CHAPTER-3
IMPACT OF ORGANISED CRIME

Organised Crime is no longer considered a delicate problem of criminality which has spread and structured into a vast business (illegal) entrepreneurship; a phenomenon operating on a wide scale impacting the functioning of society and politics worldwide, although its effects vary depending on certain conditions. It has become a major threat to the security and democratic governance throughout the globe. It is recognized that OC acts as a catalyst for several other forms of violence and crime, it affects directly or indirectly all sectors of society and undermines the linkages between governments and their citizens. If unchecked, OC ruptures social cohesion, divides families and people, corrupts institutions, and destabilizes the very social and economic fabric of our societies, as well as damage the democratic functioning and constitutional arrangements.

Organised Crime has gone from being considered a problem limited to certain countries or regions; it has become one of the basic factors when defining threats to the national security in general and democratic governance in particular.¹ OC has progressively become more mobile, powerful and universally threatening. The violence involved in their execution, the financial losses produced or other features implying anxiety or indignation among the general public. However, before OC can be considered to exist it is able to protect itself against the state and other external agents which constitute a potential danger to its continuity and the expansion of its activities. Such protection is achieved basically in two ways: on the one hand, intimidation through the actual use of violence or the threat of using it; on the other, corruption which blocks

action by state institution or civil society entities.\(^2\) The range of activities organised criminals may carry out is extensive and these vary in accordance with the internal and external variables faced by each group. OC constitutes a growing threat to national security and international stability, which can disrupt social institutions and economic development, which has the ability to undermine democratic processes, and victimizes entire populations\(^3\) thus, a traditional problem of public order or internal security has become a challenge which could not only endanger the viability of societies, the independence of governments, the integrity of financial institutions or the functioning of democracies, but also the peaceful relations between states.

3.1 Impact on individual and family

The concept of “fear of crime” is a response to external stimuli visualised and conceptualised as a major concern to the safety of an individual. These fears lead to an emotional response that creates perceptions of crime within a community.\(^4\) People’s perceptions of crime are shaped by numerous factors in today’s society. While the perceptions held by some individuals may be well-founded, others may be at less personal risk than they actually believe.\(^5\) It is often this perceived vulnerability that leads to serious long-term effects on quality of life and social and economic well-being. Fear of crime can lead to deleterious psychological effects, which include feelings of anxiety,


mistrust, alienation, isolation, and dissatisfaction with life. Fear of crime also results in people making attempts to counteract their fear by consuming drugs and alcohol; trying to avoid victimisation by evading certain places and strangers, staying off the streets and curtailing social activities; or protecting themselves by having watch dogs, firearms and barricades in their homes. As fear becomes manifest in avoidance and antisocial patterns of behaviour, sociability; mutual trust; a willingness to help others; and a sense of belonging and satisfaction in one’s neighbourhood and community eventually disappears. The trauma of victimization can have a profound and devastating impact on crime victims and their loved ones. It can alert the victim’s view of world as ‘a just place’ and leave the victim with new difficult feelings and reactions he may not understand.

The impact of OC on children and youth is both broad and direct, and yet often indirect. One of the major impacts OC has on youth is their recruitment into criminal activity. This is, however, only one part of the broader impact on youth. There are other areas that can directly or indirectly impact youth, many of which are felt at the local community level. The issues that can have possible impact on youth include drugs, alcohol, tobacco, vehicle theft, terrorism, human smuggling and child sexual exploitation, youth gangs, gambling, fraud, money laundering, the Internet, computers and software related offences. The youth population aged 15-24, is almost as large, and able to both influence and be influenced by crime. Youth are affected by many more people and factors than those they directly encounter. Parents, friends, school and the larger

---

8 Wolln, Wayne and Randy Blazak. Renegade Kids, Suburban Outlaws: From Youth Culture to Delinquency 2nd ed. (Belmont, California: Wadsworth, 2001), p-35
community strongly influence the learning and development environment of youth. If OC in general or any of its related activities affects anyone in this environment, through collusion, addiction or perception, it is also likely to affect the youth as well. The following shows how youth get inclined and fascinated by the activities of organised criminal gangs.

a. Drugs: There are obvious direct impacts that OC has on youth as it relates to the illicit drug trade. Youth can be directly involved in the production, exportation, trafficking and the purchase of drugs. OC’s involvement in drugs provides for easy availability of illicit substances and the increased use of certain drugs by youth under 12 are brought into the drug world by adult or older youth offenders. Neighbourhood youth are perceived as potential resources that can generate additional income for low wages and full or partial immunity from the law. This can directly promote the use of children/youth as mules for exportation or as drug runners. It also promotes the idea of deliberately using drugs to sustain youth as prostitutes. The behaviour of local drug traffickers is quickly learned and modeled by community youth, including the children of drug traffickers. Using drugs can have many consequences for youth and for society. OC groups supply drugs to feed existing demand and to create new demand. Naïve and unsuspecting youth can quickly become addicted to drugs. Property and theft crimes are also committed by those under the influence of drugs for the purpose of obtaining more

---

9 Adlaf, Ivis, Smart and Walsh, Canada’s Drug Strategy, Minister of Supply and Services, 1995.
drugs. Use of drugs has other physical, social and emotional impacts as well. These include serious life threatening diseases acquired by sharing needles, or the chronic health effects of drugs such as MDMA/MDA. In addition, when OC groups promote drugs to youth at raves, it could lead to sexual assaults, teenage pregnancy and unintended accidents, such as car accidents. If young traffickers at the lower end of the supply are used to traffic drugs to other youth, they may also be exposed to turf issues or to weapons. There are longer term ramifications too. By being introduced to the drug trafficking network by adult drug dealers, youth are faced with troubling issues around socialization, trust and value. As a result, they may hold on to their views of criminality for a longer period of time than those who commit non-drug crimes. However, only a minority of youth who sell drugs become regular dealers. Youths are both the victims and culprits in drug related crime, and this has as very dreadful affect directly and indirectly.

b. Terrorism / Narco-terrorism: Terrorism/narco-terrorism directly impacts youth by physically, socially and emotionally destroying communities. There is evidence that terrorist organizations use drugs as a political weapon to purposely target consumer

---

12 Pemanen, Kai and Serge Brochu, *Proportions of Crimes Associated with Alcohol and Other Drug in Canada* (Ottawa: Canadian Centre on Substance Abuse, 2002), p.53
13 Mathias, Robert and Patrick Zickler, "NIDA Conference Highlights Scientific Findings on MDMA/Ecstasy", NIDA Notes Volume 16, Number 5 (December 2001)
16 US government claim that Canadian and American youth drug consumption is likely linked to the financial support of terrorism abroad, this is because terrorist organizations are both directly and indirectly involved in drug production in areas such as South America, the Middle East, and Asia.
countries and the children of their enemies. 17 Youth are also modelling deviant behaviour (i.e. suicide bombings; militaristic training for joining terrorist cells) in proximity to terrorist organizations or host countries. There are more broad and substantial indirect impacts of terrorism/narco-terrorism on youth. They include the post-September 11 retribution against countries such as Afghanistan and Iraq. This has profoundly negative consequences on children’s of Afghan and Iraq like physical safety, nutrition and emotional well-being. The post-September 11 ‘follow the money’ policy by western governments which have severely restricted the ability of legitimate western charities from acquiring funding to help vulnerable women and children in the Middle East. 18 This may allow nations (such as Afghanistan, Iraq) to become a more formidable incubator of terrorist activities in the near future. There are also long-term emotional effects of witnessing events such as September 11. These include fear, anxiety (in the form of post-traumatic stress disorder), lack of trust among children and parents, and the resulting use of alcohol or drugs to ease the stress which is already documented. 19 In addition, a new standard of violence was set after September 11. Subsequent attacks may more readily involve vulnerable populations such as children. 20 As terrorism is mainly based on religion, (with certain exceptions) the terrorist recruit young people, as it is easy to convince them to fight against the government establishment in the name of religion,

faith and freedom, as emotions run high among youth they become easy prey to terrorist organisation.

