political reasons, pointless.\textsuperscript{150}

\textsuperscript{148} See generally, G Fiorentini and S Peltzman, \textit{The Economics of Organised Crime}

\textsuperscript{149} It is important to remember that criminals are generally not dedicated to using
other criminals or for that matter utilising unlawful methods. They will, accord-
ing to their wits and those who advise them, engage in and operate in a manner
that provides the best opportunities for profit balanced with risk.

\textsuperscript{150} But see \textit{Tackling Serious Organised Crime}, National Audit Office (Home Office/
NCA) HC 2219 Session 2017–2019, 28 June 2019 in regard to the justification of
resources; and C Mackey, \textit{Independent Review of Serious and Organised Crime}, 27
The development of traditional organised crime groups has often, at least initially, been relatively local and to a greater or lesser degree focused on a particular ethnic bond, or some other bonding characteristic. The relevance of a particular ethnic or social bond has certainly been noted in the context of traditional organised crime. Keeping the operation within a network of individuals, particularly an extended family, from whom commitment and loyalty can be expected on the basis of more than mere complicity, is a powerful factor. Indeed, we have already touched on the often fanciful origins of organised crime groups extolling their virtue as freedom fighters or protectors of a downtrodden people. Some grew within displaced ethnic communities, providing comradeship, protection, work and even funerals. Some provided an important social and community function, their criminal aspect being subliminal and usually disguised. The community and cultural role of, for example, the Tongs in the US and to some extent Australia had arguably positive aspects.

**The accountability of wealth!**

In a similar vein the alternative 'banking' and remittance systems developed within ethnic communities can also be socially beneficial, albeit susceptible to misuse by criminals. Many such systems developed for entirely acceptable commercial and social reasons. The systems operated by the gem carriers of India and the use of essentially 'cheques' in early China all had real economic benefits. On the other hand, the use of the Chinese ‘chop’ or ‘flying money’

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152 See supra n 16.
154 The extent to which prejudice, unfairness, exploitation and regulations that were perverse or at least not understood encouraged a slide into criminality has been under-researched. A more recent example, might be the tightening of immigration making it exceedingly difficulty for established businesses to recruit, for example, competent and experienced chefs from Hong Kong or Thailand, thereby creating an opportunity for organised criminals to facilitate unlawful entry and employment, effectively criminalising both employer and worker.
155 But in regard to the sensitivities and racism refer to the various Royal Commissions mentioned supra at n 117; see also at nn 159 and 179.
system could greatly assist in the transfer of control over criminal wealth.\textsuperscript{156} The \textit{hawalla} and \textit{hundi} systems, while having clear commercial and practical advantages for communities at home and abroad, also provide an effective means of moving considerable wealth outside the regulated and observable system. Overseas Filipino citizens, concerned to send their hard earned savings back to their families in the Philippines, have developed quite sophisticated systems similar to the traditional \textit{hawalla}, but with a blind investment pool, which not only facilitates transactions at better black market rates of exchange but also has an investment quality. Indeed, in some cases church groups have taken responsibility for operating schemes because they are socially worthwhile, notwithstanding the very real risk that they in fact often violate laws relating to the provision of investment, banking and credit services. The pesos–dollar exchange schemes operated from Mexico and places further south in the US are another example of highly efficient alternative remittance, effectively outside the monitored financial system.\textsuperscript{157} There are countless other mechanisms, some commodity based\textsuperscript{158} and increasingly, and more worryingly, involving human and even organ trafficking. Not only do these systems avoid the carefully crafted laws, regulations and compliance mechanisms put in place to discourage money laundering, but also fail to generate information that can become financial intelligence. In so far as they operate within ethnic groups, investigation by the authorities is practically impossible and politically


\textsuperscript{158} See for example, F De Sanctus, Money Laundering through Art (2013) Springer. Trading in heritage and cultural property has presented a very significant market for organised crime; see generally, C Renfrew, Loot, Legitimacy and Ownership (2000) Duckworth.
sensitive. The advantages that they offer to criminals on the other hand are significant.

