

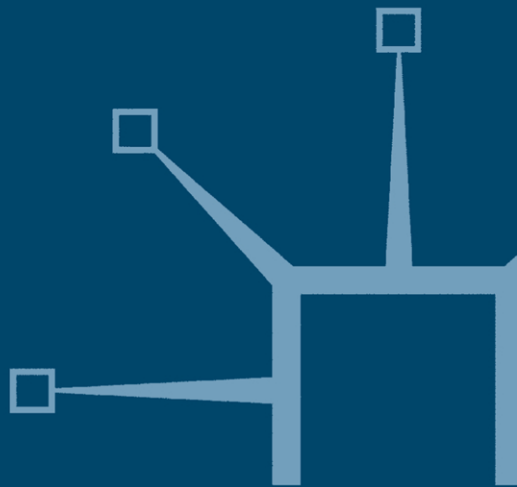
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Transnational Terrorism, Organized Crime and Peace-Building

Human Security in the Western Balkans

Edited by

Wolfgang Benedek, Christopher Daase,
Vojin Dimitrijević and Petrus van Duyne



Transnational Terrorism, Organized Crime
and Peace-Building

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Transnational Terrorism, Organized Crime and Peace-Building

Human Security in the Western Balkans

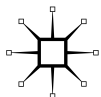
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Petrus van Duyne

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Softcover reprint of the hardcover 1st edition 2010 978-0-230-23462-8

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First published 2010 by
PALGRAVE MACMILLAN

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Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

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ISBN 978-1-349-31353-2 ISBN 978-0-230-28147-9 (eBook)
DOI 10.1057/9780230281479

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A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

10 9 8 7 6 5 4 3 2 1
19 18 17 16 15 14 13 12 11 10

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List of Abbreviations

AIY	Active Islamic Youth
ANA	Albanian National Army
ARBiH	Army of Bosnia and Herzegovina
BIA	Security and Information Agency
BICC	Bonn International Center for Conversion
BIF	Benevolence International Foundation
BiH	Bosnia and Herzegovina
CEE	Central and Eastern Europe
CEI	Central European Initiative
CFSP	Common Foreign and Security Policy
DEA	Drug Enforcement Agency
DIE	German Development Institute
ECHR	European Convention for the Protection of Human Rights
ECtHR	European Court of Human Rights
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
ESDP	European Security and Defence Policy
EU	European Union
EUFOR	European Union Military Force in Bosnia
EULEX	European Union Rule of Law Mission Kosovo
EUPM	European Police Mission
FARC	Fuerzas Armadas Revolucionarias de Colombia, The Revolutionary Armed Forces of Columbia
FBI	Federal Bureau of Investigation
FIQ	The Forum for Civic Initiatives
FIU	Financial Intelligence Unit
FP	Foreign Policy
FYROM	Former Yugoslav Republic of Macedonia
HDZ	Croatian Democratic Alliance
HVO	Croatian Defence Council
IAEA	International Atomic Energy Agency

ICC	International Criminal Court
ICTY	International Criminal Tribunal for the Former Yugoslavia
IFIs	International Financial Institutions
IFOR	Implementation Force
IISS	International Institute for Strategic Studies
IOM	International Organization for Migration
IPTF	International Police Task Force
IRA	Irish Republican Army
ISS	Institute for Security Studies
JSO	Unit for Special Operations
KLA	Kosovo Liberation Army
KFOR	NATO Kosovo Force
LTTE	Liberation Tigers of Tamil Eelam
MKč	Macedonian language (Cyrillic script)
MPICC	Max Planck Institute for Foreign and International Criminal Law in Freiburg
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OCTA	Organized Crime Threat Assessment
OHR	Office of the High Representative
OSCE	The Organization for Security and Co-operation in Europe
PfP	Partnership for Peace
PIC	Peace Implementation Council
PKK	(Partiya Karkeren Kurdistan), the Kurdish Workers Party
PMC	Private Military Company
PSC	Private Security Company
RPE	Rules of Procedure and Evidence
RS	Republic of Srpska
RS	Serbian language (Latin script)
RSč	Serbian language (Cyrillic script)
SAA	Stabilization and Association Agreement
SALW	Small Arms and Light Weapons
SAP	Stabilization and Association Process
SBS	State Border Service in Bosnia

SDA	(Stranka Demokratske Akcije), Party of Democratic Action
SEE	Southeast Europe
SFOR	Stabilization Force
SI	Slovenian language
SIPA	State Investigation and Protection Agency
SPLA	Sudan People's Liberation Army
TRC	Truth and Reconciliation Commission
TRCs	Truth and Reconciliation Commissions
UCDP	Uppsala Conflict Data Program
UN	United Nations
UNICRI	United Nations Interregional Crime and Justice Research
UNITA	União Nacional para a Independência Total de Angola
UNMIK	United Nations Interim Administration Mission in Kosovo
UNODC	United Nations Office on Drugs and Crime
USA	The United States of America
YU	Yugoslavia

Introduction

*Wolfgang Benedek, Christopher Daase, Vojin Dimitrijević
and Petrus van Duyn*

This book is the outcome of a triennial coordinated, research-based action that was funded by the European Union through its sixth Framework Programme. Under the coordination of the European Training and Research Centre for Human Rights and Democracy (ETC), Graz, 16 university and research institutions from the European Union and the Western Balkans collaborated in addressing the impact of transnational terrorism and organized crime on the state, on society and on peace-building and human security in the Western Balkans.

Though the notion of 'Western Balkans' was a creation of EU diplomats, it turned out to be a useful concept, since the countries in the region share similar problems as a result of the wars and conflicts connected with the dissolution of the former Yugoslavia.

The European institutions have invested time and important financial resources and personnel in the countries of the Western Balkans. However, some of these 'investments' did not achieve their objectives because of organized crime, terrorism and corruption that jeopardize the transition of these post-conflict societies and the peace-building process. With regard to national and regional stability, further questions concerning the existence of a 'terror-crime nexus' or 'unholy alliances' and the actual relevance of terrorism in the region have arisen. Therefore, one of the motives of this joint research has been to enquire into the relevance and methods of these 'spoilers' and to identify ways to address and develop proposals on how to overcome the ensuing problems. Since only limited research results were available, additional original research was undertaken. A unique feature of this respect is that through the contributions of scholars from the region first-hand experiences and perspectives are taken into account. These have been all too often neglected in past studies.

The three parts of the present volume contain the main results of the research conducted under the coordination. They are devoted to (1) concept and methodologies; (2) transnational terrorism and organized crime in the Western Balkans; and (3) the impact of these phenomena on peace-building and the role of the international community.

The project – and the book – follows an innovative interdisciplinary methodology. Researchers interacted in several conferences and meetings and employed, apart from the political science approach, legal and other methodological approaches.

One factor that spans all contributions is the common focus on human security, as an objective to be promoted and as an approach that provides for a focus on the needs of the human person – needs that are all too often ignored in the national political debates and international cooperation programmes. While the human security approach is still not widely known or employed, it provided a useful framework of analysis for the existing problems as can be seen from the contributions of Wolfgang Benedek as well as of Svetlana Djurdjevic-Lukic together with Vojin Dimitrijević, who introduce the elements of the concept and discuss its advantages and problems. An operationalization of the human security approach for the problems of weak states in the Western Balkans is attempted by Denisa Kostovicova and Vesna Bojicic-Dzelilovic, who enquire into the complex dynamics of the Communist legacy, conflict and globalization and its effects on the Balkan post-conflict state as well as on civil society.

The state of the art in the debate of the 'crime-terror nexus' is reviewed by Christopher Daase with regard to available evidence and normative implications. Questions of concepts and methodologies are also raised by the contributions of Sarah Ben-David and Keren Cohen-Louck, who present two paradoxes of coping with fear of terrorism from a gender perspective, and Georgios Kolliarakis, who examines the network approach for studying criminal and terrorist organizations and their interlinkages. The first part concludes with Marianne Hilf's presentation of a case study on the legal distinctions of financing terrorism and money laundering, criticizing a lack of differentiation in international conventions.

The second part, on transnational terrorism and organized crime in the Western Balkans, combines a number of pertinent research results from the situation on the ground. After a general introduction to organized crime and terrorism in Southeast Europe by Hans-Jörg Albrecht and Anna-Maria Getoš, Dejan Anastasijevic addresses the realities of terrorist and organized crime groups in the Western Balkans and their suspected links with security agencies of the states in the region and provides an illustrative mapping of the situation in the Western Balkan countries. The root causes of the present situation are subsequently discussed by Peter Andreas, who describes the attitudes of humanitarians and profiteers during the siege of Sarajevo, while Lyubov G. Mincheva and Ted Robert Gurr paint a picture of the ramifications of this historical evolution by addressing the linkages between trans-state terrorism and crime networks in Bosnia and Herzegovina today. The second part is completed by a study of Iztok Prezelj on small arms and light weapons in the Western Balkans, a typical human security concern.

The third part on the impact of terrorism and organized crime on peace-building and the role of the international community is opened by Ulrich Schneckener's contribution on armed non-state actors in peace – and state-building, which discusses their political sociology before looking at different approaches for countering their activities. In her contribution

from the Western Balkans, Lada Sadikovic addresses the particular problems of the system of security of Bosnia and Herzegovina, while Cornelius Friesendorf, Ursula C. Schroeder and Irma Deljkic identify more directly the obstacles to international counter-crime strategies in Bosnia and Herzegovina and the art of policy implementation. That the international community with its concern for human rights can also become trapped by its good intentions is shown by Nicholas Dorn in his contribution on the corruption of human rights as a problem of good intentions. The human security approach is also concerned with the situation of victims and, accordingly, Alline Pedra Jorge-Birol enquires into the conditions under which criminal proceedings can make a contribution to peace-building and what are the alternatives to retributive justice. Finally, Sarah Correia elaborates on an important new post-conflict phenomenon of nationalist violence in post-Milosević Serbia: the role of extremist right-wing youth groups as instruments of intimidation of civic-minded individuals and organizations.

Obviously, not all aspects relevant for the topic could be fully covered, including the issue of human trafficking. This has been, however, a prominent topic in conferences and workshops of the research coordination action and has been analysed in the working papers and the three numbers of the Internet-based HUMSEC Journal. Both can be found at <http://www.humsec.eu>.

The editors and contributors to this publication would like to thank the European Union, in particular Angela Liberatore from the European Commission, for the substantive support, and their publisher, Palgrave Macmillan, and in particular Alexandra Webster, for the good cooperation in preparing this publication. Special thanks go to Alline Pedra Jorge-Birol and Iuliana Iacob for assisting the editors in preparing this book as well as to Maddalena Vivona, Klaus Starl and Markus Moestl, who shared the responsibility for the overall research coordination project. It is our hope that this book will stimulate further research, in particular in the Western Balkans itself. This will provide important insights into an under-researched field and help overcome remaining stereotypes and misconceptions of the Western Balkans.