c. Human Smuggling and Child Sexual Exploitation (Prostitution and Pornography): Organised criminal groups are involved in varying degrees of child sexual exploitation and human smuggling activities. Child prostitution, pornography and human smuggling are often committed in tandem. After men, women and/or youth are smuggled into a country, the women and children are forced to endure various forms of sexual exploitation. Child sexual exploitation is a lucrative business offered by OC and is another service in their 'portfolio'. The use/abuse of children and youth have obvious impacts on the lives of those who are directly involved in human smuggling and sexual exploitation. Organized criminal groups use ploys to recruit and keep youth; they offer financial and drug incentives to get same-sex peers to recruit other youth. Sexually exploited youth are given drugs to feed their addiction and to sustain their activity. OC groups maintain street children by having them exchange various forms of exploitation for basic needs of food, clothing, shelter and money. Smuggled adults and children must work for incurred debts as indentured servants and prostitutes. Sometimes they are involved in other types of criminal activity, such as being mules for drugs. While OC is involved in the supply of goods and services related to child sexual exploitation, other players are necessary, including villagers who sell their children, members of the tourism industry that provide sex tours, foreign aid workers and domestic and international

---


police/peacekeepers.23 Homeless or runaway children aged 12 and over are prime targets for sexual exploitation by OC. Some evidence suggest that organized criminal groups also take the infants of youth prostitutes which enables the crime rings to exert greater control over these youth. The emotional, physical and social toll of being exploited sexually as a child and the resulting adolescent/adult delinquent or maladjusted behaviours including drug use, domestic violence or suicide must also be considered.24 Another indirect impact is the distribution of goods, such as pornography, through the Internet to unsuspecting and vulnerable youth. Closer to home, migrant trafficking can also lead to xenophobic sentiments from the larger community and fuel racial prejudices which could then contribute to feelings of ‘second class citizenry’ and immigrants could then lack understanding of that society’s norms, resulting in deviant behaviour.25 The real or publicly perceived increase in crimes committed by illegal immigrants compared to the native population creates fear, and misperceptions about the good intentions and character of smuggled people. Finally, the supply of smuggled humans can serve to increase the western world’s demand for foreign prostitutes and child prostitutes, often promoted as ‘safer’ in terms of sexual disease transmission.26

23 In Kosovo, members of the international community (mostly KFOR soldiers) constitute 40 per cent of the clientele of prostitutes. Throughout Southeastern Europe, there is documented evidence that domestic border guards, and suspicion that UNMIK international police may be involved in human trafficking. According to the report, “stories about local and international police frequenting bars, using the services of women and being on good terms with the owners and traffickers are legion.” Williams, Phil. Emerging Issues: Transnational Crime and Its Control Global Report on Crime and Justice. ed. Graeme Newman. (Oxford: United Nations Office for Drug Control and Crime Prevention, Oxford University Press, 1999); Limonowska, Barbara. Trafficking in Human Beings in Southeastern Europe. (Belgrade: UNICEF, 2002).
24 Zickler, Patrick. “Childhood Sex Abuse Increases Risk for Drug Dependence in Adult Women” NIDA Notes. Volume 17, Number 1, April 2002.
d. Youth Gangs: Youth congregating in gangs seems to be one of the most misunderstood and negatively interpreted phenomena of youth. Membership in a youth gang does not necessarily guarantee a negative short or long-term outcome for a youth and/or society, or the direct passage into organized criminal groups as many media sources have purported. Instead, gangs often provide an immediate wage and/or a direct sense of community and identity for youth whose economic and social opportunities are limited. According to Gordon, analysts and policy makers should be thinking of gangs along a continuum, ranging from groups of friends who spend time together and occasionally get into trouble, to more serious organized criminal groups or gangs. His study further illuminated the fact that nearly half of youth gang members had a history of family and school problems. Gang membership was an attractive option because the youth lacked legitimate choices for other social venues. In some instances, organized criminal groups are directly involved with youth gangs. The impacts of this involvement include the supply of illicit substances to drug gangs or other youth gangs acting as retail/street level traffickers. The link between criminal behaviour and drug addiction was promoted after the 1985 crack cocaine culture which resulted in, the beatings and stabbings committed in restaurants, bars and some high schools which is an epidemic in the US, where some youth gangs became exclusively drug gangs. There is no obvious

27 Venkatesh, Sudhir and Steven D. Levitt. An Economic Analysis of a Drug-Selling Gang’s Finances. 1996. as quoted in Holly Richter and White, M.A. "The Direct and Indirect Impacts of OC on Youth, as Offenders and Victims" http://www.rcmp-grc.gc.ca/ccaps/research_eval_e.htm
28 Gordon, Robert M., Russell C Smandych (ed) op., cit., n.14, p.109
29 Crack cocaine, crack or rock is a solid, smokable form of cocaine. It is a freebase form of cocaine that can be made using baking soda (sodium bicarbonate) or sodium hydroxide, in a process to convert cocaine hydrochloride (powder cocaine) into methylbenzoylecgonine (freebase cocaine).
or automatic move from youth gang to criminal business, because gang members lack opportunities to 'move up' in linked criminal business organizations. However, good wages are offered to youth who are in gangs affiliated with a criminal business organization. This is not the case for non-affiliated youth gangs where profit is most likely not a motive since wages is so low. Most of the gangsters had poor economic background and were propelled into the world of crime due to economic difficulties. These facts clear the doubts how youth gangs fall prey to organised criminal groups.

There are a few indirect impacts of organized criminal groups on youth gangs first, gang members who returned from prison, and who are influenced by OC members in prison, will have a negative influence on youth gangs in terms of trafficking, violence, and access to weapons. Second, in the public mind, the association of OC with youth leads to the misperception, fed by media and hearsay, that gang violence is an epidemic. In fact, police do not view youth gangs as a major issue of concern in the overall crime debate. Finally, negative media messages which focus on the 'organized' and 'crime' angle of youth gangs encourage short-term responses instead of long-term solutions.

e. Money Laundering, Internet, Computers and Software: Money laundering is a peculiar OC activity to address in terms of direct and indirect impacts. The activity itself is an indirect impact of other organized criminal activities. The laundering of criminal assets has to be completed in order to realize profit and power. There are direct impacts

---

Ibid.

of money laundering and its accompanying policies on youth. There is an increased presence, for instance of organized criminal groups in countries where money laundering policies are more lax. This brings safety and security implications for these communities. OC groups use legitimate companies to launder money, especially those which service the typical needs of young children to older (college-age) youth. These include video arcades, entertainment, bars, clubs and casinos.\textsuperscript{33} The indirect impacts of money laundering and related policies towards youth are broad in scope. One such impact is the increased political and/or social influence by OC. Organized criminals will gain societal respect, when due to large sums of money; they are able to extend their activities in to legitimate businesses and other influential decision-making spheres in the future.\textsuperscript{34}

The proliferation of the home computer and access to the Internet has been especially expedient. However, the Internet is mostly unregulated, and considered to be a breeding ground for organized criminal activities. It is interesting to note that this technology is mainly understood and mastered by youth, who remain largely unsupervised as they ‘surf the web’. The Internet is a relatively new way for organized criminals to realize profit, but its potential has not been fully exploited by those interested in expanding traditional crimes and further developing motivated crimes. One direct impact of OC on youth, as it relates to technology, is the increased supply of counterfeit software. In addition, the Internet is used as an information-delivery and exchange medium. This permits activities such as luring children and youth to chat groups, and the dissemination of information on illegal activities including how to grow or consume drugs. Child pornography is sold to

\textsuperscript{33} Lyman, Michael D. and Gary W. Potter, \textit{op., cit.}, n. 17, p.23
\textsuperscript{34} Adamoli, \textit{op., cit.}, n.26, p.58
adults who subsequently post the material, which is then accessible to other adults or youth through chat groups. IT-trained and other skilled youth, usually under 30, are also recruited for their technology skills. This enables OC to infiltrate new markets, and ensures secure record keeping designed to thwart police investigations.\textsuperscript{36} Youth can also inflict great damage when they operate in groups to 'hack' or destroy files and create viruses. An indirect impact of OC's involvement in the Internet, computers and software includes higher prices for legal software resulting from increases in counterfeit software. The subsequent illegal use of software in many households both stems from, and leads to, a lack of knowledge about software rights and respect for the law. Also, there is the grave issue of exposure of youth to unwanted materials on the Internet, such as child pornography.\textsuperscript{36} Finally, some youth may become scapegoats for organized hacking groups, such as the infamous "Mafia boy", and be left to face prosecution.

