

Abstract

This article proposes a “paradigm shift” in the means and methods of combating transnational criminal activity. It contends that global illicit flows, engineered by organized crime on a massive scale alongside lawful trade and travel, represent a principal challenge to public safety and civic order. It proposes further that the Westphalian territorial state system, with its complement of multilateral regulatory and law enforcement organizations, is not equipped to meet the challenge effectively. The article advances a series of propositions in support of developing a revised approach to confronting transnational criminal activity.

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Introduction

In this article, we develop a new framework for combating transnational criminal activity. We argue that global illicit flows, perpetrated by organized crime, in the interstices of lawful trade and travel, embody a critical and debilitating non-state security threat in today’s world, one that the Westphalian international system of sovereign states remains ill-equipped to confront. Accordingly, we seek to generate a wider discussion in the field regarding a revised approach to this threat that is situated within a global framework of collaborative law enforcement which incorporates, in appropriate fashion, certain military and counter-terrorist strategies.

The propositions we advance in support of a revised approach to countering transnational crime and its globalized web-enabled criminals include: (a) *terrorism is one species of transnational crime*; (b) *the criminal justice model of arrest, prosecution, conviction and incarceration is a partial and insufficient response to transnational crime*; (c) *national security and law enforcement functions should be viewed analytically as a “public security” continuum rather than disciplines separated by bright lines*; (d) *countering transnational criminal organizations effectively may require development of a hybrid law enforcement/military capacity and new strategic and tactical doctrines, including safeguards against abuse, to govern its deployment*; (e) *joint border management within nations and between them, coordinated with the private sector, is required and inter-agency cooperation and multilateral institutions must be strengthened in accordance with new international norms* and (f) *North America, a region construed as extending from Colombia to the Arctic and from Bermuda to Hawaii, could develop in the future, together with the European Union, as an initial site for a model pilot of the new approach.*

A New Border Paradigm: Westphalian Lines and Global Flows

Borders traditionally have been viewed as lines in the sand (and on a map) demarcating the edges of sovereign states (or empires) according to the Westphalian system dating from the 17th century. The Peace of Westphalia in 1648 generally is considered as the start of the modern territorial state system.

The Westphalia treaties concluded the Thirty Years War in Europe and set in motion a system whereby sovereign states began to co-exist alongside longstanding imperial regimes. This new system established principles such as mutual respect for national border boundaries and the territorial integrity of states, acknowledgment of the plenary authority exercised by a sovereign within its jurisdiction, covenants not to interfere in other states' internal affairs, and the legal equality of states within the international system. As European influence spread globally, so too did this territorial and horizontal concept of sovereignty and the prerogatives which attach to it.

Today, sovereignty asserts itself aggressively at states' borderline boundaries by determining who and what may enter or exit the geographic space and when, and the conditions under which, they may do so.¹ This exercise of sovereignty at national borders has long been a means for governments to assert and maintain internal political control. At the same time to generate revenue, states levy customs and travel fees on the cross-border movement of people and goods. Borders today therefore should be conceived of both as lines marking sovereignty and as entry/exit points of flow.² This new understanding of borders as lines and flows challenges the Westphalian conception of borders as "hard" boundaries around the territories of sovereign states. In other words, borders must be managed as flows and interdependent networks rather than solely as jurisdictional lines to be endlessly fortified.

To be clear, we are not suggesting that sovereign borders have become irrelevant or unimportant. But because of accelerating technological innovation, time and space have been dramatically compressed such that global flows today are non-stop, and in many cases, instantaneous. Globalization is the cumulative effect of these trends: a 24/7/365 movement of capital, labor, cargo, people, goods, services, ideas, images, data, and electrons continuously around the world. These flows today are directed by actors independent of states. Often, they are the decisions of multinational corporations, transnational criminal organizations, and other non-state actors. For this reason, they sometimes are referred to as "borderless" or "stateless".³ Nonetheless, they continue to flow toward and over Westphalian border lines, have their principal effects within states, and are regulated by the governments operating there. This presents us with a palpable collision of two historic trends: the sovereign power to regulate cross-border flows remains exclusively national, while the flows themselves—lawful and illicit alike—increasingly are transnational. Both trends accelerated mightily after World War II with the post-colonial rush to nationhood that has created 193 sets of separate sovereign borders and the technological innovation that has multiplied exponentially the volume and speed of movement that makes for the so-called borderless world. The under-development of effective international cyber governance has made the collision between Westphalian border lines and global flows inevitable and has exacerbated its impact.⁴