No matter how well suspect wealth is laundered and hidden, it will inevitably surface and manifest itself. Laundering processes often have as an important aim the explanation of what would otherwise appear as unexplained wealth – possibly drawing unwelcome attention not only from the authorities but also competitors. Much in the same way as organised crime has long found the operation of casinos and other gambling facilities useful for washing

Racial and related considerations have inhibited robust action against some organised crime groups; see supra comments at nn 110, 155 and 179. There are real dangers with stereotypes and in particular profiling; see in a wider context, C Frayling, *The Yellow Peril – Dr Fu Manchu and the Rise of Chinophobia* (2014) Thames and Hudson. Indeed, the recent media frenzy against academics with involvement in China (see supra at n 136) may, at least in the minds of some, illustrate this; see for example, D Dunning and P Morgan-Bently, ‘Cambridge fellows tutor Beijing elite in art of leadership’ 12 June 2021, *The Times*; G Pogrub et al., ‘Cambridge don tried to shut down debate on Uighurs’ 6 June 2021, *Sunday Times*; ‘Huawei infiltrates Cambridge’ 13 September 2021, *The Times*; and T Tugendhat, ‘Our academics are prostrating themselves to a regime guilty of genocide’ 7 February 2021, *Mail on Sunday*; D Rose, ‘For £700k [Oxford] renamed Tencent-Wakeham Chair of Physics after China firm with links to spy agency’ 9 February 2021, *Daily Mail*; and generally J Ryan et al., ‘World exclusive, leaked files expose mass infiltration of UK firms by Chinese Communist Party’ 13 December 2020, *Mail on Sunday*. Of course, sensitivity is not confined to the academic world; see for example, B Martin, ‘JP Morgan chief apologises for China joke’ 25 November 2021, *The Times*; and P Hosking, ‘Chinese wall banned as City regulator strives to be more inclusive’ 8 July 2021, *The Times*.

The extent of their use by terrorist groups and in particular extreme Islamic groups has been a concern albeit little evidence has been forthcoming. A particular worry has been the perceived lack of transparency in the Islamic financial sector; see T Balino, J Board, P Brenner and B Rider, *Strategies for the Development of Islamic Capital Markets* (2011) Islamic Financial Services Board, particularly 48 et seq.

Focusing on the surfacing of unexplained wealth may in some cases provide a useful investigative tool, note the procedure relating to unexplained wealth orders, in the Criminal Finances Act 2017 as amended by The Economic Crime (Transparency and Enforcement) Act 2022. There is scope for going further and attaching unexplained wealth in certain circumstances; see for example Section 10(a) of the Hong Kong Prevention of Bribery Ordinance (Cap 201) and Article 20 of the UN Convention against Corruption 2006.

At the street level many criminals are far more at risk from their peers and corrupt police officers than they are from law enforcement agencies. See S Bird, ‘Gang killings feared after cocaine seizure’ 18 October 2001, *The Times*.

The American Mafia and other crime groups, including the Triads, have long seen casinos as important sources and facilities for laundering suspect wealth.
and explaining wealth, organised crime has become interested in online gambling and in particular where this can be interfaced with effective underground financial systems. The extent to which certain governments have been knowingly prepared to condone the washing of suspect wealth, particularly in circumstances where their own economy is subject to international sanctions and constraints has, with the Russian invasion of Ukraine, become more than a topical issue, albeit the problems have long existed and were well illustrated during the embargo of apartheid South Africa. Indeed, organised crime groups have often seen countries subject to sanctions as potential business partners.

We have not attempted to define what constitutes an organised crime group or network given the diversity of structures and associations which might reasonably at certain times in their operation be considered to fall within these notions. Nor have we attempted to list offences which are particularly relevant in identifying organised criminal activity. Nonetheless, our discussion...

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Gambling on sport and other events also plays a significant role; see for example, ‘Gangs fix races to launder cash’ 24 October 1999, Sunday Times. Syndicates attempting to influence the outcome of events including boxing, football and cricket have been well documented. For a recent example of connections, see S O’Neill, ‘Jail for drugs kingpin from cartel linked to Tyson Fury’ 29 March 2022, The Times.