3.2 Impact on Economy

The international economic threat, posed by global OC, in an increasingly global economy is among the major 'new' threats both at the national and international arena. Global OC does not just affect a select group of financial institutions or regional areas; it affects international financial networks and economies at a national level. Cooperation among Global OC groups has increased as restrictions have lessened between international borders. These foreign havens for criminals and their assets have made it increasingly difficult for Law Enforcement to trace illegal profits; gather evidence on the


criminal leaders; and identify and contain criminal groups. Transnational OC groups pose more of a threat to international financial markets as the world economy becomes increasingly interdependent. Laundering billions of dollars in OC money worsens national debt problems because the large sums of money are then lost as tax revenue. The fear generated combined with OC monopolies in certain industries, such as the agriculture and construction markets damages the overall economy because it discourages legitimate, innovative businesses and entrepreneurs (foreign and domestic) from entering the market. Research carried out in the United States and Western Europe show that there is a link up with the activities of the legitimate firms and that important segments of the legal economy have been penetrated by OC.37

The growth in world trade has been accompanied, or even favored, by a revolution in the financial networks. Remarkable technological progress in communications and banking institutions and with the huge amount of money in circulation within the system and the ease with which it can be transferred at high speed, have greatly favored a basic stage in any illegal business and have given way to money laundering, which absolves its illegitimate origin and its ownership, then legalizing profits and many countries which receive these illegal funds compose a substantial part of their economies.. In reality, these activities are carried out on a large scale in many countries, which are chosen according to factors such as banking secrecy and facilities to operate with tax havens, corruption levels in the concern states. The excess of wealth and an environment where massive consumption takes place in the context of industrialized countries have created new

recreational and leisure opportunities accompanied by an increase in illicit goods and services. The fact that a part of these sought after goods and services are legally prohibited has aided the growth of some specialized branches of OC and the expansion of old groups into new, lucrative business.

3.2.1 Globalisation

Economic globalization is in favour of free movement of goods, capital and people. Most of the border restrictions were eased in order to encourage cross-border trade, and check points removed. As a result, illegal drugs, arms and other contrabands move across the borders with considerable ease as well. Today, illicit drugs have become one of the truly significant global products of the world. Its trade value is estimated at US$500 billion annually. Thus, it shows that transnational criminal organizations are operating successfully outside the existing structures of authority and power in world politics. Therefore, from the economic point of view, Transnational Organised crime (TOC) poses serious threats to national security. Due to their illicit transnational operations, national economy of a nation-state could be very much affected. As we are aware, the international political economy has become more complicated following the complex relationship between state and market. The multitude of states and non-state actors, particularly transnational corporations, engaging in world economy has made a state becoming less dominant in international system. The rising influence of economic factor in international politics cannot be denied. In a number of cases, transnational corporations such as Shell, General Motors, and Sony Corporation are bigger than some

states in Africa, Eastern Europe, and Asia, in terms of wealth that they accumulate. This is because transnational corporations are able to shift their operations in relative ease in order to elude (not to breach) domestic legal controls and thus concentrate on its profit maximization objectives. It must be noted that these activities make transnational corporations so powerful without breaching any laws. While some transnational corporations could become very powerful, states could still exercise some controls over them because their operations are closely monitored via legal and administrative means. Now, if we replace the transnational corporations which are legal in nature, with TOC, it could seriously threaten national economy and also national security because it challenges the sovereignty and integrity, and hinders the effective functioning of a nation-state. States cannot exercise controls over TOC simply because of its illicit nature and this clearly undermines states' independence and integrity. As a result of the illicit transnational criminal activities which could amount to billion of dollars, national economy of a state would be affected, so would its national security. For example, the drugs cartels in Colombia (Madellin Cartel and Cali Cartel) gained the economic powers that surpass the total government budgets of Peru and Colombia! Therefore, it can be seen that if the issues are not carefully managed, TOC could pose serious threats and challenges to the national security from the political and economic aspects. The theft of trade secrets, including research and development, production processes, corporate plans and strategies, and bidding information, undermines fair competition and results in significant losses for businesses, in many countries, industrial theft is an accepted business practice. Such activity becomes a form of espionage when foreign governments manage those companies or directly assist in theft of trade secrets. Technological
advances, particularly in biotechnology, aerospace, and computer and information systems, have increased opportunities for industrial theft and economic espionage. Legal violations by corporations are often viewed as part of the business system, much like industrial spying or psychologically suggestive marketing techniques. These activities are considered as an extension of the capitalist system based on profit and a technical adherence to the letter rather than the spirit of the law.40

3.2.2 Attraction of Organised Crime to Legitimate Industry

The infiltration of legitimate industry by OC is one of the pernicious problems of law enforcement in the globalised world. The purpose of the organisation is simple— to make money and industrial racketeering is particularly attractive for several reasons. First, through industries like construction, interstate or garment manufacturing flow hundreds of millions of dollars a year; thus those industries are tempting targets. Second, unlike narcotics trafficking (another big money maker), law enforcement efforts in the fields have tended to be weak and sporadic and the criminal penalties for the fraud and bribery crimes arising from industrial racketeering are not severe. Third industrial racketeering can give them the ability to make illegal money for the group, while retaining status and credibility in the legitimate community. When OC does gain control of legitimate industry it enmeshes itself in a complex set of economic and social relationships. Industries are comprised of many components: producers of goods and services, suppliers of materials to those producers, suppliers of labour(unions), suppliers of transportation

(truckers), and consumers of those goods and services (including government agencies) where organized criminals use force or threaten use of physical violence and the creation and/or exploitation of monopoly or oligopoly power. They abhor free competition and constantly search for or try to create situations where it can dictate the cost of labour (through gaining control over unions) or the price of goods or services (through establishing cartels). For example the Garment trucking in New York City is controlled by Gambino and Luchese crime families from many years. Garment manufacturers hand over their work of designing, cutting and sewing to smaller shops called contractors, as result, cloth is constantly being shipped by truck from manufacturer to contractor. The fast paced nature of fashion industry cannot countenance even short delays in shipping garments. If goods are delayed in shipping they do not get to the retail stores in season and so lose much of their value. Contractors and manufacturers, who frequently work on small margins, can then find themselves in financial jeopardy. As a result, control over garment trucking permits organised criminals to exert a tremendous hold over industry. As economic liberalization and the globalization of consumer markets suddenly reduced demand for illicit consumer goods, organised criminal groups began abandoning the smuggling activities that had defined their organizations for decades. Urban restructuring facilitated the movement mafia gangs into land and property development, resulting in their increased influence over urban governance and local property relations. Opportunities for illicit land development, being created, in part, by the same set of

42 Ibid.
political and economic reforms, enabled large criminal organizations to establish property
development branches and construct shopping centers, commercial establishments and
residential buildings. Aided by their connections to local criminal organizations, embedded
ness in political party organizations, and participation in increasingly global
OC networks, had the access to the financial and political resources necessary to compete
in this increasingly lucrative sector.43

In the mid-1990s, Mumbai’s large, increasingly global organised criminal groups emerged alongside a broader set of actors to gain greater influence in the property
development industry. Relying on deep connections to political party organizations and
other local elites, including Bollywood producers and actors, they built powerful
organizations which overcome regulatory barriers and high land prices.44 But rather than
being passively affected by regulations, Mumbai’s organised criminal groups appear to
be shaping this context, pressing for the continuance of certain restrictive barriers on
legal development. Meanwhile, the involvement of both organised criminal groups and
local goondas in land politics has helped support the state’s efforts to clear land and
pursue its own development objectives. According to housing activist Chandrasekhar
Prabhu, ‘The placing (of land) under reservation and the removal of the same became a
major source for the politician to make money. Any favor to any individual or group
could be doled out across the table, for a hefty amount of bribe’. High land prices, paired
with the government’s non-transparent land use laws and opportunities for corruption,

44 Their activities were supported by Mumbai’s strict regulatory context, which limited opportunities to develop
property through purely legal means.
have helped facilitate the entrance of organised criminal groups into this area of investment. Consequently, despite mounting pressure to reform or repeal certain regulations, the regulations most open to abuses of power have been maintained. In a context dependent upon close relations between political parties and the city’s major organised criminal groups the legal development of land remains remarkably arduous or, in some cases, impossible. The city’s major organised criminal groups have effectively utilized violence, threats and bribes to secure permits and overcome regulatory barriers, where non criminal developers may otherwise be halted. Just as restrictions on alcohol production facilitated the emergence of Mumbai’s ‘liquor mafias’, and tariffs and regulations on imported gold and consumer items supported their transition to ‘smuggling mafias’, land use regulations have helped create Mumbai’s ‘development mafias’. As they have grown powerful in part because of their formal political connections, these groups have sought to retain the regulatory structure on which much of their economic activity depends. Organised criminal groups have been able to enter into Mumbai’s lucrative land and property markets only through their close associations with bureaucrats and political parties; the state has become dependent on organised criminal groups and goondas to carry out its own development objectives.