As the process of globalization expands, the concept of “borderless” is enlarged to encompass the unprecedented flows of all kinds that cross national border lines continuously, often instantaneously. These include the multiple categories of virtual flows across cyberspace. Borders in a globalized and digital world, then, are most usefully conceived as incorporating flows toward and across lines marking national sovereignty. This new border paradigm, linking jurisdictional lines to global flows, includes the unlawful flows that trade on the dark web and comprise the underworld of globalization.⁵

The Underworld of Globalization: Transnational Criminal Organizations (TCOs)

Globalization includes illicit flows on a massive scale. The TCOs generating the bulk of them comprise gigantic business conglomerates that are shadow reflections of multilateral corporations like Shell, Huawei, Gazprom, Samsung, and Google. These illicit enterprises use modern institutions and means, including cyber space and cryptocurrencies,⁶ along with the contemporary international banking system. But they often capitalize as well on ancient smuggling routes like The Silk Road. The United States National Security Council (roughly) estimates \$1.3 Trillion to \$3.3 Trillion is involved in money laundering perpetrated by transnational criminal enterprises; \$750 Billion to \$1 Trillion in narcotics trafficking; \$170 Billion to \$320 Billion in illicit firearms trafficking; \$21 Billion in human trafficking; \$500 Billion in counterfeit and pirated goods; \$20 to \$40 Billion in environmental crimes including illegal wildlife trade; and \$10 to \$12 Billion in fraudulent credit card transactions. The total proceeds of transnational organized crime are estimated at \$6.2 Trillion or about 10 percent of the Gross Global Product. This amount approaches the total 2017 Gross Domestic Product of all the countries in Africa (\$2.9 Trillion) and South America (\$3.99 Trillion) combined. Bribery of corrupt officials is estimated to involve up to \$1 Trillion.⁷

These illicit economies exercise enormous concentrated power. In the period since the end of the Cold War – one of transition to a new series of geopolitical rivalries and relationships – transnational criminal activity has increased significantly and the non-state organizations involved have grown correspondingly in power and influence. At the same time, as observers have noted, by dispersing power and capacity so broadly, globalization will continue to weaken the state, relatively speaking, and the monopoly of violence and legitimacy on which sovereign control has been premised for centuries.⁸ The unlawful economies of TCOs and the criminal activities that sustain them remain, we submit, in the circumstances of this vacuum, a grave contemporary challenge to public security and civic order.

TCOs function in the seams between the boundaries of states. In the context of globalization, they operate successfully, and largely with impunity, within these gaps between national law enforcement jurisdictions.⁹ These are the dark places where organized crime thrives. The growing proliferation of the internet of money¹⁰--through blockchain and other digital technologies—and the encryption of communication devices further shroud criminal transactions and the individuals and organizations which engage in them.

The global Westphalian framework of national sovereignty established in the 17th century is less and less suited to deal with the magnitude and methods of transnational crime operating today. The international community is unable to manage and regulate the massive contemporary volume of unlawful flows in accordance with the traditional lines of national borders and the sovereign power of states exercised independently. Non-state actors—including both multinational corporations and transnational criminal organizations—often operate entirely beyond the reach of government.¹¹ The TCOs, functioning in the shadowy netherworld of globalization, in short, outstrip the capacity of both national and international law enforcement agencies and organizations to control that dangerous space. Governments cannot successfully fight cross-border crime from behind national borders which transnational criminals do not recognize or often ever physically cross.¹² Ports of entry into countries managed by individual states are the last line of defense against dangerous people and dangerous things; not the first line they traditionally have been considered. There is a demonstrable need to develop a revised approach that addresses the resulting vulnerabilities in the contemporary international system of law enforcement.

