

Understanding Organised Crime

Adam Edwards compares strategies for controlling organised crime.

The assassination of the investigative journalist Veronica Guerin near Dublin in June 1996 has been seen as a major turning point in the control of organised crime. Guerin had exposed notable characters on the Dublin crime scene by questioning the legality of the income they had used to finance their ostentatious lifestyles. Her murder provided a catalyst for widespread public protests about the pervasive harm of drug trafficking and the capacity of criminal organisations to conduct their business with apparent impunity. The Irish government responded by passing the *Criminal Assets Bureau Act*, the broader significance of which is in its reversal of the presumption of innocence in law enforcement and the provision of a civil rather than criminal standard of proof for confiscating the proceeds of crime. Unlike criminal prosecutions that must prove the culpability of particular individuals for specific offences beyond all reasonable doubt, the *Criminal Assets Bureau Act* enables enforcement agents to apply to the civil courts to seize the assets of an individual suspected, on the balance of probability, of living off the proceeds of crime.

This reform of legal powers has been celebrated for breaking the capacity of crime bosses to insulate themselves from prosecution by financing operations sub-contracted to associates. This, along with problems of witness intimidation and the costs associated with bringing criminal prosecutions, has eroded confidence in the capacity of criminal justice to deliver substantial and sustainable reductions in organised crime. Even the *Racketeer Influenced and Corrupt Organisations (RICO)* statute in the United States, which enables the prosecution of individuals for membership of criminal organisations, still requires the connection of suspects to predicate offences. Conversely, the *Criminal Assets Bureau Act* places the onus upon suspects to prove their innocence by demonstrating their assets were gained lawfully.

After the money

This legislation has subsequently been used as the model for the *Proceeds of Crime Act 2002*, which established the Asset Recovery Agency (ARA) for England and Wales and introduces the specific offence of money laundering. The Agency has been set a target of recovering £60 million worth of criminal assets by 2005 and, to support enforcement in this, the Act places a responsibility upon banks, *bureau de change* and other financial institutions to report any 'suspicious' transactions over £10,000 to the National Criminal Intelligence Service (NCIS), which collates and co-ordinates the intelligence upon which the ARA builds its prosecutions. This responsibility has since been extended to lawyers,

accountants, casino managers, estate agents and bookmakers who can all be prosecuted for withholding information that could secure a successful prosecution for money laundering under this new Act.

Apart from a more effective means of disabling the 'Mr Bigs', the ARA is targeting the 'Mr Big-Enoughts' or middle men dealing in the one-five kg range of class A illicit drugs. To facilitate this the threshold amount of money that 'flags' a suspicious transaction to the authorities is to be lowered from £10,000 to £5,000. It is argued that by recovering assets from organised criminals operating in the middle markets of drug dealing, the overall volume of activity can be more effectively reduced and finances for the reinvestment in further deals better curtailed than by focussing exclusively on the 'bosses' who are actually more easily replaced and whose direct control of illicit markets is limited.

Even so, this strategy of targeting the proceeds of crime has been criticised for the gap that exists between guesstimates of the volume of money-laundering and the number of confiscation orders made, let alone the amount of assets actually seized. It has, for example, been estimated that there is upwards of \$85 billion generated annually by the markets for illicit drugs in Europe and North America and some £1 billion is spent annually in the UK on illicit drugs, whilst estimates of the overall amount of criminal proceeds in circulation are around £18 billion per annum, or 2 per cent of GDP (Levi, 2003). Relative to these guesstimates the £60 million target for the first two years of the ARA's operation is paltry.

After the opportunities

Whether this implementation gap reflects a gross overestimation of the proceeds of crime and/or poor performance on behalf of law enforcement agencies remains a moot question, "to which there is no research-led answer" (Levi, *ibid.*). What are more certain are the theoretical claims about the causes of organised crime that are presupposed in the asset recovery strategy. This is a classical conception of crime as a consequence of the rational calculations made by actors about the relative risk, effort and rewards of offending. If the proceeds of crime can be seized, so the logic goes, this will deter criminals from future offending, increase the effort of organising serious crimes and accentuate the risk of apprehension.

This logic of explanation is also present in opportunity reducing strategies for controlling crime. The key difference with the asset recovery approach is that these can be targeted on the general population, rather than the expensive, time-consuming construction of cases against specific suspects.

Ascertaining criminal opportunities through research into the routine activities that generate crime – the confluence of motivated offenders, suitable targets and absent guardians – has been an increasingly influential feature of ‘ordinary’ crime control but is now being applied to the specific policy field of organised crime (Eklblom, 2003). It is, for example, the causal account that underpins the work of the National High-Tech Crime Unit, established in England and Wales in 2001, which amongst other things aims to secure software programmes and computer operating systems against hackers employed by criminal organisations for the purposes of electronic fraud. Recent attacks upon the internet banking systems of Lloyds TSB and other financial institutions exemplifies the opportunities for crime generated by technological innovations such as electronic commerce.