Graz/Frankfurt/Belgrade/Tilburg, September 2009

All websites cited hereinafter were last accessed on, and are correct as of, 1 March 2010.

Part I Concepts and Methodologies

1

The Human Security Approach to Terrorism and Organized Crime in Post-Conflict Situations

Wolfgang Benedek

1.1 Introduction

The human security approach, which will be described briefly below, can be usefully applied to the fight against terrorism and organized crime in post-conflict situations. The concept's focus is on the security needs of the individual, who is the main victim of terrorism and organized crime, although terrorism also threatens the security of the state. Therefore, in addressing these threats not only state security but the security of citizens in particular needs to be given attention. The basic message of the human security approach is that people matter and that the focus has to be on their vulnerabilities, which can also mean that state structures, like the police and the judiciary, need to be strengthened – albeit with a view to securing human rights and ensuring democratic governance. The state has the primary function of protection, but the protection needs to be provided in such a way that the security of the citizens is in the foreground. Post-conflict situations are often characterized by weak states, which still need to consolidate themselves and to reform the police and the judiciary in order to make sure that these are operating in the interest of the citizens. The distinction between the two main pillars of human security – freedom from fear and freedom from want – provides a useful methodological approach in order to analyse the vulnerabilities of citizens and the threats against them in post-conflict situations. For example, security sector reform is of crucial importance, because in post-war situations the security sector is often linked with organized crime and therefore rather a threat to citizens than a provider of protection. Generally, the state, by not providing adequate protection or by repressing (some) of its citizens, like critical civil society groups or media, violates its basic functions of providing human security for its people.

1.2 Scope and context of the human security approach

If we take the seven target areas of human security distinguished by the 1994 UNDP *Human Development Report* (economic security, food security,

health security, environmental security, personal security, regional security, and political security¹) as a starting point and apply them to a post-conflict situation like the one in the Western Balkans, certain priority areas may be identified. They can usefully be divided between the two main pillars of human security: the freedom from fear and the freedom from want. During and immediately after conflicts the freedom from fear, the protection of the human person against violence and therefore its personal security, is in the foreground. Gradually, freedom from want, consisting of food security, health security, and economic security may gain in importance. Certainly, the two pillars are interlinked in practice, as there can be no economic security without personal security and vice versa.

This raises the issue of the meaning of 'personal security', which can be understood as protection of people from physical violence,² but also has a wider meaning, namely protecting the human person against all violations of its civil and political rights. For example, if the police, the judiciary, or the administration of a state does not function properly, this creates a problem of personal security. If crime is not prevented and criminals are not held accountable, the state does not fulfil its basic functions.

Post-conflict situations are often characterized by weak states, states that need to consolidate and to rebuild their state functions. The discussion on 'fragile states', which mainly is focused on the weaknesses of developing states,³ is also of relevance in the post-conflict context.⁴ This debate addresses the strengthening of the state in order to provide basic services for its people and protect them against threats – challenges similar to those that appear in post-conflict situations. With regard to the involvement of international actors, the OECD has developed *Principles for Good International Engagement in Fragile States and Situations*.⁵ Parallels may also

¹ UNDP, Human Development Report 1994, New York 1994.

² See Wolfgang Benedek, 'The Role of the Concept of Human Security in the Struggle against Terrorism and Organized Crime', in Yotopoulos-Marangopoulos (ed.), *Droits de l'Homme et Politique Anticriminelle*, Bruylant, Athens/Brussels 2007, pp. 105–24, at p. 107.

³ See Seth D. Kaplan, *Fixing Fragile States: A New Paradigm for Development*, Praeger, Greenwood 2008. See also OECD, *Whole of Government Approaches to Fragile States*, OECD 2006 and Tobias Debiel and Sasha Werthes, 'Fragile States and Peacebuilding', in Tobias Debiel, Dirk Messner, and Franz Nuscheler (eds), *Global Trends 2007, Vulnerability and Human Security in the 21st Century*, Development and Peace Foundation, Bonn 2007, pp. 33–50.

⁴ See Denisa Kostovicova and Vesna Bojicic-Dzelilovic, 'Human Security in a Weak State in the Balkans', in this volume.

⁵ See OECD, *Principles for Good International Engagement in Fragile States and Situations* (April 2007), available online at <http://www.oecd.org/dataoecd/61/45/38368714.pdf>, accessed 22 April 2009.

be drawn from the general legal discussion on preventing and rebuilding failed states.⁶

An early effort to employ the human security perspective in the Balkans was a special report commissioned by UNDP on *Human Security in South-East Europe*.⁷ Its main focus was on human security in weak states, which was to be overcome mainly by strengthening all aspects of human security and human development. The then recently created Stability Pact for South-Eastern Europe was expected to make a major contribution.

The Stability Pact has indeed addressed issues of both economic and personal security in an effort to strengthen weak states through regional and inter-regional cooperation.⁸ Several years later, UNESCO has published a report on promoting human security in Eastern Europe, which includes the topic of post-conflict and transition countries of the Balkans. It looks at the different ways in which citizens are affected by human insecurities based on the UNDP categories and beyond, again with a focus on regional approaches and the need to stabilize Southern and Eastern Europe.⁹

1.3 Human security needs in post-conflict situations

Both in the developmental and in the post-conflict context there are major needs for the transformation of power structures within states, which raise similar issues of preventing organized crime to take advantage of the emerging opportunities. In the Western Balkans, this transformation has

⁶ See Kirsten Schmalenbach, 'Preventing and Rebuilding Failed States', in Thomas Giegerich and Andreas Zimmermann (eds), *A Wiser Century? – Judicial Dispute Settlement, Disarmament and the Law of War 100 Years after the Second Hague Peace Conference*, Walther-Schücking-Institute of International Law, University Kiel, Berlin 2009, pp. 231–256.

⁷ Ivan Krastev, *Human Security in South-East Europe, Special Report commissioned by UNDP* (1999), available online at http://web.ceu.hu/cps/bluebird/eve/statebuilding/krastev_humansecurity.pdf, accessed 22 April 2009.

⁸ For a brief overview of the work of the Stability Pact, see Stability Pact for South-Eastern Europe, *Eight Years of the Stability Pact for South-Eastern Europe – From Stabilisation to Integration*, available online at <http://www.stabilitypact.org/about/spisanie.pdf>. The aim of the Stability Pact was 'strengthening countries in South Eastern Europe in their efforts to foster peace, democracy, respect for human rights and economic prosperity, in order to achieve stability in the whole region' (Cologne Constituent Document of 10 June 1999, para. 9, available online at <http://www.stabilitypact.org/constituent/990610-cologne.asp>). See also the Sarajevo Summit Declaration of the participating and facilitating countries of the Stability Pact of 30 July 1999, available online at <http://www.stabilitypact.org/constituent/990730-sarajevo.asp>, which commits the Stability Pact process to 'concentrate on the areas of democracy and human rights, economic development and cooperation as well as security', at p. 8.

⁹ Shahrbanou Tadjbakhsh and Odette Tomescu-Hatto (eds), *Promoting Human Security: Ethical, Normative and Educational Frameworks in Eastern Europe*, UNESCO (2007).

not only been related to economics, but also to ideology. In addition to the transition from conflict and war to a peace economy, the transition from a (socialist) planned to a (capitalist) market economy and from communism to liberal democracy has taken place. An additional particularity was the violent nature of the dissolution of the Federal Republic of Yugoslavia, or 'Former Yugoslavia', the name of which only survives in the Former Yugoslav Republic of Macedonia (FYROM) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), but has disappeared otherwise. The creation of new states, associated with armed conflict, adds to the problems of consolidating state functions in a post-conflict situation, in which international peace missions are still partly operating.¹⁰

Furthermore, the involvement of the international community, channeling large funds into the region, but also assuring certain responsibilities in the post-conflict situation, made the Western Balkans a very particular case. This case is further characterized by the 'European perspective',¹¹ which was offered to the countries of the region in exchange for the acceptance of numerous conditions aimed mainly at enhancing human security, although this concept, which is described in more detail by another contributor to this volume,¹² was rarely mentioned explicitly.

The reform of the security sector¹³ is of crucial importance. Not only the military and the secret services, but also the police forces have to be brought under democratic control and existing links with organized crime, or even terrorist groups, have to be severed decisively and completely. Of the same importance is the reform of the judiciary. Members of the judiciary who never enjoyed adequate training and were used to receiving political instructions need to become part of an independent body of judges and

¹⁰ See Ulf Häußler, *Ensuring and Enforcing Human Security, the Practice of International Peace Missions*, Wolf Legal Publisher, Nijmegen 2007.

¹¹ See the *Declaration of the EU-Western Balkans Summit*, Thessaloniki, 21 June 2003, 10229/03, Presse 163, available online at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/misc/76291.pdf, accessed 22 April 2009. This refers to the endorsement, on 20 June 2003, by the European Council of the *Thessaloniki Agenda for the Western Balkans: Moving towards European Integration*, at p. 2. The European perspective for Western Balkans countries has since been confirmed numerous times; cf. only Communication from the Commission, *The Western Balkans on the Road to the EU: Consolidating Stability and Raising Prosperity*, COM (2006) 27 final of 27 January 2006, and Communication from the Commission, *Western Balkans: Enhancing the European Perspective*, COM (2008) 127 final of 5 March 2008.

¹² See the contribution of Svetlana Djurdjevic-Lukic and Vojin Dimitrijević, 'Human Security and Peace-building in the Western Balkans', in this volume.

¹³ See, for example, Timothy Edmunds, *Security Sector Reform in Transforming Societies: Croatia and Serbia-Montenegro*, Manchester University Press, Manchester 2008 and *Stability Pact for South Eastern Europe, Security Sector Reform in South Eastern Europe: An Inventory of Initiatives*, available online at www.stabilitypact.org/wt3/SSRYork.asp, accessed 22 April 2009.

prosecutors who are able to deal with an increased workload and new laws based on international standards, such as the *European Convention of Human Rights*.

The reforms of basic state institutions would not be complete without a reform of the administration, which often lacks efficiency and professionalism and is affected by widespread corruption.¹⁴ The services are often provided as a favour to, and not as a right of citizens. Accordingly, these reforms are necessary for realizing basic civil and political rights, and, more generally, a level of personal human security preconditioned upon being able to enjoy these human rights.

The reforms require a general transformation of the state towards a modern, post-national state serving all its citizens equally.¹⁵ In post-conflict situations the state will, however, hardly be able to serve as a 'welfare state', although it has to provide crucial educational, health, and other social services. It will have to focus first on re-establishing and strengthening the rule of law as a precondition for providing all services in a non-discriminatory way based on laws and respective merit and not 'connections'. This is also a precondition for re-establishing the trust of citizens who, due to a lack of trust in state institutions, hitherto prefer informal structures when pursuing their legitimate interests.