The Contours of a New Counter–Network Approach: Terrorism Is One Species of Transnational Crime

The principal motivation for conducting terrorist activity is to create political change while organized crime is pursued primarily for illicit economic gain. For analytic purposes in the context of border management and security, however, their similarities transcend their differences and suggest they be viewed as distinctive types of illicit transnational criminal activities. Terrorism from this perspective constitutes one species of transnational crime along with human trafficking and migrant smuggling, narcotics production and distribution, firearms trafficking, and the piracy of intellectual property, among many other staples of illicit market activity.

Crime and terror groups employ similar means and methods albeit for their different purposes. Criminal organizations use narco-terror tactics of violence to intimidate local populations and government officials. Similarly, jihadist terrorists engage in criminal activities designed to generate revenue as *Hezbollah* has done with money laundering in the tri-border zone of Argentina, Paraguay and Brazil and elsewhere, as *al-Qaeda* did in mediating the blood diamond trade in Charles Taylor's Liberia, and as *D'aesh* more recently has done with the theft of oil in Iraq. Occasionally the nexus has been even closer where groups, seeking to replace existing state authority, at the same time are engaging routinely in organized criminal activity. The *FARC* in Colombia and the *Sendero Luminoso* in Peru are prime illustrations of this phenomenon as was the maritime piracy of the *al-Shabaab* terrorist group in Somalia.

To characterize terrorism as a sub-species of transnational crime is not to minimize the problem but rather to place it in context and into perspective. There are several reasons to reconceptualize terrorism in this way. First, the harm done by terrorism is random and terrifying to be sure but results in far fewer fatalities and concrete loss than numerous other threats and factors of risk. Second, the terror threat continues to evolve but the sources of

jihad generating it – whether *al-Qaeda* or *D'aesh* – have been substantially weakened by the national military and intelligence campaigns waged against them. A third compelling reason to treat terrorism as a sub-species of transnational criminal activity is that such characterization would facilitate incorporating the military and intelligence community's approach to countering terrorism into policing/investigative strategy aimed at combating transnational crime. Certain of these tools, techniques, means, and methods, are relevant to the broader TCO challenge and have proven reasonably effective in the counter-terror context.¹³

The Blurred Boundaries of Public Security: Internal Security and National Defense, International Affairs and Domestic Affairs, and National Security, Border Security and Law Enforcement

States remain the building blocks of geopolitical calculation and activity in the contemporary world. However, transnational factors increasingly dominate what matters in the internal as well as external security theatre. Homeland or Internal Security has become inherently transnational. There is hardly anything – human-made or natural¹⁴ – that adversely affects the homeland of states today which does not now have a cause or effect that is generated abroad from outside their border lines. This has led to the so-called “pushing out” of borders. The U.S. government and other governments regularly place civilian law enforcement officers and military personnel abroad to protect the homeland against threats of terrorism, pandemic disease and cyberspace intrusion.¹⁵ The central mission of police attachés from the Departments of Justice and Homeland Security stationed abroad, for example, is to prevent the import of crime and to intercept security threats at their point of foreign origin before they cross into the United States and become a domestic threat. This is accomplished by the attaché network through capacity building, information sharing, and occasionally, operational coordination with host country partners.¹⁶ This “externalization of borders”¹⁷ is breaking down old dichotomies and definitions by which policymakers and analysts in the past drew distinctions with a difference. A complete distinction between “national security” and “homeland security” for example, increasingly is questioned and the same appears to be true regarding “foreign affairs”¹⁸ and “domestic affairs.” Homeland Security-centric activities abroad similarly blur traditional bright line boundaries between “national security” and “law enforcement” on the one hand and “law enforcement” and “border security” on the other.¹⁹ The subject matter and objectives of these missions more frequently overlap and may more usefully be considered going forward as falling within the broader rubric of *Public Security*. This type of adjustment in nomenclature is a leading indicator of a “paradigm shift”²⁰ or dramatic transformation in existing conventional wisdom.