The situation is similar throughout the globe as land and construction yields billions of dollars both legitimately and illegitimately; in New York the construction industry is a multi-billion dollar a year sector of the economy. It rates high on both

---

46 Liza Weinstein et al., n.43, p.25
racketeering susceptibility and racketeering potential. Susceptibility is high because the industry involves the co-ordinated activity of dozens of discrete operations and processes carried out by general and specialty contractors. Each phase of construction depends upon the completion of a prior phase by different contractors and different labour unions. If organised criminal gangs obtain control over just one key phase or component of the construction process, they can hold an entire project in to ransom; they can extort money from developers who (because of high interest costs) are desperate to move the project on to the next phase. Racketeering potential is high because the industry involves so much money (many billions of dollars per year), a tradition of cash payrolls, and the ability to pass through costs to consumers relatively easily.48 OC groups derive a great deal of financial benefit from their position of influence in the construction industry. Beyond direct financial benefits, OC members benefit socially and politically; one obvious way is that union officials control jobs that they can pass out to OC members and affiliates even though they have no construction skills. Some of the most lucrative of these jobs are "no show", which means that the incumbent is paid for absolutely no work. Being a union official confers an important social status and allows a racketeer to move in powerful circles within legitimate spheres of the society. Labour power can be often converted into political power as labour unions provide money and man power to political campaigns, and obviously politicians are frequently anxious to curry the favour of labour leaders even if they are racketeers. OC racketeers have become entrenched in many construction contracting firm and supply companies, in such position they enjoy many competitive

advantages over non-mob-connected firms in the industry.\textsuperscript{49} OC groups dominated construction companies and suppliers engage in tax fraud, money laundering, over billing and sometimes fraudulent performance of their contracts, they can steer ancillary contracts to other mobbed-up companies with which they are associated in short, they have an extremely anti-competitive impact on the whole industry.

3.2.3 Money laundering (including black money) and Economy

Organized criminals, in particular drug traffickers, generate large amounts of cash which they must convert and legitimize in order to benefit from, and further finance their illegal activity. One method is to place illegal cash into the financial system through the business community. Successful money laundering enables criminals to: Remove or distance themselves from the criminal activity generating the profits, thus making it more difficult to prosecute key organisers; Distance profits from the criminal activity - to prevent them being confiscated if the criminal is caught; Enjoy the benefits of the profits without bringing attention to themselves; and Reinvest the profits in future criminal activity or in legitimate business.\textsuperscript{50}

The International Monetary Fund (IMF) has estimated an annual figure of 2 to 5 per cent of global GDP. At the lower end of the scale, this would equate to some US$600 billion, which is approximately the total output of an economy the size of Spain (or about 1.5 times the total GDP of Australia).\textsuperscript{51} The above figures are officially through proper

\textsuperscript{49} Ibid.
channels of enforcement machineries, which show the known facts; the unknown transactions may be more than the indicated figures.

Money laundering can have devastating social consequences. Laundered funds provide financial support for drug traffickers, terrorists, arms dealers, and other criminals to operate and expand their operations. For example, drug trafficking alone generates billions of dollars in illicit funds for criminal organizations every year. Business supported by the proceeds from crime creates unfair competition and can bankrupt legitimate competitor in the market. It is hard to estimate or even define the size of the black economy. It includes money from obvious criminal enterprises such as drug smuggling, as well as illegal money generated by legal businesses. An estimate\textsuperscript{52} puts India’s black economy to be an astonishing $500 billion (Rs 20,50,000 crore), about half the size of the official economy. A full 80 per cent of this is money generated from legal businesses.\textsuperscript{53} The new trends and ways in business has given an edge for money launderers for example the art market in India is now estimated at Rs 5,000 crore a year, and income tax authorities say the unregulated industry (it has no SEBI counterpart) has also become a conduit for laundering illicit money. Most leading art galleries have been guilty of under-reporting prices at which paintings are sold and accepting a substantial portion of the price in cash, some galleries buy out entire art collections of unknown or upcoming artists and then release some of these paintings in the market at auctions. The galleries rig the prices at which the paintings are sold so that when the rest of the pieces

\textsuperscript{52} According to Arum Kumar, a professor of economics at Jawaharlal Nehru University (JNU) in New Delhi and author of Black Money in India.

\textsuperscript{53} Anjuli Bhargava and Jehangir S. Pocha, "Big, Black & Booming", Business world, 21 July, 2008, www.businessworld.in
are introduced into the market, they fetch a hefty price. Some galleries send paintings abroad to be sold in auctions and keep a part of the proceeds there or send the money back through hawala. Money is invested in art funds (that run on the lines of mutual funds and, in many cases, offer higher returns), which are in the hands of gallery owners and auctioneers. They then use the money to buy up studios of artists and indulge in price rigging. The real action is in foreign hawala, where black money is sent abroad, laundered, and brought back as foreign investment. A former central board of direct taxes member estimates that about 75 per cent of the black money in India now goes abroad through Hawala channels. The illicit Indian money sitting in foreign countries, enriching their citizens and propping up their economies, is a staggering $300 billion. For Love of Money, if this capital had been invested in India, it would have transformed the economy; investigating agencies say illicit money is coming back into the country from every possible pore. A favoured route is the dummy software company. Since software has no material value, fraudsters are shipping out cartons of empty floppies to foreign clients and showing export earnings in millions of dollars. Over the past few years, more than 200 Nigerians have landed at Indian airports and thumped suitcases with large amounts of money down in front of customs officials. According to government reports all of Nigeria may not have the kind of money that these students declare at Indian airports, says one official, half in jest. Officials say dollars come in on behalf of others and the students earn a commission upon delivery. Nothing can be done about it as foreign nationals can import any amount of money, if they declare it. Laundering billions

*Ibid.

55 Ibid.
of dollars in OC money worsens national debt problems because the large sums of money are then lost as tax revenue to the government as a result it affects the citizens who deservingly wait from the government for their overall development and in turn government is forced to borrow money to live up to its peoples expectations.

Money Laundering 2002 - 2006 (Cases under FERA & FEMA)*
*Cases under FEMA

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>year</th>
<th>No. of</th>
<th>Currency Seized(in Indian Rs.in crore)</th>
<th>Currency Confiscated (in Indian Rs.in crore)</th>
<th>Fine(in Indian Rs.in crore)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Indian</td>
<td>Foreign</td>
<td>Indian</td>
</tr>
<tr>
<td>1</td>
<td>2002</td>
<td>417</td>
<td>393</td>
<td>0.8</td>
<td>1.2</td>
</tr>
<tr>
<td>2</td>
<td>2003</td>
<td>242</td>
<td>175</td>
<td>6.2</td>
<td>2.2</td>
</tr>
<tr>
<td>3</td>
<td>2004*</td>
<td>78</td>
<td>56</td>
<td>2.6</td>
<td>0.4</td>
</tr>
<tr>
<td>4</td>
<td>2005*</td>
<td>146</td>
<td>106</td>
<td>9.73</td>
<td>0.4</td>
</tr>
<tr>
<td>5</td>
<td>2006*</td>
<td>51</td>
<td>44</td>
<td>4.87</td>
<td>0.38</td>
</tr>
</tbody>
</table>

The above table indicates the economic offences committed (on record) and value of money recovered through fines, seizures, and confiscation. The amounts recovered are very meager compared to the amount transacted in the open market through money laundering. Money laundering is a silent crime. It crosses international boundaries leaving in its wake no obvious victims, no lethal weapons and usually no witnesses. Modern technology has lead to new avenues to disguise the proceeds of crime. The advent of electronic money has meant that tracing the transfer of possibly illicit funds is an extremely difficult, if not impossible task.

The profits from the illicit narcotics trade now make a substantial contribution to the economies of certain countries. In those countries, the eradication of narcotic

* NCRB annual reports 2006:Table (C)
production and trafficking or related money laundering would have a measurable impact on the quality of life of the average citizen. Under those circumstances it is difficult for the respective governments to sustain a prolonged attack on narcotics production. For example, in Peru the coca market generates US$ 1 billion in export earnings (the equivalent of 30% of that country's legal exports) and employs 15% of the Peruvian workforce. In Bolivia, the coca market generates US$ 600 million in export earnings (the equivalent of all of Bolivia's legal exports) and employs 20% of the workforce. Possession of large amounts of money has enabled international criminal syndicates to purchase the very best of equipment and other facilities. The operating capital of criminal networks can sometimes greatly exceed that of the law enforcement agencies investigating their activities. The large sums now available to criminal groups for investment have enabled them to enter the world of legitimate business, to launder and invest their funds. The dividing line between the so-called black and white economies is becoming less distinct. Of greater concern, however, is the fact that OC figures do not change their methods when engaging in legitimate business activity.