In order to overcome vested interests there is also a need for strengthening democratic institutions, like national, regional, and local parliaments or assemblies. While the role of the international community – through election monitoring and technical assistance – is important in this process, it is civil society that has a crucial role to play. However, civil society in the Western Balkan states does not have a long tradition and often depends on attracting funding from the outside, while it is considered as part of the opposition by the national and local governments inside and accordingly hardly supported.¹⁶ The humanitarian crisis during the conflict in the Western Balkans and the post-conflict needs, together with funding opportunities, have resulted in a fast growth of NGOs, which, however, only partly exercise a public role. Still, there has been a significant development of local brain trusts and think tanks, which provide a domestic analytical capacity and, together with international NGOs or on their own, are increasingly able to fulfil civil society functions in the public space. In so doing, they

¹⁴ See, for example, David Chandler, 'Building Trust in Public Institutions? Good Governance and Anti-Corruption in Bosnia and Herzegovina', *Ethnopolitics* (2006), vol. 5, pp. 85–99, at p. 1.

¹⁵ See Stefan Leibfried and Michael Zürn, *Von der Nationalen zur post-Nationalen Konstellation*, in Stefan Leibfried and Michael Zürn (eds), *Transformation des Staates?*, Suhrkamp, Frankfurt am Main 2006, pp. 19–65.

¹⁶ See Wolfgang Benedek, 'General Conclusions', in Wolfgang Benedek (ed.), *Civil Society and Good Governance in Societies in Transition*, NWV and Belgrade Centre for Human Rights, Vienna/Belgrade 2006, pp. 231 et seq.

also promote human security concerns, like strengthening human rights and state services. What remains missing is a higher level of appreciation by the state for their role and closer cooperation.

1.4 Relevance of the human security approach to terrorism and organized crime

1.4.1 Threats caused by terrorism and organized crime

Threats from terrorism and organized crime are often considered a major concern of states in the Western Balkan region. The violence that accompanied the processes of state creation has had major implications for state-building and the solidification of state structures. In particular, the cooperation of state institutions with criminal elements during the war, which had been a result of the war economy, continued also after peace had been restored. Efforts to break these relations and prosecute elements of organized crime resulted in terrorist attacks on state institutions and representatives like the former Serbian Prime Minister Zoran Djindjić. There have also been some spillovers of Islamic terrorism in Bosnia–Herzegovina and Sandzak, which, however, appear mainly to have been isolated incidents.¹⁷

However, as a comprehensive report by the UN Office on Drugs and Crime in Vienna under the responsibility of Ted Leggett of 2008 showed, the threat of terrorism is not a major concern anymore. It is practically absent in the findings of the report, which focuses on crime in general. In this respect the report found a kind of normalization: the crime levels in the Western Balkans are not higher than in other regions or major cities, and may be lower. Proving common perceptions wrong, the report, which was based on statistics and interviews, concluded that there was less ‘conventional’ crime like burglary, robbery, or assault in the Balkans than in Western Europe.¹⁸

Also the number of murders and other forms of violence in the region is constantly decreasing.¹⁹ The main reason given is that conflicts and transformation, which were responsible for higher levels in the past, have given way to stabilization and consolidation. It might also be surprising that registered

¹⁷ See Lyubov G. Mincheva and Ted Robert Gurr, ‘Unholy Alliances: Evidence on Linkages between Trans-State Terrorism and Crime Networks. The Case of Bosnia’, in this volume. See also Juan Carlos Antunez, ‘Wahhabism in BiH: Its Links with International Terrorism’, ISEEF, 6 November 2007, available online at <http://iseef.net/latest/wahhabism-in-bih-1.html>, accessed 22 April 2009.

¹⁸ United Nations Office on Drugs and Crime (UNODC), *Crime and its Impact on the Balkans and Affected Countries*, Vienna, March 2008, http://www.unodc.org/documents/data-and-analysis/Balkan_study.pdf, accessed 22 April 2009. See also *New York Times*, ‘Balkans are no Longer a Hotbed of Crime’, 29 May 2008, available online at <http://www.nytimes.com/2008/05/29/world/europe/29iht-balkans.4.13321430.html>, last accessed 22 April 2009.

¹⁹ *Ibid.*, p. 9.

and unregistered civilian firearms per 100 citizens are three times higher for Switzerland and Finland than for Kosovo and Bosnia and Herzegovina.²⁰

However, the problem of organized crime and corruption remains, although drugs and human trafficking or smuggling of migrants appears to be on the decline, due to increased counter-measures, but also a declining demand.²¹ The impact of crime on social, economic, and political progress, including democracy, and the rule of law and human rights is still significant.²²

The data collected also show that the situation is quite similar in the different ex-Yugoslav states. For example, the share of respondents of a survey by Transparency International in 2007,²³ on the percentage of people who had paid a bribe to obtain state services resulted in 5 per cent for Bosnia–Herzegovina, 8 per cent for Croatia, 21 per cent for Serbia, 44 per cent for FYR Macedonia, 67 per cent for Kosovo and 71 per cent for Albania.

In 2006,²⁴ the same survey resulted in significantly lower numbers for Kosovo (12 per cent), Serbia (13 per cent) and Albania (66 per cent), although a World Bank study of 2005 had come to much higher figures.²⁵ These discrepancies raise an issue of the reliability of the data. Anyhow, to speak of Kosovo as a ‘black hole’ is not substantiated by facts as the situation in Serbia and in neighbouring countries is not much better.

The most recent findings of the Corruption Perception Index of Transparency International²⁶ show Slovenia on rank 26 of 180 states, Croatia on rank 62, FYR Macedonia on rank 72, Serbia, Albania and Montenegro equally on rank 85 and Bosnia and Herzegovina on rank 92. Kosovo does not figure in this index.

Accordingly, the expectations of corruption are similar yet high in most ex-Yugoslav countries, with the exception of Slovenia. Still, the trust in the state is low as a large percentage thinks that ‘only kin can be trusted’.²⁷ Surprisingly, however, the dissatisfaction with the government (rating government ‘bad’) in 2004 is considerably lower in Kosovo (29 per cent)

²⁰ Ibid., p. 16.

²¹ Ibid., pp. 45 et seq.

²² Ibid., pp. 99 et seq.

²³ Transparency International, *Global Corruption Barometer 2007*, available online at http://www.transparency.org/news_room/latest_news/press_releases/2007/2007_12_06_gcb_2007_en, accessed 22 April 2009.

²⁴ Transparency International, *Global Corruption Barometer 2006*, available online at http://www.transparency.org/content/download/12169/115654/version/1/file/Global_Corruption_Barometer_2006_Report.pdf, accessed 22 April 2009.

²⁵ UNODC 2008, *supra*, p. 18.

²⁶ Transparency International, *Corruption Perception Index 2008*, available online at http://www.transparency.org/news_room/in_focus/2008/cpi2008/cpi_2008_table, accessed 22 April 2009.

²⁷ This was 47 per cent for Serbia, 38 per cent for Montenegro and 72 per cent for Macedonia, see UNODC 2008, *supra*, p. 18.

than in Serbia (65 per cent), while its high level for Bosnia and Herzegovina (77 per cent) could be expected.²⁸ This shows that in the Western Balkans the relations between the state and its citizens are damaged.

These findings cannot be read to say that there is not a major problem of organized crime, as can be seen also from other contributions in this volume.²⁹ While economic progress obviously has led to a certain 'normalization', the fact remains that organized crime is still often linked with (persons in) state institutions and that because of the nature of the weak states in the Western Balkans it can have a disproportionate role and accordingly constitute a major threat to human security, to the security of the citizens, if not the state. The Western Balkan region thus remains vulnerable to organized crime.

The legacies of conflicts of the past, which have led to a certain degree of 'state capture' by organized crime still express themselves in a relatively low degree of political stability and a high level of economic crime made possible by the weak state. This means that organized crime does have an interest in the continuation of this situation, as it benefits from the weak state.³⁰ From this it follows that improving the human security of citizens requires an emphasis on the rule of law and good governance as a means for building trust and confidence.

1.4.2 Main elements of the human security approach

What are the main elements of human security? As an in-depth analysis of the concept of human security is given in the contribution of Svetlana Djurdjevic-Lukic and Vojin Dimitrijević,³¹ this section will limit itself to introducing the main elements. According to the general definition of human security employed in the report of the Commission on Human Security of 2003, human security means 'to protect the vital core of all human lives in ways that enhance human freedoms and human fulfillment'. According to the Commission 'the vital core of life is a set of elementary rights and freedoms people enjoy,' but needs to be interpreted in a contextual and dynamic way.³²

The main set of elementary rights and freedoms is contained in the UN *Bill of Rights*, consisting of the *Universal Declaration on Human Rights of 1948* and the two covenants, on civil and political as well as on economic, social and cultural rights of 1966. In the European context, the *European Convention of Human Rights* is the main instrument of reference.

²⁸ *Ibid.*, p. 107.

²⁹ See Dejan Anastasijevic, 'Getting Better? A Map of Organized Crime in the Balkans', in this volume.

³⁰ UNODC 2008, *supra*, on pp. 99 and 107.

³¹ See Svetlana Djurdjevic-Lukic and Vojin Dimitrijević, 'Human Security and Peace Building in the Western Balkans', in this volume.

³² Commission on Human Security, *Human Security Now, Protecting and Empowering People*, New York 2003, on p. 4.

Therefore, the interaction between human security and human rights³³ is of particular relevance. Human rights can be seen as an objective of human security as well as a means of measuring the state of human security, both with regard to freedom from fear and freedom from want. Human rights can be used as indicators for the level of human security. However, the concepts of human security and human rights are not identical. While human rights focus on the protection of the dignity of the individual, of human dignity, human security constitutes a wider approach, addressing the threats to the seven dimensions of security outlined above.

The human security approach can be summarized in 10 points:

- First, as a holistic approach it is concerned with both conflict-related and development-related threats or vulnerabilities, with freedom from fear and freedom from want.
- Second, the interrelatedness and interdependence of all threats needs to be taken into account.
- Third, in order to be legitimate and effective, the human security approach needs to be participatory, involving all major stakeholders.
- Fourth, threats and vulnerabilities need to be addressed bottom-up, starting from the needs and perspectives of people affected.
- Fifth, the human security approach empowers people to deal themselves with threats and vulnerabilities, based on their human rights.
- Sixth, any human security framework has to respect the principle of non-discrimination and focus on the needs of marginalized and vulnerable groups.
- Seventh, the human security approach needs to include the concept of human rights and the related concepts of the rule of law, good governance, democracy, and accountability.
- Eighth, there is a mutually reinforcing relationship between human security and human rights as well as human development.
- Ninth, a major concern of human security is the prevention of threats, like conflicts or poverty.
- Tenth, human security introduces a focus on the root causes of threats and vulnerabilities.