Integrated Counter-Transnational Crime Fighting is Required

Divided and fragmented management of borders is an anachronistic artifact of the Westphalian System. What is required, internally, is a whole of government strategy that utilizes and applies five dimensions of official power: intelligence collection and analysis; military capacity; law enforcement response; financial sanction; and diplomatic partnership with foreign government authorities.²¹ The military approach to identifying and defeating networks through counter-networks may have much to commend itself to law enforcement.²² The separation between military and domestic law enforcement exists because there are dramatic philosophical and cultural differences between these institutions in both the conception and execution of their core missions. The police officer acts to maintain law and order through the arrest of offenders as required while the soldier defends the nation, when necessary, through the killing of enemies. Accordingly, policy makers should not underestimate the legal, policy, and moral challenges to accomplishing the necessary, reasoned reconciliation of these differences.

In order to accomplish a synthesis between law-enforcement capacity and certain aspects of a military/intelligence community approach, policy-makers must understand and accept the proposition that terrorism is one variant of transnational crime.²³ This activity, whether for terrorist or mercenary aims and objectives or both, is conducted by non-state actors which operate in the spaces, not only between states, but also in the seams between their domestic national security and defense, and law enforcement establishments, and their respective “stove-piped” authorities and operations. The growing ties between various terrorist organizations and TCOs highlight the substantial threat embodied in the crime/terror nexus. The logic of their growing affiliation, based on revenue generation, appears self-evident.²⁴ Moreover, we also see an increasing identity of interest between certain state actors in the intelligence realm, seeking to exploit the accessibility and relative anonymity of TCOs, including terrorist organizations, to achieve their geopolitical aims.²⁵ This growing adverse hybrid and asymmetric threat appears to require that a similar hybrid counter-mission be developed between and among law enforcement, intelligence and military communities. This effort, in turn, would require the elaboration of strategic doctrine and the creation of a blended public- security force that can deliver law enforcement approaches tailored to counter-TCO operations. This mixed force of warrior/lawmen and women would resemble Joint Interagency Task Force-South (JIATF-S) led by the United States Coast Guard (USCG), but with considerably amplified and appropriately constrained authorities, mission space, training and resources.²⁶ Like the Coast Guard and JIATF-S, in their current counter-narcotics mission, this force would operate exclusively abroad in the kinetic enforcement dimension of its hybrid function; it would respect the requirements of *posse comitatus* which limits authorized use of the military in domestic affairs to extreme emergency circumstances.

We must, in short, reconcile the legal, methodological, operational and cultural approaches of police officers, security agents and soldiers *and do so within the parameters of an accountable and satisfactory rule of law.*²⁷ The political and legal conundrums that have accompanied the United States incarceration of prisoners of war at Guantanamo, and the efforts to try some

of them in federal criminal court, demonstrate the degree of difficulty to be encountered as we attempt to place round new policy pegs into square old holes and vice-versa in order to supplement an outdated Westphalian regulatory and enforcement system.

Beyond the Criminal Justice Model: Disruption, Prevention and Protection

The law enforcement paradigm – the criminal justice model – has sought to adapt proactively to the phenomenon of TCOs through the utilization of conspiracy doctrines and racketeering statutes such as RICO in the United States—and in Europe. However, these tools by themselves can be unwieldy and are geared principally to imprison the individuals who operate and run organized criminal organizations. The criminal justice model is focused on proving past conduct in a court of law through the rules of evidence. Developing a case (usually over several years) presumes, in fact depends upon, the continuation of criminal activity so that enough evidence can be amassed and presented to a jury at trial. This is antithetical to a *Disruption Model*, whose objective, systematically and continuously, is to degrade and dismantle TCO operations.²⁸ The strategy must employ but acknowledge forthrightly the limitations of the decapitation strategy.²⁹ A decapitation approach which seeks to arrest, prosecute and incarcerate the heads of organized crime can only succeed as part of a larger, more comprehensive approach that involves attacking all vulnerabilities of the transnational criminal organization. As a single tool, decapitation is destined to fail. When a mob boss is taken down, he inevitably is a sorry sight, deflated in dejection because as Sebastian Rotella pointed out (fictionally) in *Triple Crossing*,³⁰ the power has already passed out of the former chieftain to those who succeed him. Because the revenue stream remains intact, the criminal incentive to sustain operations and maintain continuity is pronounced. To defeat a TCO, its business model must be compromised and then broken through disruption and dismantlement. This effort must encompass both the production and distribution of TCO products as well as interdiction and seizure of their personnel and monetary proceeds and systematic disruption of their communication networks. Nothing short of a unified strategy of persistent erosion against the TCO business core will suffice. This rarely occurs currently.