The most organically advanced forms of OC are those that have become the most sophisticated agents of corruption, which in turn has allowed them to become highly integrated into legitimate society and often camouflaged as a social or criminal problem. Thus this neutralisation of opposition that corruption can bring becomes the master card for OC. Also, it can be part of a broader societal behavioural continuum, because similar processes may be employed by nations, organisations or individuals in the course of

---

conventional business. Access by underworld groups to sophisticated information technologies and weaponry as well as to the various instrumentalities through which the global market economy functions are vastly increasing the potential power and influence of these groups, are posing a threat to law and order and to legitimate economic and political institutions. To both industrialised and developing countries, this is an issue of growing concern.

3.3 Impact on Political System

The new nature of OC enables us to distinguish certain facts which imply substantial challenges to the governance of democratic regimes. However, it should be noted that transnational OC is not monolithic, but rather a diversified, complex and multidimensional phenomenon where collaboration between groups is more frequent than confrontation. It has different manifestations in specific countries and has been perceived differently throughout time and space. It does not function uniformly nor does it have a constant degree of impact on individuals, state agencies and non governmental entities throughout the world. The first political impact of OC has to do with sovereignty, an old concept which continues to dominate the sphere of relations between states. States are separated by frontiers, which not only divide up territory but also mark out different legal systems, levels of economic development and political cultures. Pitted against this are the criminal organizations which, due to their illegal and transnational nature, ignore the sovereignty of states and have no respect for borders as far as their

---

illegal business is concerned. Their plans for expansion are not concerned with the idea of national jurisdiction but on the flow of trustworthy people and goods which provide earnings. If they do think of state frontiers, it is always in terms of either specific criminal law systems with differing levels of risk and specific markets with opportunities for illegal earnings, or the blurring of the trails of illicit activities through the international division of work. OC has created parallel indiscriminate routes in order to violate frontiers and this means a deficit or lack of control as regards the flow of goods and services into the country, which could grow in the future and endanger critical issues ranging from public health to democratic stability.

Organised Crime can also interfere in the political culture of a given country, that is to say, in the set of values and attitudes related with the understanding of political activity by the individuals and collectivities that make up society. In this sense, OC essentially affects the social and physical environments of democratic societies, distorting the lines which separate what is legal from what is illegal, generating alternative loyalty to the state and provoking changes in public opinion with negative effects on the functioning of the system. In the beginning, criminal organizations had the single aim of surviving possible intervention by the state and its security forces as it pursued its activities. Its success in illegal business, its rapid business growth and its accumulated wealth have led to new political, social and economic demands, which are specifically the aspirations of the criminal leaders to become part of the social elite from which they often feel they have been intentionally excluded. Thus, they try to legitimize their wealth in the eyes of the citizens in general and the ruling classes in particular erasing the origin of their fortunes. For this reason, they try to lead openly spendthrift lives and to relate
with the elite of politics, the mass media, show business, and members of the administration of justice and the financial world. Their financial power is of great help to them in this task aimed at creating social legitimacy. While the official discourse talks of formally accepted juridical and moral regulations, which exalt work, sacrifice and democracy, in reality there is a widespread repudiation of these values by conducts which tends to maximize profit irrespective of its source and the social consequences. Thus, norms may be seen to be invalid and inefficient for normal social development, what is legal becomes illegitimate and what is illegal becomes reasonable and necessary.\textsuperscript{60} OC is, thus, strengthened not only by economic social structures but also by a deviant collective mentality and culture.\textsuperscript{61} As a result of all this, leaders of criminal organizations become more invulnerable to the forces of the state. Despite the fact that on most occasions they reproduce patterns similar to the dominant social ideologies, they manage to procure loyalty which is seen by citizens as an alternative to, and in systematic confrontation with, the state. This generates a reserve army for the criminal groups or at least inaction and the sympathy of many members of society discontented with the general functioning of the state. In certain cases, the admiration of the leaders of criminal organizations can turn to fascination because, once presented and the legitimizing network set up, they represent a good part of the main social values and the repeated yearnings of excluded groups and the middle classes.\textsuperscript{62} Inversely, OC can also manipulate the feelings of entire


\textsuperscript{62} Fernando Reinares and Carlos Resa "Transnational OC as an increasing threat to the national security of democratic regimes: assessing political impacts and evaluating state responses." http://www.nato.int/acad/fellow/97-99/reinares.pdf
population; in many cases that segment of population which is relatively backward in economic terms and the victims of inequalities is manipulated, to such an extent that they confront central governments or supranational institutions. For example South American drug cartels have a destabilizing effect on governments through their financial support of local guerilla rebels, such as the Sendero Luminoso in Peru and the Revolutionary Armed Forces in Columbia, who share their animosity toward the government and who exchange protection for money and arms supplies. The Sicilian Mafia have used their economic power over local businesses and banks and their supplies of cash to corrupt politicians, judges and Law enforcement machineries, assassinating many of those public figures who do not cooperate. As people feel that the government is powerless to stop OC, they turn to crime leaders for protection and political institutions begin to deteriorate. Fear of OC undermines the credibility of political reform and may encourage support for anti-democratic, hard-line politicians.

A fundamental source of problems for these organizations is competition which must be kept at controllable levels. Monopoly, as it happens in the legal economy but on a larger scale, is the optimum environment for maximizing profits and reducing risks. As history shows, there is nothing more harmful to the permanence and growth of these criminal groups than free competition, which leads to conflict as regards illegal territorial or sectorial interests. Apart from the monopoly on illegality, these organizations need an authority which can enforce the fulfillment of the agreements required by their illicit activities, without resorting, by their illegal nature, to the state, its legality and its

legitimacy, in order to solve conflicts. For both reasons, monopolistic or oligopolistic
control of criminal business and the necessity of an authority to resolve conflicts mean
that parallel systems of justice are needed as an essential prerequisite for survival. These
parallel systems of justice do not require a single authority or specific written regulations.
But this does not reduce its coercive efficacy. Since imparting this justice is determined
largely by the personalities and the relationships between the leaders, loyalty to the
system is directed towards persons rather than the institutions and, along it, there is a
tendency to personalize important parts of the legal culture. These illegal norms regulate
the social and economic relations of organization's members and require unquestioning
loyalty to the group in general and the leaders in particular. They also make up the rules
of coexistence with other rival organizations. In this regard, whatever decision is adopted
among different criminal organizations in order to prevent the excessive growth in
business costs, and these can range from mutual respect and pacific collaboration to open
confrontation and terrorism, thus hampering the governability of democratic societies.

3.3.1 Corruption and Government organs

Organised criminals can corrupt, the legislative, executive and judicial process in
a variety of ways: diluting democratic ideals, subverting the popular will through illicit
means and corroding the legitimacy of the democratic political system and other actors
involved. It is inevitable to these criminals to corrupt the governing system because as an
underground organisation, it is troublesome, with problems related with the control and
legality of its wealth together with the very continuity of the business, so they are vitally
interested in moulding political institutions so as to favor their security and their
accumulated assets. The need to pervert the political system in order to place it at the
service of the interests of OC and, more often, to turn it against the general well-being, adopts different forms. First, OC tries to corrupt the representatives elected by the people at both executive and legislative level by offering them substantial sums of money or the constitution of common financial interests. Secondly, it subverts the popular will expressed in democratic elections by the threat of violence against those representatives opposed to their criminal activities or the use of information through the mass media allied to or controlled by these criminal groups. As the earnings obtained from the efficient influence on the process of legal creation grows, OC resorts to more sophisticated and innovative techniques to influence the legislative power, and in many cases this fits in with the interests of other economic, business and social sectors. Thus, they create or control intermediary organizations, such as commercial associations, lobbies or committees for political action aimed at putting pressure on politics in pursuit of their own interests. Their ultimate resource for influencing the legislative process is the invalidation of the mechanisms for controlling political activity and the organization of civil society. In order to affect these processes, which are so necessary for the survival of democracy, they can use various methods. On one hand, they can gain control of substantial parts of the flow of information generated in democratic societies by acquiring media firms and by bribing or intimidating members of the press, which would lead to a strong bias in the creation of public opinion, an increased credibility with regard to the threat of violence and the molding of political debate in their favor.64 At the same time, criminal groups can also use intimidation in order to eliminate social leaders who are not in their payroll, and thus prevent the formation of interests which are a substantial to

democracy. As the strength of OC to influence the social system grows into the fields of
the political process and spectrum where intimidation is credible also increases, and this
corrodes important values necessary for democratic coexistence.