1.5 Conclusions

When analysing human security in a post-conflict situation or addressing related threats the ten elements identified may prove to be useful in

³³See Wolfgang Benedek, 'Human Security and Human Rights Interaction', *International Social Science Journal*, vol. 59, no. s1, pp.7–17. See also Gerd Oberleitner, 'Porcupines in Love: The Intricate Convergence of Human Rights and Human Security', in *European Human Rights Law Review* (2005), no. 6, pp. 588–606.

establishing the state of human security and identifying priorities of action. For example, the holistic approach requires a combined strategy of addressing threats against physical or personal security with measures against social and economic vulnerability, which may be a root cause for violence or crime. In light of the interrelatedness and interdependence of different types of threats personal security as well as social and economic security must be addressed, as economic disparities can lead to conflict and violence.

In doing so, the needs of people affected by security threats in post-conflict situations should be taken as a starting point by, for example, addressing corruption in administration and the police. Involving all stakeholders means including minorities and marginalized groups, other economic actors, but, in particular, civil society associations and other citizens as well as state institutions and international actors. An inclusive approach and the respect for the rule of law should result in the empowerment of vulnerable groups, such as ethnic minorities, women and children, and economically disadvantaged groups, allowing them to make better use of their rights, for example the right to association.

A rights-based approach to human security focusing on human rights like the right to a fair trial, the right to property and privacy, freedom of expression and of association strengthens the democratic setting of the state on the basis of the rule of law, good governance, and accountability. Human rights can be used both as an objective as well as a yardstick for the achievement of human security. A high degree of human rights performance is indicative also for a high level of human security. Respect for the human dignity of each person, regardless of their background, has to be the starting point. The absence of protection and provision of human rights can be taken as an indicator for the lack of human security. In a similar way, human rights are a requirement for human development, which serves all citizens equally.

Particular mechanisms of human rights protection are required to address problems of human trafficking, whether of women or children,³⁴ but also the smuggling of refugees and migrants. The specific rights contained in international conventions for the protection of women and children need to be respected. The final aim is a culture of human rights, in which people know their rights and actually claim them, which often requires a change of

³⁴ Cf., for example, the *Report Submitted by the Special Rapporteur on Trafficking in Persons, Especially Women and Children*, Joy Ngozi Ezeilo, UN Doc. A/HRC/10/16 of 20 February 2009, available online at <http://www2.ohchr.org/english/issues/trafficking/docs/HRC-10-16.pdf>, accessed 22 April 2009, and Amel Fako, *The Role of External Actors in the Fight against Trafficking in Persons in Bosnia and Herzegovina*, Humsec Working Paper Series Issue 10, available online at http://www.humsec.eu/cms/fileadmin/user_upload/humsec/Workin_Paper_Series/WP_Fako.pdf, accessed 22 April 2009.

mentality.³⁵ Although states are often afraid of citizens using all their rights, active human rights-conscious citizens can contribute to the strengthening of weak or fragile states, because of their stronger commitment to the state and its role for human rights and security.

When addressing problems of terrorism and organized crime the root causes need to be taken into account while all measures need to be undertaken in full respect of human rights.³⁶ In the context of the post-conflict situation in the Balkans this means that the root causes of the conflicts, like ethno-national aspirations as well as discriminatory situations, need to be taken into account together with ongoing problems of treatment of minorities and other ethnic groups. The redistribution of economic growth, the access to state services, unequal living standards, lack of respect for other religions and cultures play a major role in creating threats and vulnerabilities. The concern with the root causes should help reconciliation efforts after conflicts.

Security in peoples' daily lives is a major factor for sustainable peace-building. The security of the human person and the security of the state are thus related. By providing for the rule of law, good governance, pluralist democracy, freedom of expression and of the media, and public accountability, the state creates the framework conditions for human security as personal security and beyond. Concern for the prevention of undesirable developments is also inherent in the *Early Warning Reports* of UNDP, started in the late 1990s for several Balkan countries.³⁷ These contribute to a political culture of conflict prevention and democratic citizenship on an equal level.³⁸

The concept of human security shows that security means much more than the absence of violent conflicts and is indeed one of the main goods or services a legitimate government needs to deliver. The linkages that existed, and partly still exist, between the state and organized crime and, in

³⁵ See the contributions of Vojin Dimitrijević, 'The Culture of Human Rights', and of Wolfgang Benedek, 'For a Culture of Human Rights in the Balkans', in Mirjana Todorovic (ed.), *Culture of Human Rights*, Belgrade Centre of Human Rights, Belgrade 2002, pp. 122–8 and pp. 128–31.

³⁶ Cf. Wolfgang Benedek, 'Human Security and Prevention of Terrorism', in Wolfgang Benedek and Alice Yotopoulos-Marangopoulos (eds), *Anti-Terrorist Measures and Human Rights*, Martinus Nijhoff Publishers, Leiden/Boston 2004, pp. 171–84.

³⁷ See, for the UNDP, *Early Warning Reports on Kosovo*, <http://www.kosovo.undp.org/?cid=2,114>; and, for the latest report, UNDP, *Early Warning Reports on Kosovo*, December 2008, available online at http://www.ks.undp.org/repository/docs/Fast_Facts_23_EnglishFINAL.pdf, accessed 22 April 2009.

³⁸ See Maria Luisa Silva, 'Bottom Up Approach in Practicing Prevention and Human Security', in *Strengthening Regional Stability through Human Security*, Friedrich Ebert Foundation, Skopje 2008, available online at <http://www.fes.org.mk/pdf/srsdtp.pdf>, accessed 22 April 2009.

certain cases, groups with a terrorist potential, need to be addressed first in any security sector reform. They undermine not only the trust of the people in their state, but also the peace-building process in the often fragile post-conflict situations. Accordingly, effective measures against corruption and organized crime by the state and in form of international cooperation are necessary for the promotion of human security.

The role of the international community in the Western Balkans is to support states weakened by conflict and war in providing the services expected from modern democratic states to their citizens in an efficient and reliable way with the aim of achieving freedom from fear and freedom from want based on the participation and empowerment of their citizens. However, the international community, consisting of international organizations active on the ground through their missions or programs, international donors and their projects, often implemented by international and local NGOs or diplomatic representatives, should use human security criteria as a yardstick of support, which will increase the sustainability of their activities. The respect of human rights is a crucial element in this context.

In conclusion, the particular pattern of security threats and vulnerabilities in a post-conflict situation can hardly be grasped with a traditional approach to security. The multi-dimensional concept of human security appears well suited to address the security problems existing in post-conflict societies – with regard to a comprehensive analysis of human rights problems and with regard to the actions to be taken to remedy those problems.

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2

Human Security and Peace-Building in the Western Balkans

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2.1 Introduction

The issue of security has preoccupied the theory and practice of international relations. It has very frequently amounted to an obsession for politicians in general and foreign policy decision makers in particular. For a long time the concept of security in the political discourse and the discourse of political science was the security of the state as an organization or an organism, or as a person in international law. Generally, security is the absence of danger. The goal of the security of the state, which has most of the time been labelled as 'national security', has been to create a situation where the state in the above sense would be free of any threats, or at least capable of countering these threats in time. The state-centric concept of national security has not been concerned with the circumstances of persons or groups inhabiting a particular state and ignorant of the possible threats to the existence, values and interests of the population in general or relevant parts thereof. There have been many instances where, in the name of national security, national political leaders and their partners from other states were willing to tolerate extreme human suffering, oppression, poverty, famine or other calamities in the name of the defence of national security. There have also been instances when states collapsed in the presence of very strong national armies and formidable security services.

When dealing with the topic under review, namely human security in the Western Balkans, it should be borne in mind that the countries in the region are former socialist countries, that is, that they were for many decades governed by a system inspired by the Leninist version of Marxism, strongly influenced by the Stalinist practice of the Soviet Union. In these states the notion of 'state security' has been widely used to denominate not the security of the state as an international actor but the security of the government or the political arrangement imposed by the socialist revolution and guarded by the communist party under its various names and guises. To be sure, a similar obsession with internal security prevailed during the

Cold War in some Western societies, usually as an internal aspect of national security, leading to uses and abuses of the need for security, remembered and actualized as 'national security states' or 'national security societies'.¹

All socialist countries had extremely powerful institutions to protect the security of the state: armies, secret polices and the accompanying institutions and rules prepared to deal brutally with anyone who was perceived to endanger the security of the state, understood as the absence of threat or peril to the governing elite. As suggested already, the collapse of the Soviet Union and of the socialist regimes in many other countries closely allied with the USSR proved that state security was also vulnerable when the demands and needs of the majority of the population were not met.

The developments summarized above, together with other factors, contributed to recent changes of attitudes *vis-à-vis* the theme of security. In contrast to the state-centric notion of security new approaches to security have developed gradually, acquiring the name of human security. The centre of concern now is to take into account the human essence of a human community, such as the state, and to examine to what extent the organization of the state or, for that matter, of the international community, serves the real interest of human beings, or at least helps prevent the most conspicuous and acute threats to the latter.

The *Human Development Report*, published by the United Nations Development Programme (UNDP) in 1994 underlines that human security is universal, global and indivisible. Since then, human security has been considered to include freedom from fear, freedom from want and freedom to choose. It is a people-centred, multifaceted and holistic approach addressing diverse sources of insecurity of human beings.² However, as an 'umbrella concept' for dealing with all security considerations, it is a very wide, imprecise and elastic term. Efforts should be made to fill it with real content in any concrete situation.

Consequently, exploring the heuristic value of the concept of human security in the Western Balkans from the standpoint of organized crime and peace-building requires not only a methodological clarification of the concepts and terms used in this endeavour, but an assessment of the obstacles to implementation of what is commonly understood under 'human security'. Hence, this chapter will briefly outline the core ideas of the concept of human security and peace-building, and then examine problems related to the

¹ See for example Vojin Dimitrijević, *Strahovlada*, Belgrade 1985, pp. 184–95; Douglas T. Stuart, *Creating the National Security State. A History of the Law that Transformed America*, Princeton University Press, Princeton, NJ, 2008. Wolfgang Benedek, 'Die freien Länder werden zu Sicherheitsgesellschaften', *Neue Zürcher Zeitung*, 27 February 2006, p. 3.

² See Shahrbanou Tadjbakhsh and Anuradha M. Chenoy, *Human Security, Concepts and Implication*, Routledge, London/New York, 2007.

attempts to advance human security in the context of building peace in the Western Balkans. After a short introduction related to the intertwining nature of human security and peace-building, four specific hurdles in the process of building peace in the Western Balkans will be elaborated, as the authors consider these to be most important when assessing the situation from a wide human security perspective.