We urge, therefore, an organized and focused discussion, among governmental authorities, scholars, and practitioners, to reconceptualize the law enforcement/homeland security mission to combat transnational organized criminal activity. The law enforcement and national security activities of homeland security should be reframed in terms of protecting public and citizen security through safeguarding global supply chains and international travel zones. The reformulated model would set forth an internal security agency's enforcement method which eschews exclusive reliance on the traditional criminal justice system for arrest, prosecution, conviction and incarceration. Instead it would seek to counter the underworld of globalization by focusing on the disruption and degrading of criminal operations and the dismantling of TCOs. The "disruptive" approach combines the analysis and exploitation of data geared to suspicious activities of TCO networks with interference, interdiction and

investigation. Its goal is to identify the “pressure points” in a targeted criminal ecosystem and then design and execute on the best law enforcement and crimefighting counter-measures. The new approach would rely on a variety of tools and sanctions in addition to traditional criminal justice system techniques and penalties.

Multilateral Organizations – Public and Private — Must Be Strengthened for Purposes Both of Enhanced Data Sharing and Coordinated Operations

Our approach to protecting globalization³¹ – with its extensive global supply chains and burgeoning international travel zones -- requires significantly enhanced collaboration among public safety, state security, and police agencies at the international as well as national levels and between the private and public sectors. The operational weakness of multilateral organizations – from the *United Nations* to *Interpol* and the *WCO*, *IMO* and *ICAO*³² – in the face of transnational threats is palpable. The current situation reflects the stubborn resistance of Westphalian national politics to change and the inability of states to relinquish voluntarily even a small portion of their sovereign power. Only *Europol*, in the context of the European Union (EU) and the “shared sovereignty” its member states have implemented partially, has taken significant steps in the direction we advocate here. *Europol* genuinely facilitates cooperation and coordination among police and border management agencies within the EU. Nonetheless, even here, there are substantial limitations in terms both of geographic reach and investigative focus.

As a consequence, information and intelligence sharing and operational coordination between national authorities and transnational law enforcement agencies, and with the private sector, remains woefully deficient. The result is that the global criminality of TCOs, unlike that of terrorist organizations, remains barely challenged today by the international community.

This dire diagnosis requires a radical prescription. The post-World War II approach to tailoring multilateral action in (virtually complete) deference to national sovereignty has run its course.³³ We need bold new thinking and the enunciation of transnational principles to govern a precise reengineering of strategy and doctrine. These in turn could lead to new theories of action that can elaborate revised tactics and strategies, devise strong modern mechanisms of collaboration, and develop a politically viable way forward. In sum, we need to create a global counter-TCO network that connects, in much more seamless fashion, national systems to multinational organizations. The resulting network must address existing gaps in intelligence collection, analysis, and dissemination; operational coordination; regulation of both financial and cargo flows; and cross-border movements of people, both regular and irregular. Over time it must devise a satisfactory approach to the current anarchy in cyber space alluded to previously.