Agencies of the South African government utilised organised crime to assist in breaching sanctions particularly in regard to fuel, occasionally with the support of other governments including Taiwan. Organised crime was also enlisted to attack the economies of the so-called ‘frontline states’. There are similar examples in regard to Cuba and North Korea.

Furthermore, the term can possibly with justification be employed in such diverse circumstances; see for example, D Collins, ‘Ambulance trust covered up paramedics fatal errors like a criminal gang’ 29 May 2022, The Times.

We have emphasised that criminal gangs and criminal entrepreneurs will attempt to take advantage of any opportunity that comes along or they can create; see Illicit Markets, The Police Chief, June 2022; and see for a recent example L Eccles, ‘Refund racket hitting online retailers, organised criminals are offering guides on how to rip off shopping websites …’ 22 May 2022, Sunday Times; B Kenber, ‘Drugs gang boss is running home for vulnerable children’ 25 May 2022, The Times; D Collins, ‘The Covid cash that fuelled a crime wave’ 6 February 2022, Sunday Times; even Mexico’s drug gangs have moved into the profitable avocado business: K Southern, ‘Cartels kill avocado farmers to take over trade in green gold’ 21 February 2022, The Times. Criminals are also highly adaptable; see C Parker, ‘Crime goes cashless as pandemic drives underworld crime’ 27 April 2021, The Times. Particular concern has been expressed about environmental damage...
so far has provided us with a number of pointers. What is clear is that our knowledge of organised crime is lacking in so many respects. We can with little certainty discuss its very existence in many contexts and perceive, often through a very murky lens, its structures, financing, management, operations and aspirations.168 We do obtain glimpses from informers, but there is always a question of reliability – the more so when they are seeking ‘redemption’ or some kind of deal.169 Undercover agents who penetrate particular gangs have in some cases provided what is taken to be reliable information,170 but in a good many cases their testimony has not stood the test of court.171 There has also

as a result of organised crime. There have been many examples of organised crime dumping toxic waste and harm the environment; see also, S Gibbs, ‘Drug lords and gangs destroying Amazon’ 3 September 2021, The Times.


Collaboration is often an issue, as is the different attitudes of legal systems to complicity and provocation. There are also understandable concerns about revealing in open court covert procedures, capacities and assets; see generally, J Sellar, ‘Expanding the armory in the fight against organised crime’ Police Chief (February 2020) at 43. There might also be policy issues; see for example, the comments of the Director of the National Security Centre, GCHQ, in F Hamilton’s ‘Ban ransom payments to hackers ...’ 15 May 2021, The Times, particularly in
been considerable ‘journalistic interest’ over the years, which has provided a great deal of ‘information’. Intelligence gathering, particularly through the interception of communications, is vital, but limited by resources, mandates and interest. Furthermore, intelligence may assist in identifying and securing evidence, but of itself has no evidential value. The level of experience in investigating aspects of organised crime varies considerably from one agency to another across the world. The resources available at a supra-national level are miniscule, and while there is a greater appetite for co-operation and tasking, the results have in practice been mixed. The ability of criminals with access to considerable wealth, and the influence that this can purchase, together with often outdated laws and inept investigatory and prosecutorial resources

regard to surveillance capacity. It must also be recognised that prosecutions are often highly complex and difficult; see for example, C Baksi, ‘Laundering trial collapses after disclosure blunders’ 15 October 2021, *The Times.* The many books vary from somewhat sensational accounts of gangs and individuals to more researched biographies and even autobiographies; see for example, G Mustain and J Capeci, *Mob Star, the Story of John Gotti* (1988) Franklin Watts; J Bonanno, *A Man of Honour the Autobiography of a Godfather* (1983) Unwin. See also, T Firestone, ‘Mafia memoirs: what they tell us about organised crime’ 9 *Journal of Contemporary Criminal Justice* (1993) 186. Mention has already been made of the extent to which fiction in this context may for a variety of reasons, present more or less reliable information and insights. Indeed, some intelligence courses have a recommended list of ‘novels’. There is also evidence that fiction has influenced reality, that criminals mimic and adopt the trappings of established organised crime is not a myth. For example, some members of the Yakuza in Japan do wear loud pinstriped suits (at least in Fukuyama) and see F Graham, ‘Yakuza and Sokaiya: Crime gangs feel the pinch’ 14 July 1998, *Financial Times.* There is also anecdotal evidence that gangs have been influenced in their culture by the media; see R Cohen, ‘Mob succumbs to movie magic’ 13 April 2006, *Washington Post,* and in particular Francis Ford Coppola’s ‘Godfather’ Trilogy; see N Browner (ed.), *The Godfather Trilogy* (2000) Cambridge University Press. Mention has already been made on its impact on law enforcement.