2.1.1 Human security and peace-building

The present era is characterized by security threats unconstrained by borders – from conflict, poverty, disease and economic instability, to climate change, nuclear proliferation and terrorism. These threats have to be addressed by taking into account both the patterns of interdependence in a globalized world, and human beings as individuals or members of various groups.

Simultaneously, in contrast to peacekeeping missions, typical for the Cold War era, as neutral international military forces aimed to separate the parties in conflict after a truce or comprehensive peace agreement, new forms of international interventions have been gaining in prominence, namely peace enforcement and peace-building.

An early definition of peace-building missions is that they seek ‘to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict’.³ Peace-building is

a broad-based approach to crisis prevention and resolution [that] should comprise integrated and coordinated actions aimed at addressing any combination of political, military, humanitarian, human rights, environmental, economic, social, cultural and demographic factors so as to ensure that conflict was prevented or resolved.⁴

Unlike peace-enforcement, which consists mostly of military action, peace-building involves a broad range of actors, including various civilian international and national developmental and relief agencies, regional organizations, non-governmental organizations (NGOs) and international financial institutions (IFIs). Peace-building missions seek to consolidate existing peace, but this peace is usually very fragile, with a mixed bag of security threats for various community groups on the ground, and with multiple priorities to deal with. As it is clear from the definitions quoted above and from current practice, a vast multitude of activities is seen as a part of the peace-building process, from humanitarian assistance and repatriation

³ Boutros Boutros-Ghali, *An Agenda For Peace: Preventive Diplomacy, Peacemaking, and Peace-keeping*, United Nations, New York 1992.

⁴ UN Administrative Committee on Coordination, *Summary of Conclusions of the Administrative Committee on Coordination at its First Regular Session of 1997*, United Nations, p. 7.

of refugees, to disarmament, demobilization and reintegration of former combatants, to conducting elections and the establishment of rule of law. Hence, it is understood not only as a row of different field missions, but as a broader long-term process of translation of physical security from massive violence, achieved through the end of a conflict, into security in everyday life. Peace-building and human security are therefore intertwined.

Human security as policy framework forms the backdrop against which peace-building efforts take place [...] Peace-building must be rooted in a critical understanding of human security that links people's everyday experiences to global structures and whether they are included or excluded from the system.⁵

Nevertheless, not all peace-building efforts are framed in terms of human security as a desired end-state. The primary paradigm that guides most activities in the sphere of peace-building is liberal internationalism.

'This paradigm, however, has not been a particularly effective model for establishing stable peace. Paradoxically, the very process of political and economic liberalization has generated destabilizing side effects in war-shattered states, hindering the consolidation'.⁶ While such a critique has not been universally accepted, it is important to acknowledge that the process is extremely complex and that it involves the occurrence of unforeseen problems. Judging from the human security prospective, since human security includes freedom from fear (absence of violence), freedom from want (basic economic preconditions), and freedom to choose (human and political rights), 'state and non-state peace-builders must be assessed against these three criteria in terms of their ability to promote or threaten human security'.⁷

2.1.2 Organized crime and terrorism

Organized crime and terrorism cross-cut all three main dimensions of human security: violence, human development and human rights. Hence, human security is an appropriate framework to address these problems. As both terrorism and organized crime are the main foci of several chapters in this book, here they will only very briefly be touched upon. Both terrorism and organized crime are global phenomena, also present in well-established democracies and in countries with no legacy of recent conflicts. However, it is not only a matter of size, but of the context, which provides for their

⁵ Heidi Hudson, 'Human Security and Peace-building through a Gender Lens', DIIS Working Paper No. 37, 2006, pp. 4–5.

⁶ Roland Paris, 'Peace-Building and the Limits of Liberal Internationalism', in *International Security* (1997), vol. 22, no. 2, pp. 54–89.

⁷ Hudson, 'Human Security and Peace-building', p. 4.

multiplying negative effect in the peace-building process. Namely, organized crime has a different social impact on a post-conflict society, where a public security vacuum exists: criminal networks might insert themselves between citizens and the resources necessary for survival and decent life and foster insecurity, so as to provide a favourable environment for their own gains. In the process of peace-building even 'ordinary' criminal acts might be perceived as politically motivated, as the political-criminal nexus is pervasive in conflicts. Hence, for societies in the process of building peace, a new term is suggested – serious crime – with a distinct meaning related 'to the extent of a crime's ramifications within the society ... a criminal act or acts that can have a profoundly destabilizing impact on a post-conflict society'.⁸ It includes 'organized crime, ethnic or religious violence and terrorism of a variety that can upset the establishment of a viable post-conflict peace [and] requires a great deal of specialized know-how, political will, and time'⁹ to tackle.

While terrorism in various countries has been dealt with according to specific historical, cultural and political heritage,¹⁰ organized crime mostly relates to the improvement of legislative solutions and law enforcement. Yet, in post-conflict, post-authoritarian countries and countries with unresolved issues of statehood, as is the case in the Western Balkans, they do both (together with other serious criminal acts) represent an additional massive obstacle for the provision of security and peace solidification and have to be perceived in the human security perspective.

2.2 Problems of providing human security in the Western Balkans

Further clarification of the concept of human security and its improvement as a policy tool are constrained by two groups of factors: political impediments to grounding human security in multilateral institutions and practical international cooperation, and complex inherent problems. However, this chapter points out to specific hurdles in the process of peace-building in the Western Balkans from a wide human security perspective. Namely, for the insiders of the region, the concept of human security may seem short of delivering the results, or at least not visible and efficient enough in the long run. The authors have detected four specific obstacles that have delayed the process

⁸ Collete Rausch (ed.), *Combating Serious Crimes in Postconflict Societies: A Handbook for Policymakers and Practitioners*, United States Institute of Peace, Washington, DC 2006, at p. 3.

⁹ *Ibid.*, p. xi.

¹⁰ See Peter J. Katzenstein, 'Coping with Terrorism: Norms and Internal Security in Germany and Japan', in Judith Goldstein and Robert O. Keohane (eds), *Ideas and Foreign Policy*, Cornell University Press, Ithaca, NY/London 1993, pp. 265–96.

of building peace in the Western Balkans: the absence of the reference to human security in the foreign policy doctrines and the very short history of the adherence to the goal of human security against which its results should be judged; the prevalence of the state-building paradigm; problems related to simultaneous economic liberalization and difficulties in the realistic assessment of security priorities for individuals and communities.

2.2.1 The time-frame and formulation of foreign policies

In assessing the results of the human security approach in peace-building in the Western Balkans, one must reconsider the timeline of the formulation of the relevant concepts. There has been much criticism, but the bottom line is that the understanding of both human security and peace-building were simply not developed in the early post-Cold War years so that the conflicts in the Balkans were dealt with throughout the 1990s from the prospective of traditional diplomacy, peacekeeping and humanitarian assistance. The UN declarations on human and economic rights were indeed in place, but contained a strong emphasis on the inviolability of state sovereignty. New frameworks of providing security only came to emerge as a consequence of the failure of the concepts in place unable to understand and prevent humanitarian crises in Rwanda and Srebrenica.

Post-conflict peace-building, alongside preventive diplomacy, was in the focus of the 1995 UN Secretary General's position paper.¹¹ However, when it comes to the creation of structures for the institutionalization of peace, '[w]hat this might mean in practice was not addressed'.¹² Peace-building was further discussed by the Panel on UN Peace Operations: its so-called *Brahimi Report* stressed that the Security Council and the General Assembly's Special Committee on Peacekeeping Operations

[...] have each recognized and acknowledged the key role of peace-building in complex peace operations. This will require that the United Nations system address what has hitherto been a fundamental deficiency in the way it has conceived of, funded and implemented peace-building strategies and activities. Thus, the Panel recommends [...] develop[ing] peace-building strategies and to implement programmes in support of those strategies.¹³

¹¹ Secretary General of the United Nations, *Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, A/50/60 – S/1995/1, 3 January 1995, available online at <http://www.un.org/Docs/SG/agsupp.htm>. Accessed on 30 November 2008.

¹² Andrew Mack and Kathryn Furlong, 'UN and Conflict Prevention', in Richard M. Price and Mark W. Zacher (eds), *The United Nations And Global Security*, Palgrave Macmillan, Basingstoke 2004, pp. 59–74, at p. 61.

¹³ *Report of the Panel on United Nations Peace Operations*, A/55/305 – S/2000/809, Identical letters dated 21 August 2000 from the Secretary-General to the President of

As already noted, the concept of human security was presented for the first time in the UNDP 1994 *Human Development Report*. A group of 14 like-minded states started the so-called *Lysøen Process* in 1998 and established a Human Security Network focused on landmines, small arms, child soldiers and similar concrete issues affecting civilians in conflict and post-conflict environment.¹⁴ Alongside the adoption of Millennium Development Goals, which could be seen also as a human security agenda, the idea of an independent Commission for Human Security was launched at the 2000 UN Millennium Summit. This commission, backed primarily by the government of Japan, finished its report *Human Security Now: Protecting and Empowering People* in 2003. The UN Secretary General's High-Level Panel on Threats, Challenges, and Change, which in 2003 was charged with generating input on geopolitical and security issues for the preparations for the 2005 World Summit, produced in 2004 its report under the title *A More Secure World: Our Shared Responsibility*. The Secretary General's own agenda-setting report *In Larger Freedom: Towards Security, Development and Human Rights for All* amounted to an official adoption of idea and programme of human security is. In it Kofi Annan elaborated on the freedom from want, freedom from fear and freedom to live in dignity.¹⁵ It included his recommendation for the establishment of an intergovernmental Peace-Building Commission, designed to fill an institutional gap in the United Nations, as well as of a Peace-Building Support Office.

[O]ur record of success in mediating and implementing peace agreements is sadly blemished by some devastating failures. [...] Roughly half of all countries that emerge from war lapse back into violence within five years. [I]f we are going to prevent conflict we must ensure that peace agreements are implemented in a sustained and sustainable manner. Yet at this very point there is a gaping hole in the United Nations institutional machinery: no part of the United Nations system effectively addresses the challenge of helping countries with the transition from war to lasting peace.¹⁶

the General Assembly and the President of the Security Council, available online at http://www.un.org/peace/reports/peace_operations/. Accessed on 30 November 2008.

¹⁴ The Network includes Austria, Canada, Chile, Costa Rica, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Switzerland, Slovenia, Thailand and South Africa as an observer. The Network emerged from the landmines campaign and was formally launched at a Ministerial meeting in Norway in 1999. Conferences at foreign ministers level were held in Bergen (1999), Lucerne (2000), Petra (Jordan – 2001), Santiago de Chile (2002), Graz (2003), Bamako (2004), Ottawa (2005), Bangkok (2006), Ljubljana (2007) and Athens (2008).