It is expected that in the interim, individual states will exercise sovereign power to protect their territorial integrity and security and the safety of their citizens. We explicitly acknowledge their right to do so. However, at the same time, we assert our view that no single government will

ever fight effectively against transnational organized crime or transnational criminal activity on its own without the assistance of a multilateral counter-network, including a workable alliance with the private sector. To build and oversee this network and improve upon the positive development exemplified (albeit imperfectly) by *Europol*, will require: (a) new international standards to govern the intelligence exchange, data sharing and operational coordination required to implement substantially enhanced national and international collaboration; (b) a new international body (perhaps a renovated *Interpol*) authorized and equipped to coordinate actionable responses for existing institutions that cannot perform them at a sufficient level of effectiveness; (c) global data bases composing an international “data mart” regarding the movement of both people and goods to provide a new world-wide intelligence network that could both light up the dark web and expedite the flow of lawful trade and travel³⁴; and (d) the design and development of new transnational protocols (e.g. a *Global Authorized Economic Operator (AEO) 2.0 Framework for Public Private Partnership*) that articulate specific obligations of private and public sector participants in explicit new partnership accords.

North America: Creating a Model of The Revised Approach

The approach proposed here to understand borders and the transnational essence of contemporary homeland security and law enforcement in a global and digital age has special implications for Mexico and Canada and the North American continent that they share with the United States. Geographic proximity through the sharing of land borders—1900 miles with Mexico and 5400 with Canada—results in a unique relationship of these countries to the defense of the U.S. homeland. Following wars fought in the nineteenth century by the United States with each of its neighbors, North America has been blessed with the longest demilitarized borders in the world. These facts have created a special relationship between the United States and its neighbors Canada and Mexico that is neither *international* in a traditional sense nor *domestic* in light of the separate sovereignties involved³⁵; instead, in a phrase coined by Bayless Manning in the 1970’s, the relationship is more fittingly characterized as “*intermestic*.”³⁶

For this reason, in the U.S. context, the Department of Homeland Security will continue to play a crucial role in policy formulation and operational coordination with national security and law enforcement authorities in both Canada and Mexico (and increasingly in Central America and the Caribbean). The growth in shared production platforms operating across common borders and increasingly shared critical infrastructure will further highlight this role. Flows north and south in the region are in the process of becoming functionally more relevant than the border boundary lines running east and west between them. The likelihood over time is that continental “perimeter security” eventually, as in the European Union, will overshadow internal cross-border concerns. First, cyber-security regimes to ward off borderless cyber intrusions will require this adjustment just as the polar threat from Soviet ICBMs in the 1950s necessitated the formation of the North American Aerospace Defense Command (NORAD).³⁷ Second, the imperative for perimeter protection will become more pronounced as the economic competitiveness of North America becomes more critical to U.S. prosperity.³⁸

The region comprises a half billion people, economies that together generate almost 30 percent of global goods and services, and shared production with robust trade flows of more than 1.3 trillion dollars annually. The “homeland security enterprise” will have much to do with the management of this promising future and could produce a model for expediting secure global flows of lawful trade and travel while at the same time countering transnational organized crime much more effectively.

Conclusion

Technology and globalization have brought the world to a turning point. The inadequacies of Westphalian governance and the limitations of conventional wisdom and traditional process have become painfully evident in the increasing inability of governments satisfactorily to control transnational criminal activity. The advent and rapid expansion of web-enabled criminality has highlighted this global vulnerability. Westphalian governance increasingly is outdated because cyberspace and its savvy, networked criminals and TCOs supersede or ignore physical border lines and boundaries altogether.

We have proposed in this article, therefore, a broad-based international effort to develop a revised approach to counter the underworld of globalization. We do not purport to have solved the problem but rather have sought to identify it and spur a reconsideration of the status quo that is long overdue. Initial international consultations to this end, starting with the observations and propositions we advance here, could usefully begin within and between the European Union and the North American Region led by the United States, Mexico, and Canada. It is an era of dramatic transition and a time for innovative reinvention. As the English historian, A.J.P. Taylor reminded us, history can be brutally unkind when a turning point is reached and the world does not turn.³⁹

About the Authors

Alan Bersin served as Commissioner of U.S. Customs and Border Protection, and as Assistant Secretary of International Affairs and Chief Diplomatic Officer at the United States Department of Homeland Security. He is a Senior Advisor at the global law firm of Covington & Burling; an Inaugural Senior Fellow in the Homeland Security Project at the Belfer Center at the Harvard Kennedy School of Government; a Global Fellow at the Woodrow Wilson Center for International Scholars in Washington D.C.; and the Inaugural North America Fellow at the Canada Institute and the Mexico Institute (Wilson Center). He may be reached at alanbersin@msn.com.