See for example, P Wintour, ‘Modern-day Bletchley Park to tackle terror finance networks’ 11 February 2006, *The Guardian.* A very real practical problem in practice is the availability of reliable and secure translation particularly of relatively obscure dialects or ‘trade language’. The sophistication of modern communications and in particular encryption is also a complicating factor which has long been recognised; see supra at n 132.

The importance of looking at things from a transnational perspective and promoting effective mutual assistance has long been recognised politically; see B Rider generally supra at n 119. For a comparatively rare example of a successful international intelligence led operation involving the interception of communications, see F Hamilton, ‘British gangs held in global FBI sting using phone spy app’ 9 June 2021, *The Times;* and see at nn 133, 134 and 147.

An important issue, but one outside our immediate discussion, is the suitability of ordinary criminal proceedings in addressing organised crime and its ability
leaves the impression in the minds of many who are concerned that at best we are seeing but the very tip of an iceberg.\textsuperscript{176}

to subvert it by interfering with the justice system; see for example, J Fenton, \textit{We Own This City – a True Story of Cops Corruption in an American City} (2021) Faber. Judges have been assassinated in many parts of the world as have prosecutors. See for example, T Kington, ‘Mafia plotted to murder son of top magistrate’ 20 September 2021, \textit{The Times}. Even when foul play is not present the process can be disproportionately resource intensive and risky; see for example, S O’Neill, ‘Judge’s death in paradise leaves six-year bribery trial on brink’ 12 February 2021, \textit{The Times}.

Some answers?

The relevant academic world in the main, rather as in the case of financial crime control, has not responded to the challenges thrown up by organised crime. There are exceptions, but by and large the study of organised crime in terms of what it is and what are the harms and risks associated with it, has been disturbingly limited. Outside the US and possibly Canada and Australia, there is little evidence of collaboration between the academy and government agencies. Confidentiality and the need to protect sources are often invoked in discussion, and while such concerns are obviously important, there is always the ghost of a suggestion that they are deployed to cover ignorance and/or apathy. There has been a significant increase in the analytical resources within some police and law enforcement related agencies, but whether such a capability can really blossom when isolated and unchallenged remains to be seen. This expertise needs to be refined in a much larger crucible of discussion and analysis. Very few universities teach anything specifically related to organised crime and justice.
crime and this inevitably has career-limiting implications for those interested in the topic, but keen to move up the academic ladder. While there are opportunities for research, they are usually ad hoc, with limited and timed funding, with little prospect of continuity or career progression. Indeed, outside the US, Australia, Italy, Japan and possibly Canada, it is almost impossible to identify sustained research communities in the academy. Effective and relevant study is also complicated by the inter-disciplinary nature of the issues involved. Arguably the most effective disciplinary vehicles have been sociology, politics, history and economics, but at the price of purchase in what one would think are the key disciplines of criminology and law.

We appear to be particularly at sea in evaluating and devising strategies to address what we think, or often guess, are the threats posed by organised crime. Indeed, at a recent discussion in a leading British university, estab-


Of course, most organised criminals, at least while they are in business, do not want to be studied; see A Block, *Space, Time and Organised Crime* (2nd edn, 1994) Rutgers, who underlines the problems of inquiring into clandestine and dangerous organisations. On the other hand some are less coy than others, particularly once they are in prison; see generally, Special Issue, 'Interviewing organised criminals' 11 *Trends in Organised Crime* (2008). Ethnic and cultural barriers can also be hurdles, as we have seen supra at nn 117, 154, 155 and 159. Indeed, one of the reasons, it was said, that the police in the UK were slow to address the threat of Chinese organised crime was fear of seeming to single out a particular ethnic group. Indeed, evidence submitted to the Home Affairs Committee; see supra, was attacked on this basis. Sensitivity has also been a factor in the manner in which the authorities addressed allegations of sex trafficking and exploitation; see A Norflok, 'Role of Asian gangs is played down by report on thousands of child sex victims' 21 November 2012, *The Times."