After the outsiders

A further strength claimed for routine activities theory is its focus upon the local contexts of opportunities for crime, a point that has been reinforced by findings from the Home Office Organised Crime Notification Scheme (OCNS). This scheme, established in 1997, surveys local and national policing agencies to collect reports of organised criminal activity. Given the absence of a specific offence category of ‘organised crime’, the OCNS asks these agencies to quantify the number of organised crime groups (OCGs) they are aware of, the specific activities of these groups, their ethnicity, interrelationships between different OCGs, their geographical location, their penetration of the legitimate economy, and the extent to which they display so-called ‘Mafia-type’ characteristics (such as the use of violence to maintain internal discipline and attempts to corrupt public officials). Findings from the first sweep of the OCNS for which there were comprehensive responses on these points, in 1999, suggest that the overwhelming majority of the 965 OCGs identified were staffed by white European nationals, only 43 per cent of whom were known to be active outside of the locality in which they were domiciled (Gregory, 2003).

Nonetheless, the recent United Nations *Convention Against Transnational Organised Crime*, agreed in Palermo in December 2000, continues a long tradition of portraying organised crime as an external threat from pathological groups defined primarily in terms of their ethnicity. This ‘alien conspiracy theory’ has its roots in the modern origins of the concept of organised crime during the McCarthy era of post-Second World War American politics, in which Cold War fears over the internal security of the United States fed a generalised concern about ‘un-American’ outsiders, in particular the Italian community (Woodiwiss, 2003). This theory also has its adherents in the UK, where recent concerns over ethnic outsider groups, such as Jamaican Yardies, Turkish heroin traffickers and Balkan, especially Albanian, traffickers in the sex industry have been used to justify major institutional reforms to law enforcement over the past decade. These include the establishment of the National Criminal Intelligence Service in 1992, the National Crime Squad in 1998 and the merger of these organisations along with the investigative branches of the Customs and Immigration Service into the Serious and Organised Crime Agency (SOCA), announced in February 2004 ahead of the publication of a White Paper on fighting organised and international crime.

Organised crime in context

Counterpoised to both the rational actor and ethnic ‘other’ models of organised crime is a tradition of explanation that takes its inspiration from political-economy and cultural studies. Accounts in this tradition switch the emphasis of explanation from the immutable rationality or pathology of actors and their activities toward the shifting social and historical contexts in which organised crime is either enabled or constrained (Ruggiero, 2000). It is argued, for example, that the political economy that defined the traditional British family ‘firm’ of the Kray and Richardson brothers, of pyramidal hierarchies of command and control staffed by full-time permanent employees, has since disintegrated, like the ‘Fordist’ organisation of licit business that it reflected (Hobbs, 2001). In the contemporary post-Fordist economy, protean networks of criminal entrepreneurs have emerged that, like the flexible labour markets of licit enterprise, may possess a limited number of core, multi-skilled or connected, criminal brokers but which sub-contract work to a peripheral pool of labour that has been casualised in the legitimate labour markets.

Whilst this tradition has not exercised the amount of influence over public policy responses to organised crime that the pathological and rational actor theories have, it has profound implications for understanding the interrelationship between crime control and social policy. Explanations of the causal relationships between local labour markets, housing tenure patterns, law enforcement interventions and the formulation, reproduction or collapse of serious crime networks, are the avant-garde of research into the organisation of serious crimes.

Adam Edwards is a Senior Lecturer in Criminology at Nottingham Trent University and was Director of the Economic and Social Research Council’s research seminar series on ‘Policy Responses to Transnational Organised Crime’, the findings of which are published in a volume co-edited with Pete Gill entitled, Transnational Organised Crime: perspectives on global security (Routledge, 2003).

References

- Eklblom, P. (2003) ‘Organised Crime and the Conjunction of Criminal Opportunity Framework’, in A. Edwards and P. Gill (eds.) *Transnational Organised Crime: perspectives on global organised crime*. London: Routledge.
- Gregory, F. (2003) ‘Classify, Report and Measure: The UK Organised Crime Notification Scheme’, in A. Edwards and P. Gill (eds.) *Transnational Organised Crime: perspectives on global organised crime*. London: Routledge.
- Hobbs, D. (2001) ‘The Firm: Organizational Logic and Criminal Culture on a Shifting Terrain’, *British Journal of Criminology*, 42: 549-560.
- Levi, M. (2003) ‘Criminal asset-stripping: Confiscating the proceeds of crime in England and Wales’, in A. Edwards and P. Gill (eds.) *Transnational Organised Crime: perspectives on global organised crime*. London: Routledge.
- Ruggiero, V. (2000) *Crime and Markets*. Oxford: Clarendon Press.
- Woodiwiss, M. (2003) ‘Transnational organised crime: the global reach of an American concept’, in A. Edwards and P. Gill (eds.) *Transnational Organised Crime: perspectives on global organised crime*. London: Routledge.