Lars Karlsson is President of KGH Border Services providing consulting services to governments world-wide. He has served as the Director for Capacity Building at the World Customs Organization and as Director General of Swedish Customs. He was the architect of the world's first Authorized Economic Operator (AEO) program and has served as a Senior Advisor to the EU and the UK on Brexit. He may be reached at lars.karlsson@kghcustoms.com.

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Notes

- 1 Alan Bersin, "Lines and Flows: The Beginning and End of Borders," Originally presented at the Ira M Belfer Lecture, Brooklyn Law School, 6 October 2011; published in *Brooklyn Journal of International Law* 2012, vol. 37, no. 2, May, 389-406; republished in *World Customs Journal*, March 2012, Vol. 6, No. 1.
- 2 This section of the article is drawn from: Austen D. Givens, Nathan E. Busch, and Alan D. Bersin, "Going Global: The International Dimensions of U.S. Homeland Security Policy," *Journal of Strategic Security* 11, no. 3 (2018): 1-34. DOI: <https://doi.org/10.5038/1944-0472.11.3.1689> Available at: <https://scholarcommons.usf.edu/jss/vol11/iss3/2>.
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- 5 Louise Shelley, *Dark Commerce: How A New Illicit Economy Is Threatening Our Future*, (Princeton: Princeton University Press, 2018).
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- 10 Andreas M. Antonopoulos, *The Internet of Money*, Merkle Bloom, LLC (2016).
- 11 Legal non-state actors span multiple sovereignties acknowledging, if not quite accepting, the authority of each government they touch. Terror and crime syndicates, on the other hand, reject all jurisdiction and engage national governments only to penetrate and corrupt them or to replace them.
- 12 U.S. National Security Council, *Strategy to Combat Transnational Organized Crime* (2011) obama.whitehouse.archives.gov ; United Nations Office on Drugs and Crime, "International Cooperation to Combat Organized Crime," UNODC (2019), unodc.org.
- 13 The dramatically enhanced post 9/11 information sharing between the FBI and CIA in the United States and the post Charlie Hebdo exchange of watchlists between European and U.S. intelligence and law enforcement agencies are cases in point. The relative success achieved in shutting down terrorist financial networks offers a further striking illustration.
- 14 Even domestic radicalization itself appears to constitute only a partial exception. National Institute of Justice, "Domestic Radicalization Research Yields Possible Keys to Identifying Extremists on the Path to Terrorism," June 26, 2018, NIJ.gov. This includes *homegrown violent extremism*. The manifesto of the alleged gunman in the August 2019 mass shooting in El Paso, Texas drew inspiration from the attacks the previous March on two mosques in Christchurch, New Zealand. Weyli Cai and Simone Landon, "Attacks by White Extremists Are Growing. So Are Their Connections," *New York Times*, April 3, 2019; see also Tim Arango, Nicholas Bogel-Burroughs and Katie Benner, "Minutes Before El Paso Killing, Hate-Filled Manifesto Appears Online," *New York Times*, August 4, 2019.
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- 22 Stanley McChrystal, "It Takes a Network: The New Front Line of Modern Warfare," *Foreign Policy* (2011).
- 23 Some observers are wary of blurring the line between international terrorism, as a form of asymmetrical warfare by non-state actors, on the one hand, and a TCO engaged in cross-border criminal activity on the other, for fear that sovereignty concerns could lessen, not increase nation-state cooperation; others contend that mixing national security and law enforcement tools would confuse existing channels of operation and threaten traditional civil liberties. While each of these points of view is not unreasonable, both of them, we believe, have been overtaken by contemporary events and circumstances.