For example, with the exception of Ch 13 'White collar and corporate crime' by M Levi there is very little of relevance to organised crime in A Liebling, S Maruna and L McAra (eds), *Oxford Handbook of Criminology* (6th edn, 2011) Oxford University Press, although see T Newburn, *Criminology* (3rd edn, 2013) Routledge, Ch 20.

published academics argued, albeit with no evidence, that organised crime may well have positives and benefits for certain societies, particularly in developing and transition economies.\(^\text{182}\) It may, they claimed, serve to strengthen rather than weaken social intercourse and fractured communities. It might provide an alternative, cheaper, more accessible and relevant system of justice. It might better reflect real social and community values and be able to promote greater social and economic justice. It might even keep the streets safer! Much in the same way as those who argue that corruption\(^\text{183}\) can be a benign and even positive facet of development, these contentions fly in the face of reality\(^\text{184}\) and such temporary benefits, largely of expediency, that may plausibly be found are soon eroded and defaced. The relative success of civil society movements in places such as Naples, Palermo, Manila and Yokohama in taking a stand

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182 Indeed, there are those who consider the existence of organised crime an inevitability. Sir David Phillips, then Chief Constable of Kent, in a report to the Association of Chief Police Officers in 2000 stated ‘we have no real response to organised crime. We are losing the battle on crime and it can be said that we have lost it to organised crime’; see J Clark, 24 September 2000, *Sunday Times*. Mention has already been made of the view in some quarters that the war against fraud and financial crime in the UK is also at a tipping point; see for example, the highly critical comments of Lord Agnew of Oulton on his resignation as the Treasury Minister with responsibility for combating fraud, 25 January 2022, *The Times*; and see D Byers, ‘Johnson has let UK become money-laundering haven’ 26 January 2022, *The Times*. Criticism particularly focused on the UK government’s seeming reluctance to address organised fraud arising out of the Covid 19 pandemic; see O Wright, ‘£2bn lost to criminals … organised crime gangs target taxpayer money’ 30 October 2020, *The Times*. Of course, many countries have a poor record in addressing financial crime; see for example, ‘Losing the war … ‘ 17 April 2021, *The Economist*, 61.

183 There is, as we have noted, an almost inevitable bond between corruption and organised crime; see for example, A Sukharenko, ‘The use of corruption by Russian organised crime in the US’ 8 *Trends in Organised Crime* (2004) 118; and see supra at nn 48, 82 and 175. The relationship between organised crime and corruption (and economic crime) is underlined in the Preamble to the UN Convention against Corruption 2006.

against Mafia domination and generational exploitation reflects a truer reality in the mind of this author. Consequently, there is a need, if our deliberations are to have lasting value and relevance, for better and firmer information, which frankly the academy on its own is neither able nor willing to seek.


A particularly interesting initiative is the Strategic Hub for Organised Crime Research (SHOC) established by the Royal United Services Institute (RUSI) in December 2016 with the support of Dame Lynne Owen, Director General of the UK’s National Crime Agency. Resources are, however, very limited as is the interaction with the academy. RUSI’s work in this regard and particularly criminal property deserves commendation. Similar initiatives in other countries often with university support have struggled to survive without significant funding. The Cambridge Symposium on Economic Crime held annually at Jesus College, Cambridge, now in its fortieth year, while attracting nearly 2,000 participants from over 100 countries each year receives no financial support from the
Indeed, the cost and danger to individual researchers can be extreme and there are sadly examples of individuals losing their lives in the pursuit of a better understanding of organised crime, particularly when it rubs along with corrupted government.187

Sadly, we are not likely to have a better understanding of our topic, let alone how best to contain and interdict it, until we have more extensive and better research, both in and out of government.188 It is perhaps a pipe-dream to contemplate the level of sustained funding and resources in conventional public sector and operates on a shoestring budget notwithstanding its contribution to research (sic Journal of Financial Crime and Journal of Money Laundering Control) and in particular networking. Between 1998 and 2002 the Institute of Advanced Legal Studies (IALS) had as one of its four principal areas of research organised crime and undertook a number of commissioned studies for the EU, UN and other agencies; see B Rider, Law at the Centre (1999) Kluwer. The IALS was criticised within the academy on the basis that this was not an appropriate area for legal research and the initiative ceased.