¹⁵ Report of the Secretary General of the United Nations for Decision by Heads of State and Government in September 2005, A/59/2005; available online at <http://www.un.org/largerefreedom/>. Accessed on 30 November 2008.

¹⁶ *Ibid.*, Addendum 2, para 1, 2.

The 2005 Summit marked the acceptance by all governments of the collective international responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, and the agreement about a new standing police capacity for UN peacekeeping operations, as well as an agreement to strengthen the Secretary-General's capacity for mediation and good offices.¹⁷ It can be inferred that from that point peace-building in the human security context has been an official element of the policies of United Nations.¹⁸

The European Union and its member states identified the need for viable crisis management structures also only well after the conflicts in the Balkans had started. The Common Foreign and Security Policy (CFSP) was for the first time included in the *Treaty of Maastricht*, coming into force in 1993. Additionally, in 1992 the so-called Petersberg tasks were agreed including 'humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking'.¹⁹ Nevertheless, with the failure of its diplomatic initiatives, and with non-military crisis management being understood as emergency relief and humanitarian aid, EU was unprepared for peace-building for the most of the 1990s.

By and large, throughout the 1990s the EU was present in the Balkans mainly through a participation of its individual members in interlocking cooperative initiatives in the Balkans. The state collapse in Albania in 1997 highlighted the EU's inability to make a 'quantum leap' and mount a concerted approach to a security crisis as one actor.²⁰

Furthermore, 'the primary concern in the Balkan crises was the EU's lack of military capabilities; hence the main focus was on building a European military force, while the concern for civilian capabilities comes second'.²¹ As late as in 2005, in the proposed EU Constitution 'the understanding of "peace" is heavily influenced by a traditional military-based notion of

¹⁷ See UN General Assembly Resolution, *2005 World Summit Outcome*, UN Doc. A/RES/60/1, 24 October 2005, available online at <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN021752.pdf>. Accessed on 30 November 2008.

¹⁸ There is also the view that '[t]he concept of human security was formally recognized in the UN in the context of the UN Security Council's first debate on AIDS, in January 2000'; see Caroline Thomas, 'Globalization and Human Security', in Anthony McGrew and Nana K. Poku (eds), *Globalization, Development and Human Security*, Polity Press, Cambridge, UK/Malden, MA 2007, pp. 107–31, at p. 115.

¹⁹ Western European Union Council of Ministers, *Petersburg Declaration* of 19 June 1992, Bonn, II/4, p. 6, available online at <http://www.weu.int/documents/920619peten.pdf>.

²⁰ Denisa Kostovicova, 'Study Group on Europe's Security Capabilities: The Balkans Background Paper', Brussels meeting, 17–18 March 2004.

²¹ Mary Kaldor, Mary Martin and Sabine Selchow, 'Human Security: A New Strategic Narrative for Europe', *International Affairs* (2007), vol. 83, no. 2, pp. 273–88.

defence and security. [...] In contrast, very little is stated about civilian policies and conflict management'.²²

It is realistic to assess that in regard to the Western Balkans the EU applied short-term crisis management instruments that do not eliminate threats to human security at least up to the creation of Stabilization and Association Process and the Stability Pact for South Eastern Europe in 1999. The EU's first independent peace missions started in 2003 in Macedonia,²³ a dozen years after the beginning of the crisis in the Balkans, with its critics stressing that 'the missions appeared to be more important to the EU than to Macedonia [as a] testing ground for the EU's fledgling security and defence policy'.²⁴ Without entering into a discussion about 'the enlightened self-interest' as a guiding principle in foreign policy formulation within the EU, the fact is that 'the EU's power is still mainly perceived in economic terms'²⁵ and that its engagement is primarily focused on stabilization, not on genuine, locally owned process of the establishment of freedom from fear, freedom from want and life in dignity.

Although both the EU Commission and Council have undertaken various measures that do support peace-building, and share some goals implied in that concept, human security itself is not mentioned in the 2003 *A Secure Europe in a Better World*. It 'depicts the mixed nature of EU Foreign policy motivation. On one hand, the objective is to "secure ourselves – secure Europe", while the second motivation is "to make world better"'.²⁶ There are

²² 'While the word "peace" only appears eight times in the proposed Constitution, and conflict prevention only five times, defence/defence policy is mentioned 64 times and the military/combat forces 21 times. Reconciliation, disarmament and control of the arms trade are issues not mentioned and not present on EU's agenda at all, neither do the documents mention that EU is nuclear-based.' Jan Øberg, *Does the European Union Promote Peace? Analyses, Critique and Alternatives*, The Transnational Foundation for Peace and Future Research (2006), available online at http://www.nyagenda.dk/ee/images/uploads/oeberg_peace2.pdf. Accessed on 30 November 2008.

²³ In March 2003, the EU launched its first military peace-support mission abroad, European Union Military Operation in the Former Yugoslav Republic of Macedonia (EUFOR Concordia), which was replaced later by the EU Police Mission in the Former Yugoslav Republic of Macedonia (EUPOL Proxima).

²⁴ On the occasion of the launching the Concordia mission in Skopje, Lord George Robertson said that 'the EU is demonstrating that its project of a European Security and Defence Policy has come of age', while Germany's Foreign Minister Joschka Fischer declared the mission an 'improvement in the EU's capacity to act in terms of European security and defence policy'. Cf. Biljana Vankovska, 'The Human Security Doctrine for Europe: A View from Below', *International Peacekeeping* (2007), vol. 14, no. 2, pp. 264–81, at p. 276.

²⁵ Kostovicova, 'The Balkans Background Paper' (2004), p. 1.

²⁶ Rory Keane, 'EU Foreign Policy Motivation: A Mix of Human Security and Realist Elements', in Sandra J. MacLean, David R. Black and Timothy M. Show (eds), *A Decade of Human Security: Global Governance and New Multilateralism*, Ashgate, Aldershot, 2006, pp. 39–50, at p. 42.

ongoing attempts to integrate human security as 'an enduring and dynamic organizing frame for security action'²⁷ and the calls urging EU member states for a public declaration committing the EU to six principles of human security,²⁸ but it has not yet been broadly accepted to claim 'a qualitative change in conducting foreign and security policy'.²⁹

The foreign and security policies of the United States have only recently included civilian peace-building in their remit with the establishment of the Office of Reconstruction and Stabilization (S/CRS) in the State Department:

to lead, coordinate and institutionalize U.S. Government civilian capacity to prevent or prepare for post-conflict situations, and to help stabilize and reconstruct societies in transition from conflict or civil strife, so they can reach a sustainable path toward peace, democracy and a market economy.³⁰

Similarly, the U.S. military is tasked to address and integrate 'stabilization, security, reconstruction and transition operations, which lead to sustainable peace while advancing U.S. interests'³¹ across all Department of Defense activities. It was underlined in the Presidential Directive from December 2005, where activities relating to internal security, governance and participation, social and economic well-being, and justice and reconciliation were listed.³² The U.S. interests are clearly the main motive for peace-building, human security is not mentioned, and the record of the U.S. peacekeeping has been described as follows:

the primary concern has been to preserve the future war-fighting capabilities of the troops, rather than to do the best possible job of securing the societies

²⁷ Kaldor et al., *Human Security: A New Strategic Narrative for Europe* (2007), pp. 273–88. Prof. Kaldor chairs the Study Group on Europe's Capabilities, which produced *A Human Security Doctrine for Europe* or the so-called *Barcelona Report* (2004) on how the European security strategy could be developed on a human security basis.

²⁸ The Study Group on Europe's Capabilities, *The Madrid Report: A European Way of Security*, 8 November 2007, available online at www.lse.ac.uk/collections/pressAndInformationOffice/newsAndEvents/archives/2007/EuropeanWayofSecurity.htm (main points presented in abovementioned Kaldor et al., 2007). Accessed on 30 November 2008.

²⁹ Kaldor et al., *Human Security* (2007), p. 273.

³⁰ US Department of State, Office of the Coordinator for Reconstruction and Stabilization, available online at <http://www.state.gov/s/crs/>. Accessed on 30 November 2008.

³¹ US Department of Defense Directive 3000.05, Military Support to Stability, Security, Transition, and Reconstruction Operations, 28 November 2005, para 3.2.

³² US National Security Presidential Directive 44: Management of Interagency Efforts Concerning Reconstruction and Stabilization, Washington, DC, 7 December 2005. More in Svetlana Djurdjevic-Lukic, 'The Role of Military in the Establishment of Democratic and Effective Governance: U.S. Approach', *International Problems* (2008), vol. 60, no. 1, pp. 7–30.

whose welfare is at stake. [The troops were] instructed to privilege their own safety over the achievement of mission goals.³³

Hence, human security in the context of peace-building might traced back to 2005 in terms of the decisions of the United Nations, the same year its first elements were introduced in the foreign and security policies of the United States. Within the European Union endeavours are under way to include it as an organizing framework for CFSP and European Defence and Security Policy (EDSP); however, these are still inter-governmental policy areas within the Union.

2.2.2 Centrality of the state

The goal of the recent wars in the Balkans was mainly the establishment of respective nation-states. It was natural that, after the recognition of the new state, the focus be on state security, on the administrative and economic strengthening of the state, the professionalization of its military, and not primarily on addressing the grievances of vulnerable groups. 'For a long time, we have concentrated on the achievement of national security objectives. This is the way of treating security issues in a macro plan, by neglected the micro plan, which has to do with human security.'³⁴ Or, in another assessment from the Western Balkans:

The logic of local elites is as follows: 'Let's first invest in defence reforms (mostly military professionalization and modernization); then we should join international peace missions in order to prove our military capabilities; once we are admitted to NATO the country's image will be radically improved and foreign investors will rush to launch economic projects in the country. And then we shall be able to meet human security priorities (that is, create more jobs, better social and health care, education and so on)'.³⁵

Not only that 'a post-conflict society needs genuine peace-building and demilitarization, which can hardly be done when the military logic dominates over the strategies of defending national interests',³⁶ but there are several important ramifications of the continuing conceptualization of security in the Western Balkans in national rather than human terms. Such

³³ Kimberly Zisk Marten, *Enforcing the Peace: Learning from the Imperial Past*, Columbia University Press, New York 2004, at p. 97.

³⁴ Luan Hajdaraga, *Challenges of Human Security in the Period of Transition: Western Balkans' Case, Strengthening Regional Stability through Human Security*, Friedrich Ebert Stiftung, Skopje 2008, pp. 25–30, at p. 28.

³⁵ Vankovska, 'The Human Security Doctrine for Europe' (2007), p. 273.