- 24 Yuri Fedotov (Director General/Executive Director, United Nations Office on Drugs and Crime), *Remarks at the Open Debate of the UN Security Council on the Linkages between International Terrorism and Organized Crime*, New York (July 9, 2019), unodc.org.
- 25 A separate but related threat arises when transnational criminals are also government officials, usually in weak or failed states (e.g. Manuel Noriega in Panama during the 1980's).
- 26 Joint Inter-Agency Task Force--South (JIATF-S) led by the USCG offers a partial illustration, as stated in the text, of what might be extended internationally to accomplish this aim. See J.M. McLay, "Joint Interagency Task Forces; the Right Model to Combat Transnational Organized Crime?" *Naval War College (U. S.), Joint Military Operations Department*, May 18, 2015, Defense Technical Information Center (DTIC): <https://www.dtic.mil/UTIC/>; see also Peter J. Hatch, "Maritime Governance as an Instrument of National Security: A New Perspective for DHS and the U.S. Coast Guard," *American Foreign Policy Interests* 35 (2013): 82-92.
- 27 Although this synthesis of effort almost never occurs, it is eminently feasible. U.S. Attorney for the Southern District of New York Preet Bharara observed on the successful capture and prosecution of Abdul Kadir Warsawme, a go-between operative for Al Qaeda and Al-Shabaab: "[H]is lengthy interrogation for intelligence purposes, followed by his thorough questioning by law enforcement agents was an intelligence watershed...a seamless orchestration by our military intelligence, and law enforcement agencies that significantly furthered our ability to find, fight and apprehend those who wish to do us harm." See Rabusa Angel et al., *Counternetwork: Countering the Expansion of Transnational Criminal Networks*, (Santa Monica, CA: RAND Corporation, 2017).
- 28 Alan Bersin and Chappell Lawson, "Homeland Security and Transnational Crime," *Beyond 9/11: Homeland Security for the 21st Century*, MIT Press (Publication forthcoming).
- 29 Decapitation strategy is sometimes confused with the Kingpin Strategy. See Robert Bonner, "The New Cocaine Cowboys," *Foreign Affairs*, July/August 2010 at p. 43; see also Robert Bonner, "The Kingpin Strategy, Why it Worked and Why it is Still Relevant," 5-16, <https://deamuseum.org/lecture-series/kingpin-strategy-did-it-work-and-is-it-still-relevant/>.
- 30 Sebastian Rotella, *Triple Crossing: A Novel*, New York, Mulholland Books/Little, Brown and Co, 2011).
- 31 See, e.g., Michael Pezzullo, "Sovereignty in an Age of Global Interdependency: The Role of Borders," Australian Strategic Policy Institute, December 2014.
- 32 World Customs Organization; International Maritime Organization; and International Civil Aviation Organization.
- 33 Rana Dasgupta, "The Demise of the Nation State," *The Guardian*, 5 April 2018, <https://www.theguardian.com/news/2018/apr/05>.
- 34 This would suggest abandonment of traditional separate national customs and immigration declarations and their replacement with transparent information about all flows verified (eventually) through block chain protocols and data cloud solutions.

- 35** This is to be contrasted with the alternative mode of “shared sovereignty” that drives (and now complicates) the “Schengen” and “EuroZone” models employed in the European Union.
- 36** Bayless Manning, “The Congress, The Executive and Intermestic Affairs: Three Proposals,” *Foreign Affairs* 55, (1977): 306,309.
- 37** Randall DeGering, “What is NORAD’s Role in Military Cyber Attack Warning?,” *Homeland Security Affairs*, 12, Essay 5 (May 2016); <https://www.hsaj.org/articles/10648>.
- 38** Adam Tooze, “Is This the End of the American Century?” *London Review of Books* 41 (2019) :3-7 ,<https://www.lrb.co.uk/v41/n07/adam-tooze/is-this-the-end-of-the-american-century>.
- 39** A.J.P. Taylor, *The Course of German History*, (London: Hamish Hamilton, 1945).

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