One of the main pillars of legitimacy in democratic societies, the rule of law,
becomes inefficient and unjust for its citizens by use of corrupt practices by organized
criminals. Inequalities before the law and impunity for a sector of the population would
lead to delegitimization of the legal system in the eyes of the public. The upper levels of
the criminal organizations are not duly sanctioned, but often receive favorable treatment.
When it is perceived that financial resources determine judicial resolutions, an imitative
effect occurs in many individuals and groups, and becomes a dangerous game for settling
their private interests through other institutions with no foundation in legal justice, but
rather in the financial resources. Faced with the inefficacy to protect rights and liberties,
some may choose even to recruit private armies to substitute the state’s provision of
security, thus, encouraging an escalation of violence and the resolution of conflicts
outside the legal system leading to the Para militarization of society and the break-up of
the social fabric. Moreover, there is an increase in interpersonal conflicts due to the fact
that impunity spreads to greater areas of community life in democratic societies of which
the criminal organisation take advantage.

Organized criminal groups can also resort to manipulating the electoral process by
presenting their own candidates and provide them with huge financial resources and
information from their illicit business or, in regions where clientelism is endemic, they
can supply the candidate with the constituency required for victory in exchange for his
future help once elected. Their economic power, which sooner or later becomes political
power, is so extensive that they can even subjugate certain political parties or create their own parties so as to gain greater control over the structure for taking decisions in political institutions some times when the elections are decided on a small margin, even the control of a small political party or a reduced number of voters can be effective in the game of political alliances and have disastrous consequences on law abiding citizens. This protection eventually articulated by OC in a democratic context, under these specific circumstances, damage the citizens’ opinion about the legitimacy of the electoral process, which is seen to serve illegitimate private interests instead of being a fair election between competing parties.65 Thus, they contribute to deforming and discrediting democracy both as a process and as a regime, to the extent that political life seems to be governed more by money than by ideas and principles, and authentic representation is replaced by the purchase of candidates and electors. In order to reduce risks and increase earnings, organized criminals participate illegally in the political process infiltrates into executive and the legislative bodies eroding the legitimacy of electoral process and this is in long run destroy the political institutions of the state.

3.3.2 Corruption and its impact

In its advanced stages, OC can hamper the formation of public policies through corruption in the hope of directly obtaining substantial benefits, but it can also damage political activity indirectly in several ways. As OC spreads so does the level of its illegal or semi legal economic resources at national level concealed from those who take the decisions at executive and legislative level. Consequently, the quality of the data gathered

by official or non official sources is reduced and the analysis of many economic relationships required for public policies formulation and implementation is hampered. For example, it is more and more difficult to determine the amount of goods and services imported and exported and the flow of capital and the level of unemployment tends to be overestimated as it includes among the unemployed those who are working for OC. The use of biased figures leads to the formulation of policies where the means and the ends are impaired due to substantial ignorance of the economic reality of the country, or at least a good part of this reality. Policies drawn up on such fragile bases tend to be ineffective or counterproductive, and give rise to even greater problems, helping on occasions to increase the illegal economy. The regulation of economic activity moves on a shifting surface and contributes to the creation of greater inequalities leading to a distortion of the legitimacy of the state as regulator of the economy. Eventually these policies can provoke economic upsets and instability, and lead to new types of more informal regulation of economic relationships. Another matter is the fact that due to its way of acting and its legal situation, the persecution of OC requires abundant financial, material and human resources. Generally these exceed the capacity of existing police forces to deal with the problem of a generalized increase in OC and its sophistication. In times of restrictions in public spending, allocations to security tend to harm the policies for social redistribution, and again the sources legitimizing the modern democratic regimes are questioned. However, the main result of a rapid substantial increase of the budget for the security forces is usually a lack of organizational control and the creation of semiautonomous corps which, contrary to their objectives, tend to facilitate the penetration of OC and in many cases the systematic subversion of civil liberties.
Complementary to this, competency for the reception of resources and their preponderant role in the mass media among the different security agencies tends to lead to errors and gaps in the intelligence work, which is of prime importance in the fight against OC and leads to problems of democratic governability as it provokes financial instability, distortions and inefficiency in the markets, making the production and distribution processes less impersonal and so leads to structural flaws in the economy, which have a negative effect on the citizens and on the stability of the political system.

3.3.3 Intimidation and its impacts

Coercion is exercised on certain segments of the population or territory, which is the usual practice of criminal groups and becomes an efficient protection racket which replaces or overlaps with the protection provided by the state.\textsuperscript{66} Criminal gangs controls (by coercion) the supply and demand of goods and imposes extralegal taxes which is discourages to free participation of individuals in the market as businessmen; if the coercion is directed against the financial system, it puts the channels of investment and the citizens' savings at risk. Loss of legitimization of the political regime and the expansion of violence connected with OC mean additional costs for business activity. The increased cost of resolving conflicts, whether this be legal or extralegal, and the cost of protecting the rights acquired become barriers for the entry and the permanence in the market of legitimate participants. In these circumstances, the possibilities for national and international investments are considerably reduced and conditions arise for the massive flight of productive capital. OC is capable of destroying the efficacy of the state as a third

party is able to enforce compliance with the contracts which are generated in an economy. In the absence of this state activity, which throughout time has been seen to be the most effective instrument due to economies of scale and the guarantee of impartiality as long as there is stability, those involved would have to find a new body or person able to carry out this task, which would make the contracting process more expensive. In this regard, the climate of certainty usually generated by the state and put at risk by the large criminal organizations could collapse, and this would lead to the encouragement of a short term perspective on economic investment, which concentrates especially on immediate returns and contributes minimally to rational economic planning and long term economic growth. Thus, even in the presence of a well organized and predictable form of corruption, an important section of the economy would be subjected to high degrees of uncertainty. The withdrawal of the state as third party to contracts, validating pacts and exchanges between persons through coercion, gives OC opportunities to occupy more social spaces and direct the economy and society in general towards more simple, personalized structures which are contrary to economic efficiency. In fifth place, the large-scale illegality of OC itself usually leads to less productive investment for the general economic system. Business investment is made in order to launder capital and not for reasons of growth and long term returns. It is directed at markets which generate little or no added value and are often very dependent on external resources and investment. As regards property, widely employed as a means to launder capital, strong,

69 Thoumi, F.E, Political Economy and Illegal Drugs in Colombia, (Boulder: Lynne Rienner 1995), p.56.
generous demand by OC contributes to the appreciation of housing price with the consequent cost for the families and the state, which complies with almost universal constitutional precepts as regards this point. Moreover, the participation of companies which are fronts for money laundering and not for generating profits, and being competitive in the marketplace, allow these companies to sell their goods or services under the cost price, which means that legal businesses are pushed out of the market unable to compete in these unfair circumstances. Criminal organizations constitute a threat to one of the main sectors of the economy, the financial sector, as it promotes unscrupulous financial institutions and erodes legitimate institutions through complex schemes for laundering money, which can finally undermine the citizens' confidence in these financial entities. The combined effects of OC in the economic field are inflation, the ineffective distribution of income, the break up of the free market and state regulation of the economy, a substantial loss of productivity, a short term view of investment which is counterproductive as regards prolonged economic growth, and, occasionally, monetary overvaluation. Concerning the financial system in particular, the volatility of capital in the hands of criminal groups hinders correct action in economic policy and destabilizes the banking institutions and the financial markets in general, which can lead in turn to a profound economic crisis. OC provokes economic imbalance and long periods of economic recession, seriously damaging international competitiveness in an environment which is becoming more and more globalized. In countries with economies which are highly dependent on the criminal productive system, even addicts of the

---

system, to use a term from drug dependence, any attempt to eradicate this and return to efficiently-run markets, political system and society in general would provoke economic recession and the resulting social response. Nevertheless their harmful effects on democracy, criminal organizations seldom have an explicit antidemocratic program. However, under some specific circumstances OC can pose a direct threat to liberal democracy. The more serious threat to the democratic institutions by OC is then its activity from outside the political system. The result of this might be the collusion or alliance of these groups with insurgent terrorist or guerrilla groups.\textsuperscript{71} Although there are substantial differences between the two types of organizations,\textsuperscript{72} they may reach agreements on tactics in order that their interests may prevail against those of the state. These alliances, which can end up accumulating substantial destabilizing potential, mean an increased impunity and much more destructive capacity for the subversive organizations. In this area, the state would have to confront a substantial challenge of an insurgent nature which would provide the chance to discredit democracy as a system able to solve problems of coexistence without the resort to violence. This threat could grow in the next millennium, when control of tons of nuclear material could be lost and a large part of this material could fall into the hands of smugglers owing to the political disorganization. Such nuclear resources could be used to challenge democratic governments from other countries as well as from domestic or international subversive groups with extremist political, religious or nationalist doctrines. It is evident that recent

\textsuperscript{71} Palmer, D.S., Peru, Drugs, and Shining Path, In B.M. Bagley and W.O. Walker, \textit{Drug trafficking in the Americas} 3\textsuperscript{rd} ed. (Miami: University of Miami, 1995), p.156.

trends in OC have led to the effective increase of its harmful consequences on national security in general, as well as on the normal functioning of democratic institutions and processes in particular. Several factors facilitated this emerging situation and produced a new model of OC predominantly transnational in its character. This type of OC has three basic differences with respect to previous manifestations of the phenomenon: it tends to operate at a regional or global level, mobilizing extensive cross-border connections and, above all, has the ability to challenge both national and international authorities.