³⁶ *Ibid.*, p. 274.

centrality of the state in many cases includes strong centralization of a country, while local levels are very important for human security as these are spaces where threats for individuals and groups are present. The understanding of a UNDP representative on the ground is that human security is improved by encouraging the process of decentralization by which 'governance was brought to the most local level in many areas that have significant impact on human security, namely education, social care, local economic development, land management, fire fighting and basic health care'.³⁷

Additionally, the state-centric approach toward security obstructs facing the past, the vetting of security forces and the trials of war criminals. The post-war period represents 'a continuing contest over interpretations of grievances, relative responsibilities and guilt, and the search for external support from one origin and source over others',³⁸ It hampers the reconciliation and trial of (alleged) criminals. Hence, there is not only the need to deal with the original causes (as perceived by various groups). 'Creating a sustainable peace requires addressing the reality created by that war.'³⁹

While the purpose of the International Criminal Tribunal for the Former Yugoslavia (ICTY) was to go 'beyond imposition of "victor's justice" as was the case in the Nuremberg and Tokyo tribunals'⁴⁰ there are huge discrepancies in the perceptions of its work within various ethnic communities in the Western Balkans. While 'bringing Milošević', the former head of state [as well as the other highest dignitaries for the Serbs' side], before a UN-established international criminal tribunal is nothing less than a revolutionary development in the criminalization of war',⁴¹ it has had a negative effect on reconciliation within Serbia in the sense of reinforcing the Serbs' sense of injustice, and it delayed stabilization as it was a motive for the assassination of the first democratically elected prime minister of Serbia, Zoran Djindjić'.

One of the reasons for the assassination of Djindjić was the widespread belief, fostered by his political opponents and the remaining structures of the regime of Slobodan Milošević, that he was ready to comply with the requests of the ICTY Prosecution Office and to surrender many 'patriots' who

³⁷ Maria Luisa Silva, 'Bottom Up Approach in Practicing Prevention and Human Security', in *Strengthening Regional Stability through Human Security*, Friedrich Ebert Stiftung, Skopje 2008, pp. 31–4, at p. 34 (the author is UNDP Resident Representative in Skopje, Macedonia).

³⁸ Susan L. Woodward, 'Do the Root Causes of Civil War Matter? On Using Knowledge to Improve Peacebuilding Interventions', *Journal of Intervention and Statebuilding* (2007), vol. 1, no. 2, pp. 143–70.

³⁹ *Ibid.*, p. 155.

⁴⁰ Joanne Lee and Richard M. Price, 'International Tribunals and the Criminalization of International Violence', in Richard M. Price and Mark W. Zacher (eds), *The United Nations and Global Security*, pp. 123–38.

⁴¹ *Ibid.*, p. 127.

had supported Milošević or had, following the latter, participated in the military adventures of the Serbian government in neighbouring countries. The campaign against Djindjić, sometimes amounting to publicly announced preparations for his murder, rested on the general disapproval of the ICTY in the Serbian population. Opinion polls conducted at regular intervals by the Belgrade Centre of Human Rights have consistently indicated that the ICTY has been regarded by the majority of the population as an unjust, anti-Serb court, established only to try and punish Serbs.⁴² In fact the assassins of Djindjić and their accomplices came from the 'Unit for Special Operations' (JSO), the militarized section of the Service of State Security (UDB) of Serbia, which had remained untouched after the deposition of Milošević in 2000.⁴³

A similar situation has existed in Croatia, where the ICTY has widely been regarded as anti-Croat with, *mutatis mutandis*, the same arguments as in Serbia.⁴⁴ In Kosovo muted but effective opposition to the trials of Kosovar Albanians before the ICTY has been observed by many: it has also been expressed in the intimidation and removal of witnesses of the prosecution and has resulted in acquittals or very mild sentences.⁴⁵

Finally, such perceptions of security in national terms have adversely affected the fight against transnational threats. Namely, prolonged distrust

⁴² Available online at <http://www.bgcentar.org.yu>. or in the printed reports of the Belgrade Centre for Human Rights on the human rights in Yugoslavia, Serbia and Montenegro, and Serbia, published since 1998 under corresponding titles ranging from *Human Rights in Yugoslavia* to *Human Rights in Serbia*. Accessed on 30 November 2008.

⁴³ As a part of the campaign, a short time before Djindjić's assassination a forged report was published containing a list of many members of the Serbian security services who the Djindjić government allegedly intended to hand over to the ICTY. See Milos Vasic, *Atentat na Zorana*, Belgrade 2005. After a very long trial, obstructed by the defence, political parties and a part of the media, the direct perpetrators of the assassination of Djindjić, all members or former members of JSO, were sentenced in May 2007 by the first instance Special Chamber for Organized Crime in Belgrade to 40 years of imprisonment. The judgement was upheld in December 2008 by the Supreme Court of Serbia. Under the Serbian Penal Code defendants sentenced to the maximum penalty (which is now 40 years) are granted the right to appeal to the Supreme Court, which then acts as a court of third instance. The judgement in this case is still pending at the time of the writing. See: http://www.setimes.com/cocoon/setimes/xhtml/sr_Latn/newsbriefs/setimes/newsbriefs/2008/12/28/nb-05. Accessed on 30 December 2008.

⁴⁴ Surveys similar to those in Serbia have not been conducted in Croatia, but see Vojin Dimitrijević, 'The "Public Relations" Problems of International Criminal Courts: Some Lessons to be Drawn from the Reception of the ICTY in Serbia and Croatia', Paper presented at the conference *Achievements of the International Criminal Tribunal for the former Yugoslavia – The Hague Tribunal*, Ljubljana (23–4 September 2005). A version appeared as 'The "Public Relations" Problems of International Criminal Courts', in *Justice in Transition*, Special Edition, September 2006, pp. 67–74. See also Karla Del Ponte (Carla) with Cak Sudetic (Chuck Sudetich), *Gospodja tuziteljka. Suocavanje s najtezim ratnim zlocinima i kulturom nekaznjivosti*, Profil, Belgrade 2008, pp. 237–64.

⁴⁵ *Ibid.*, pp. 265–92.

in the Western Balkans has entailed reluctant cooperation in dealing with organized crime, or the wish to get all credits from joint actions. It is particularly relevant in the context of the main focus of this volume, as 'in our region, organized crime and criminal activities, which are conducted "under the nose" of incompetent and corrupted officials of politics and security, continues to be a phenomenon that affects human security'.⁴⁶

2.2.3 Limitations of economic paradigms

Another hurdle in the process of building peace in the Western Balkans in the context of human security, frequently neglected, is the transition to a market economy. Not only is this region post-conflict but also, in addition to the criminalization of the regional economy due to conflicts and sanctions, the peace-building process has been running simultaneously with democratization and the transition to a market economy. Most international financial institutions and western governments assume that once physical violence ends the people will focus solely on development and the eradication of poverty, which will give quick results if there is the political will on the side of the incumbent government. However, there are structural economic and social problems and, under pressure for quick privatization, the transition has been frequently conducted under conditions of asymmetry of information, with an influx of questionable financial sources, and with the involvement of shadow networks, even warlords. Consequently, 'even if the society as a whole has enjoyed economic growth, some of its own members can feel very insecure and that they discriminated against in their access to benefits'.⁴⁷ Nevertheless, such insecurity is too often dismissed as an inevitable by-product of liberalization and economic privatization, and left to the invisible hand of the market, that is, unaddressed and neglected. On the contrary, a human security approach would mean that 'the economic and social well-being of the individual matter more than economic growth and macro-economic stabilization'.⁴⁸

For the region is typical general economic growth, but without rise of employment ("jobless growth"). In the public opinion polls which were focused in detecting hierarchy of perceived threats for security and well-being, fear from unemployment was dominant. And 'when the perceived unequal distribution of jobs and wealth, access to resources and so on is along ethnic lines, then the general socio-economic problems translate into ethnically motivated injustices'.⁴⁹ Furthermore, while many externally proposed

⁴⁶ Hajdaraga, *Challenges of Human Security in the Period of Transition*, at p. 27.

⁴⁷ Marie Vlachova and Lea Biason, 'Violence against Women as a Challenge for Security Sector Governance', in , Heiner Hänggi and Theodor H. Winkler (eds), *Challenges of Security Sector Governance*, LIT Verlag, Münster 2003, chapter 7.

⁴⁸ Mary Kaldor, *Human Security: Reflections on Globalization and Intervention*, Polity Press, Cambridge, UK/Malden, MA 2007, p. 193.

⁴⁹ Vankovska, 'The Human Security Doctrine for Europe', at p. 274.

measures are focused on pro-business initiatives, 'economic growth should reach the extreme poor, otherwise its base is not built on secure foundations. This is especially important for ethnically mixed countries, where unbalanced economic development may get additional, political dimensions'.⁵⁰ Namely, 'absolute poverty [...] in almost all of the Western Balkans is still relatively high, and is not showing significant tendencies of decreasing. A large concentration [...] just above the poverty line additionally demonstrates the challenges faced by the entire region'.⁵¹ As current poverty reductions strategies in the region still have not led to impressive results, economists stress the need for the 'programs and activities that will lead to equitable and sustained economic growth that will also benefit the vulnerable groups',⁵² that is, for new economic solutions that would alleviate the problems of such groups.

A related problem is that the external providers of security/developmental assistance have usually been convinced of substantial improvement, since their starting point was the midst of heavy armed conflicts, chaos and destruction in the 1990s. However, one must bear in mind the starting point for most citizens in the Western Balkans are memories of the wealthy 1980s, including not only the level of GDP, but a safety net in place, a decent level of free education and universal health coverage. As a result of the legacy of the social welfare system in the area of health and education, the countries rank better on *Human Development Index* than what would be suggested by their income level. The welfare system was a basis for a specific legitimacy of socialism in the former Yugoslavia, and democratic governments in the region risk losing legitimacy when forced, in the name of 'the invisible hand of market', to cut sharply their budgets for health, education and social services, which keep substantial portion of citizens above the poverty line. In this region, post-conflict reconstruction of the economy and the transition to a market economy are intertwined, and have to be understood as such, with all the associated ramifications for human security.

According to an overview of poverty in the Western Balkans, UNDP *Early Warning Reports* and different surveys indicate that at least one half of the population perceives their financial position as unsatisfactory or mostly unsatisfactory:

[I]n Bosnia and Herzegovina the majority of the population considers themselves poor, in Serbia close to one half, in Montenegro and Croatia as much as 80%, Albania 90%, FYR Macedonia 28.7% declare that their

⁵⁰ Silva, *Bottom-Up Approach*, at p. 33.

⁵¹ Gordana Matkovic, *Overview of Poverty and Social Exclusion in the Western Balkans*, UNDP (2006), available online at http://intra.rbec.undp.org/mdg_forum/overview.htm. Accessed on 30 November 2008.