While not involving ‘conventional’ organised crime note the horrendous murder of Giulio Regeni, a research student in the Centre for Development Studies, University of Cambridge, in Egypt; see ‘Italian inquiry into death Giulio Regeni’s death heads to Cambridge’ 26 September 2021, The Guardian. There have, of course, been sadly other examples, including a number of journalists; see for instance, J Mooney, Gangster (2001) Cutting Edge Press, in regard to the murder of Veronica Green; and in particular, E Vulliamy, Amexica, War along the Borderline (2020) Vintage. The vulnerability of law enforcement and judicial officials is, of course, an important consideration. There have been notorious examples of assassinations by the Sicilian Mafia in particular, but also many other organised crime groups around the world. Today, however, it is as likely that ‘uncooperative’ officials will be set up and then disgraced in the media rather than be subjected to actual violence. Few who actually engage in fighting organised crime retire happy with an unblemished career record – deserved or otherwise. For a particularly insidious example of the use of the media in an attempt to frustrate investigation by inter alia a Select Committee of the House of Commons, albeit not specifically into allegations of organised crime; see T Bower, Fayed – The Unauthorized Biography (1998) Macmillan, particularly Chs 7 and 10. Of course, similar concerns apply to witnesses and the importance of adequate and well-resourced witness protection programmes cannot be over-emphasised.

We have already emphasised the importance of intelligence and its efficacious use. It is also important that information that can be refined into intelligence is gathered from wider sources than law enforcement; see F Cameron, ‘Multidisciplinary environments and the power of collaboration’ October (2001) Police Chief at 58. Consequently, multi-agency and source tasking is of critical importance in addressing organised crime; see for example, G Curtis et al., Transnational Activities of Chinese Crime Organizations: A Report Commissioned by Inter-agency Agreement, Federal Research Division (2002) US Library of Congress.
universities that would enable these developments to take place and offer back to society a better means of addressing the threats posed by concerted, continuing criminal enterprises.\(^{189}\) It is hard to envisage the development of sustainable academic courses where the issues that we have canvassed here would be taught and thereby strengthen expertise and wider knowledge. On the other hand, there are indications of increasing intellectual interest within defence and trans-national criminal justice studies. The resources for teaching in the vast majority of countries are very limited and possibly diminishing. A study conducted by the author in the UK in 2019 found that there was an organised crime component in only 17 established university courses and these spanned an array of disciplines with little opportunity for further development within the relevant faculties. Furthermore, in at least half the organised crime component was less than 25 per cent of the course, and in two was essentially historical. Let us hope, for all our sakes, this book assists in stimulating greater interest not least among academic colleagues!

\(^{189}\) It is, of course, the case that crime whether organised or not is of concern to society and there is perhaps a danger in focusing on the organised quality of certain crimes and thereby, ‘demoting’ others. To some degree given the emphasis that is today placed on money laundering as a specific offence, which is often favoured by prosecutors perhaps over and above the predicate offence, we are encouraging a perception, which may be the reality, that most economically motivated crime is organised; see P Arlacchi, *Mafia Business* (1988) Oxford University Press. This is particularly relevant in the context of financial crime and the financial aspects of other crimes; see for example, E Arvedlund, *Madoff – the Man Who Stole US $65 Billion* (2009) Penguin; J Oppenheimer, *Madoff with the Money* (2009) Wiley; and Bernie Madoff, Obituary, 15 April 2021, *The Times*. In regard to drugs, R Warner, *Invisible Hand – The Marijuana Business* (1986) Beech Tree Books; P Eddy and S Walben, *Hunting Marco Polo – The Pursuit and Capture of Howard Marks* (1990) Bantam.