3.4 Security of State

National security basically revolves around those threats that challenge the independence, sovereignty, integrity and effective functioning of a nation state and its society. According to Barry Buzan,

"In the case of security, the discussion is about the pursuit of freedom from threat. When this discussion is in the context of the international relations, security is about the ability of states and societies to maintain their independence and their functional integrity".\(^{73}\)

Global strategy of the large criminal organizations has been profoundly influenced by geopolitical events.\(^{74}\) While under normal conditions OC prefers stability, it tends to prosper when there is political and economic unrest. Communications and transportation enables them to transfer to zones in conflict or unstable areas, where there is an obvious loosening of controls, large amounts of capital which covers the flight of legal funds at times when hard cash is necessary and where returns on investment are usually high due


to the risks assumed. Global OC has been recognized as a priority threat to national security. In recent years these criminal groups have dramatically increased the scope of their activities by taking advantage of many Post-Cold War opportunities such as the lowering of economic and political barriers; the end of communist regimes and the founding of fragile new democracies; the increase in legitimate international trade; and the advances in technology that facilitate global communication and transport. The security concerns that existed during the Cold War include: political instability of foreign governments, international drug trafficking and arms transfers to hostile parties. Global criminal leaders present new puzzles within these familiar threats. Former Director of the Central Investigating Agency (CIA), R. James Woolsey, described the difficulties of applying traditional national security methods while addressing Global Organised Crime

...the tools of diplomacy are ineffective and irrelevant in dealing directly with these criminal groups. Even under the most difficult, intractable period of the Cold War, if consensus was not possible, communication was, nevertheless, feasible. Not so in the world of Organised Crime. Although we do negotiate with our key allies and friends to better attack the problem, there is no negotiating table where we can try to work out a compromise or reach a consensus with criminals....

The issue of state security exceeds the traditional concept of national security as simply a factor of unilateral territorial protection. The characteristics of non-traditional threats have expanded to the extent that they pose an even far greater risk and could therefore be more destabilizing to states. As a result the national security situation has become more than a complex law enforcement issue. Today we are faced with a new

75 Ibid., p.54
concept of security which requires a holistic approach to public security in order to protect individuals and communities from violence. In addition, technological progress made in communication systems and the transfers of information have had other effects on the evolution of OC. On the one hand, it has allowed the flexibilization of organizational structures and has enabled them to function in networks which tend to maximize profits and elude the state security forces. On the other hand, it allows the reduction of accumulated paperwork and so eliminates much incriminating evidence which could facilitate repressive police action. However, as an underlying trend, there has been a change in the nature of threats to national security, which previously were related with great accumulation of power, resources and territory, and are now associated with the generation and control of information. Regarding this point, new vulnerabilities appear in the security defenses of the states as the criminal organizations, with their enormous financial potential, can access information which they may eventually use to improve and expand their business. New transnational actors have emerged to pose novel and insidious security threats, while traditional categorisations of states based upon power and wealth have been rendered inadequate and incomplete. Maps of the world have always been grossly deficient as anything more than crude representations of reality. Increasingly, however, they have become misleading. In some areas of the world, the borders portrayed on maps are typically disregarded and almost wholly permeable. In addition, the development of cyberspace has not only transformed the capacity to engage in a variety of cross-border transactions but also altered the relationship between territory and security. Cyberspace has no frontiers. One of the major tensions of present era, therefore, will almost certainly stem from efforts to reconcile traditional forms of
political organisation and security planning with new economic, social and technological realities. Transnational criminal organisations (TCOs) are both contributor to and beneficiary of these tensions. Their rise is inextricably linked to globalisation and the crisis of state authority, and because they are so deeply rooted in these structural changes, they cannot be dismissed simply as a modern form of a familiar law and order challenge. It is clear that transnational criminal organizations, particularly those engaged in cross border illicit drugs and arms trade, pose threats to national security especially in terms of political and economic stability, illegal drug trafficking, a fundamental activity of some groups providing them with huge earnings, means an extra burden for the treasury due to the costs of drug addiction treatments, the costs of repressing traffic and consumers and the loss of productivity for the economy in general. The threats are both urgent as well as visible.

3.4.1 Sovereignty

Organised criminals could threaten the sovereignty of a nation state. In the international politics, nation-states are separated by frontiers and borders, which not only divide territories but also mark out different political and legal systems, level of economic development and political cultures. The TOCs, due to their illicit and transnational nature, ignore the sovereignty of states and have no respect for borders as far as their illicit criminal activities are concerned. In other words, TOCs are not concerned with sovereignty or national jurisdiction, territories, borders or frontiers, but

---

78 United Nations Drug Control Programme (UNDCP), Economic and social consequences of drug abuse and illicit trafficking, 1996.
more on the flow of people, goods and contrabands which provide earnings to them. In this regard, national security is being threatened by TOCs. Secondly, in extreme cases, TOCs pose a threat and subsequently challenge the political power of the state itself. For example, in order to maintain their illicit activities, some OC groups, due to their transnational criminal activities, are willing to use force against the state and its law enforcement agencies, which clearly undermines the state political power and monopoly on the use of force. This act of violence by OC groups directed against the state can be more destabilizing than the activities of revolutionary groups in that state. As discussed earlier, organised criminal groups in Italy and Colombia have resisted state control and engaged in extensive violence. The Mafia in Italy for example, regularly killed magistrates, policemen, politicians, civil servants and trade unionists throughout the 1980s.79 “Blessed is the country that does not need heroes” the inscription at the site of the explosion on the highway near Capaci in Sicily in Italy, killed of Giovanni Falcone, (the Judge who fought a relentless war against the Italian mafia), his wife and three security personnel;80 In Colombia, OC groups spend large sums of money to finance electoral campaigns at the local and national levels. Carlos Lehder, a major drug lord, even organized a political party, the Latin Nationalist Movement.81 In addition to violence, TOCs also engage in large-scale corruption and money laundering in order to sustain their illicit activities, which, again, could threaten and undermine the stability of their host and home states, which in turn could threaten the national security. Corruption

---

79 Jay S. Albanese, _op. cit._, n.77, p.87.
81 Louise I. Shelley, “Transnational Organised Crimes: An Imminent Threat to the Nation State”, _Journal of International Affairs, 2000, 48_2
among state officials and judicial members such as judges and lawyers would definitely weaken the state politically, economically and socially and these would severely threaten the national security because it affects the effective functioning of the society in that state. Thus, it can be seen that violence and corruption could undermine political stability and hence pose threats to national security. Sicilian Mafia, in particular, has routinely used both violence and corruption to further its aims. The events in Italy showed that even an advanced industrialized state is vulnerable to the threats and challenges posed by powerful TOCs. The inability to control the importation of arms, people and drugs into their territory would cause the state to lose much of its significance. These threats and challenges clearly undermine state sovereignty in terms of their absolute control over their territory and these can be considered as threats to national security. The permeability of borders would render the international system based on territorial state becoming more and more insignificant. In short, the complexity of transnational OC activities not only undermines national security but also the international state system.

3.4.2 Global Terrorism and Organised Crime

Terrorism entails the threat or use of symbolic violence acts aimed at influencing political behaviour. Organised criminals seek to penetrate and suborn the state and cohabit with it, using terrorist tactics to intimidate the state when their privileges are at risk. Organised criminal groups bend the governments by means of threat; they identify specific targets for attack so it creates threat to very security of the nation. The major terrorist attack which got international attention was undoubtedly the 11th September 2001.

---

2002 World Trade Center attacks, where more than 4000 people lost their lives and as many injured, terrorised the most powerful country of the world. Indeed the world looked upon on terrorism as a serious global threat after 9/11 and global efforts started to began to corner terrorism. India has been a silent victim of terrorism since last five to six decades; the neighbouring countries i.e., Pakistan, Bangladesh, (Religion based terrorist) Nepal, (Moo foolish, Naxalist) Sri Lanka (LTTE) has pestered the nation on many occasions. The Punjab separatist movement during 1970 to 1980 did not impact the country as much has what has been done by terrorist based on religion idealism, as the major impact was felt on 12th March 1993 - A series of bomb blasts, planted by underworld mafia, rocked the country's commercial capital of Bombay, killing more than 260 people and injuring more than 700; The Red Fort attack on 22nd December 2000, was not only a game of scaring people, it is also a game of destroying landmark symbols and thereby destroying or undermining the resolve of the states. The objective of this, for instance, was clearly to throw off balance the leadership of the government and at the same time send clear signal that no targets in India were beyond the reach of the militants. The attack on the Indian parliament on 13th December 2001 in which nine police men and one parliamentary staffer was killed, shattered the heart of Indian democracy, and the symbol of sovereignty. The attack also led to a military standoff between Pakistan and India (Operation Parakram)

The major terrorist attack on the country since 2001 is as below:-

---

84 The Hindustan Times, "Mission Red Fort: A Strike at India's Heart", 24th December 2000, p.3
(i) 1st October 2001 Attack on J&K State Legislative Assembly, Srinagar- A car bomb exploded near the State Assembly killing 38 people.86

(ii) 22nd January 2002 Attack on American cultural centre, Kolkata -Militants attacked an American cultural centre in Kolkata killing at least four police officers and injuring 21. The government accused Pakistan of involvement in the attack.87

(iii) 24th September 2002 Akshardham Temple Attack in Gujarat -The siege of the Akshardham temple complex of the Swaminarayan sect, a total of 29 individuals including 16 women and four children, were killed in the terrorist attack and 74 were injured, a few of them seriously.88

(iv) 25th August 2005 Twin Blasts, Mumbai -Two powerful car-bomb explosions took place in South Mumbai killing at least 46 persons and injuring over 160.89

(v) 29th October 2005 Blasts in New Delhi At least 70 persons were killed and several injured in three powerful serial explosions in the evening of diwali eve.90

(vi) 1st May 2006 Massacre of Hindus and Gujjars, Doda & Udhampur, J&K 35 Hindu villagers were killed in two separate terrorist attacks in the districts of Doda and Udhampur. Twenty two residents of the mountain hamlets of Kulhand and Tharva were shot dead outside their homes late at night. Thirteen shepherds

89 Mahesh Vijapurkar, "46 killed as twin blasts rock Mumbai," *The Hindu*, 26 August 2003
were shot dead north of the Lalon Galla, a high-altitude meadow above the town of Basantgarh.91

(vii) 11th July 2006 Mumbai Train blasts killed 190 and another 625 were injured in the blasts.92 The National Security Advisor M.K.Narayanan accused Pakistan of complicity in the blasts.93

(viii) 19th February 2007 - Two bombs explode aboard a train bound from India to Pakistan, burning to death at least 66 passengers, most of them Pakistanis.94

(ix) 18th May 2007 - A bomb explodes during Friday prayers at a historic mosque in the southern city of Hyderabad, killing 11 worshippers. Police later shoot dead five people in clashes with hundreds of enraged Muslims who protest against the attack.95

(x) 25th August 2007 - Three explosions within minutes at an amusement park and a street-side food stall in Hyderabad kill at least 40 people.96

(xi) 13th May 2008 - Seven bombs rip through the crowded streets of India’s western city of Jaipur, killing at least 65 people and over 150 injured97

(xii) 25th July 2008 - Nine blasts strike the IT city of Bangalore killing at least one person and injuring at least 15.98
(xiii) 26th July 2008: Serial blasts in Ahmedabad killing at least 30 people and injuring more than 100.  

(xiv) 13th September, 2008 Serial blasts in Delhi killing at least 40 and injuring more than 200.  

(xv) 26th November, 2008, terrorist attacked Hotel Taj, Oberio and Trident; CST railway station and Nariman house in Mumbai killing more than 190 and injuring more than 400.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Incidents</th>
<th>Govt. Buildings</th>
<th>Educational Buildings</th>
<th>Bridges</th>
<th>Hospitals</th>
<th>Private Houses</th>
<th>Shops</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>662</td>
<td>98</td>
<td>46</td>
<td>34</td>
<td>00</td>
<td>1110</td>
<td>400</td>
</tr>
<tr>
<td>1994</td>
<td>606</td>
<td>172</td>
<td>119</td>
<td>46</td>
<td>04</td>
<td>666</td>
<td>162</td>
</tr>
<tr>
<td>1995</td>
<td>688</td>
<td>127</td>
<td>133</td>
<td>16</td>
<td>02</td>
<td>1814</td>
<td>402</td>
</tr>
<tr>
<td>1996</td>
<td>482</td>
<td>52</td>
<td>68</td>
<td>02</td>
<td>03</td>
<td>602</td>
<td>161</td>
</tr>
<tr>
<td>1997</td>
<td>259</td>
<td>13</td>
<td>11</td>
<td>05</td>
<td>01</td>
<td>437</td>
<td>67</td>
</tr>
<tr>
<td>1998</td>
<td>177</td>
<td>13</td>
<td>15</td>
<td>01</td>
<td>00</td>
<td>273</td>
<td>66</td>
</tr>
<tr>
<td>1999</td>
<td>136</td>
<td>07</td>
<td>09</td>
<td>02</td>
<td>00</td>
<td>284</td>
<td>06</td>
</tr>
<tr>
<td>2000</td>
<td>129</td>
<td>14</td>
<td>06</td>
<td>01</td>
<td>00</td>
<td>330</td>
<td>107</td>
</tr>
<tr>
<td>2001</td>
<td>274</td>
<td>30</td>
<td>16</td>
<td>02</td>
<td>01</td>
<td>419</td>
<td>77</td>
</tr>
<tr>
<td>2002</td>
<td>255</td>
<td>14</td>
<td>10</td>
<td>04</td>
<td>00</td>
<td>421</td>
<td>20</td>
</tr>
<tr>
<td>2003</td>
<td>205</td>
<td>06</td>
<td>05</td>
<td>02</td>
<td>00</td>
<td>259</td>
<td>09</td>
</tr>
</tbody>
</table>

Source*  

The above incidences (including the explanation table showing destruction of property) has terrorised the public and they have started to doubt the state, as they feel that it is becoming powerless and this feeling would eventually erode state authority; the terrorist annihilate security forces and government structures, as their intention is to create instability and promote fissiparous acts so that the state withers away. The  

* Ministry of Home Affairs Annual Report-2004-05 [www.mha.nic.in](http://www.mha.nic.in)
common modus operandi used by terrorist are Sabotage and subversion. Sabotage is directed against national material interests, assets and wealth. Subversion is aimed at undermining the nationalism of the subjects, which is achieved by exploiting the vulnerabilities of the state especially in the context of the confidence the state enjoys of its people and also the degree of their awareness.

The Threat from organized criminal gangs is not restricted to single nation state but it is a global epidemic; we are now living in the era of globalization and economic interdependence. The traditional agenda of international affairs such as the power of nations, balance among major powers and the traditional security issues that emphasize on the external military threats have become more elusive. The threat posed to the economy of these criminals is equally insidious. Organised crime, of course, provides benefits extending far beyond the members, with its proceeds generating beneficial multiplier effects in local, regional and sometimes even national economies. Indeed, it is certainly not coincidental that the rise of criminal organisations often occurs amidst conditions of poverty or as an accompaniment to social upheaval, economic dislocation or political disruption. In addition, the social and economic transactions are creating a world without borders. In this aspect, there is a possibility that these criminal organizations, which have the capability to become more powerful than some states particularly the poor ones, would pose threats and challenges to the national security of the states. Due to the magnitude of the problems, it is most unlikely that a state could

---

101 P.M.Nair op. cit., n.80, p.375
102 Technological advances, such as the information and communication technologies and the ever increasing international transactions such as the flow of money, goods, people and messages across international boundaries, have also contributed to the creation of "global village":.
manage the threats and challenges individually as these gangs which in turn use the money (amassed through drug trafficking, human trafficking, money laundering etc.,) to corrupt, intimidate, and manipulate the basic system of governance which caves in to give way for rule of anti-law elements which destroys the fabric of society. Thus, concerted efforts through international cooperation have to be mounted in order to overcome disturbing threats and challenges posed by these organized crimes.