⁵² *Ibid.*, Executive summary.

monthly income is insufficient to meet their needs, with an additional 40.7% declaring that it mostly does not meet their needs.⁵³

In addition to a widespread perception of uncertainty after the conflict and during transitional reforms, 'subjective poverty is magnified by the high expectations that living standards would increase in a relatively short period of time following democratic changes and entering transition, i.e. following the end of war and destruction'⁵⁴ and in the context of expected integration into the European Union.

In short, issues related to 'freedom from want' are both tangible and represent a social construction, and could not be resolved by relying on a single paradigm, be it post-conflict economy recovery or transition to a market economy.

2.2.4 Perceptions of security threats

An additional obstacle in the way of applying the idea of human security in the context of peace-building in the Western Balkans, which should be underlined in this contribution, is the perception of security threats. For a policy to be sound and efficient, it has to be based on precise mapping of insecurities for different groups in various spatial (village, city, province, country) and social contexts (ethnic and religious communities, refugees and internally displaced persons, persons with disabilities, social groups). '[A] careful and continuous analysis of the real and subjective reasons for the citizens' insecurity is needed so as to design a sensitized policy in relation to the attainment of human security.'⁵⁵ It is the essence of human the security approach; yet, it is seldom undertaken as it requires immense resources, knowledge and empathy to be comprehended. Furthermore,

certainty, emotional tranquillity and safety may coexist in time and space with other people's interpretations of uncertainty, anxiety and danger [...] depending on the context. Security is not a property of a given space or territory but of a social group. 'Balkan security' is therefore a misnomer. The question is not security in region 'X', but security for whom.⁵⁶

Remote central administrative authorities, let alone external actors, will fail to recognize the emotional form of insecurity that 'comes from anxiety ... results from a lack of control over our environment and produces emotional

⁵³ Ibid., p. 16 and footnote 10.

⁵⁴ Ibid., p. 16.

⁵⁵ Lidija Georgieva, 'Recognizing Human Dimension of Security: Challenges and Perspectives in the Concept in Macedonia', in *Strengthening Regional Stability through Human Security*, Friedrich Ebert Stiftung, Skopje 2008, pp. 49–69, at p. 60.

⁵⁶ Steven Sampson, 'From Kanun to Capacity-Building: The "Internationals"', Civil Society Development and Security in the Balkans', in Peter Siani-Davies (ed.) *International Intervention in the Balkans since 1995*, Routledge, London/New York 2003, pp. 137–57.

rage, hatred and a desire for revenge (... leads to violence and even genocide, conceived as a form of self-defence)⁵⁷. When such issues are treated ‘in a “cold”, administrative and emotionally uninvolved manner, a failure to recognize and bridge such “gaps of concern” may in part account for the failings of intervention’.⁵⁸

Even leaving aside the possible inability of actors, who perform security threats assessments to comprehend all levels of insecurity, the problem of mapping is difficult to resolve as citizens might have fluid notions about security priorities. A series of public opinion surveys related to security sector reform conducted in Serbia and Montenegro 2003–5 reveals some inconsistency in the answers, indicating slightly confusing perceptions of threats and of methods for providing security.⁵⁹ Even regarding a concrete, narrow issue, polls, focus groups, and interviews could provide a distorted picture as security priorities are dynamic, and citizens tend to provide what they see as socially acceptable answers according to circumstances. For example, UNDP Kosovo commissioned in 2003 a household survey, organized by *Index Kosova*, with 1,264 face-to-face interviews, as well as 12 focus groups, and *Small Arms Survey Baseline Assessment* from Small Arms Survey, for assessing the feasibility of collecting illegal weapons from the citizens of Kosovo. According to the results, inhabitants of Kosovo did not appear to be as attached to their weapons as commonly believed, as 47 per cent believed that there were ‘too many guns in the society’, and that weapons were not held for ‘political security reasons’ (this was quoted as the principal reason by only four per cent of the participants in the survey). The assessment stressed that more than 50 per cent respondents thought it ‘very likely’ or ‘somewhat likely’ that people in their neighbourhood would hand in their guns in exchange for investments in community.⁶⁰ Keeping in mind the skyrocketing unemployment, which was perceived as the main security threat, and the dire state of the local infrastructure, donors committed around 1 million dollars as a direct incentive for local communities that surrender substantial numbers of weapons for a project serving local priorities. However, the action failed as no single community surrendered a minimum of 300 illegal arms.⁶¹

⁵⁷ *Ibid.*, p. 141.

⁵⁸ Stephanie Schwandner-Sievers, ‘An Inconclusive Conclusion’, in Davies (ed.), *International Intervention in the Balkans*, pp. 194–217.

⁵⁹ Jasmina Glišić, Miroslav Hadžić, Milorad Timotić and Jovanka Matić, *Javnost Srbije i Crne Gore o reformi Vojske I–VII*, Centar za civilno-vojne odnose, Belgrade 2003–5.

⁶⁰ Anna Khakee and Nicolas Florquin, ‘Kosovo and the Gun: A Baseline Assessment of SALW in Kosovo’, UNDP Kosovo and Small Arms Survey, Priština/Geneva June 2003.

⁶¹ The incentive for the three most successful municipalities was \$225,000. However, all municipalities combined surrendered only 155 pieces in total. Case study in Svetlana Djurdjevic-Lukic, ‘Whose Security Matters?’ paper presented at

In short, under multiple threats for human security, typical for the peace-building process in the Western Balkans, it is extremely difficult to assess 'which problems constitute the basic human security agenda in the local micro sphere'⁶² and which should be prioritized.

2.3 Conclusion

Peace-building and human security are very new concepts, present in the security and foreign policy discourse only as of recently. The tragic events in the Western Balkans in the 1990s contributed to their formulation and topicality, but the fact that both concepts had not been in place to prevent such developments should be borne in mind. This also applies as well to judging the more recent practice of post-conflict external support for local societies. Except for the United Nations, other key international actors have not yet integrated these concepts into their foreign and security policies. Relying on analyses done in the Western Balkans, the present authors point to additional obstacles to enhancing human security in the region. The dominance of the state-building paradigm after the wars at the expense of regional and individual concerns and viewpoints weakens the fight against transnational threats, the necessary changes in security forces, and fosters continuing contests over the interpretations of grievances, relative responsibilities and guilt. When it comes to issues related to human development, in addition to the criminalization of regional economy due to conflicts and sanctions, the peace-building process has been running simultaneously with the transition from 'socialism' into 'capitalism', which includes hassle privatization and budgetary cuts. The post-conflict reconstruction of the economy and the transition to a market economy in the Western Balkans have to be viewed as intertwined, so that both tangible and socially constructed threats to human security are tackled. Perceptions do matter, and alongside the possible inability of actors who perform security threat assessments to comprehend all levels of insecurity, the problem of mapping local insecurities for individuals and communities is difficult to resolve as citizens have multiple or shifting priorities. While human security is a useful framework to strive toward freedom from fear, freedom from want and a life

the conference *External Actors' Role in State (De)Construction*, Cornell University, Ithaca, NY November 2005.

⁶² Georgieva, *Recognizing Human Dimension of Security* (2008), p. 64. This contribution presents some of insights from several round of discussion on local security threats in Macedonia. Macedonia passed the Law on Crisis Management, which includes the obligation of municipalities 'to assess risks and threats at the local level, for efficient prevention and early warning of a potential crisis situation'. See Marina Mitrevska, 'Crisis Management in the Republic of Macedonia', in Izstok Prezelj (ed.), *The Fight against Terrorism and Crisis Management in the Western Balkans*, IOS Press, Amsterdam 2008, pp. 165–72.

of dignity, it is important to bear in mind all these problems in its implementation, as the case of peace-building in the Western Balkans signals.

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3

Human Security in a Weak State in the Balkans: Globalization and Transnational Networks

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3.1 Introduction

Is the international community's post-conflict reconstruction effort in the Balkans a success or a failure? Is the glass half-empty or half-full? Recalling the hundreds of thousands killed, the streams of wounded refugees and the homes destroyed during the last decade, optimists will say it is definitely half-full. By contrast, the critics who have dismissed external efforts in the region as nothing else but self-interested imperialism, will beg to differ. Their pessimism is grounded in the doubtful and fragile sustainability of the political, economic and security processes the international community has assisted in putting into place. Indeed, the pundits are no longer concerned with a state failure and large-scale violence in the Balkans. Instead, talk of the Western Balkans 'navigating', albeit with difficulties, along the 'European path' (as opposed to post-conflict transition) is all embracing. This, however, does not diminish the fact that the region's inability to consolidate democracy remains an enduring cause of insecurity for its citizens and a source of non-traditional security threats to its neighbours and other states.

This contribution begins by positing that state weakness is the structural cause of human insecurity as experienced in the daily lives of peoples and communities in the Western Balkans. We then argue that the post-communist, post-conflict state weakness is specific in that it is functional. It serves the narrow interests of those in power and their associates rather than those of the public at large. Hence, physical security, access to employment opportunities or education, as some of the key aspects associated with the notion of human security, are not universally available to individuals and communities, irrespective of their ethnic affiliation. In handling even the most mundane aspects of every day life like getting an identity card or starting a business, the citizens in any of these states will almost by default turn first to informal channels of networks of kin and family, cynical about the state institutions' capacity and/or will to provide

the services they require. We explain the state weakness in the Western Balkans as having its roots in the legacy of the illiberal regime combined with the divisive dynamics of identity-based conflicts and economic dislocations of the globalized war economy, which have given prominence to a new breed of actors in the shape of cross-border criminal and informal networks. These networks, which combine economic, political and ethnic interests, permeate the institutions of the state and undermine the legitimacy of state-sponsored rules and the institutions implementing them. In doing so, they are the key agent behind state-weakening dynamics in the global context. Therefore the external democratization and peace-building efforts that focus on institution-building and collectivities through the standard policy agenda of post-communist, post-conflict transition are bound to be ineffective in strengthening the state. Instead, we propose that the policy response, informed by human security concerns, should be tailored so as to address the security gaps created by the weak state and should crucially involve civil society as an indispensable partner in (re)building legitimate political authority in the conflict's aftermath. While strengthening the state capacity is key to building sustainable stability in the region, this cannot be done purely from above. The involvement of civil society is therefore a necessary condition for successful state-building.¹

This contribution first situates the dominant human security critique preoccupied with operationalization in the current conceptual debates on human security. It goes on to elucidate state weakness specific to the Balkans, while relating it to the operation of transnational networks in the region. Elaborating on the networks, the contribution examines their nature and interaction with a weak state. Ultimately, this contribution demonstrates how a weak state in the Balkans can stand at the origin of multiple human security threats to individuals. The conclusion suggests a set of policy proposals aimed at strengthening the state that are based on the human security approach.

3.2 Human security and a weak state: Addressing the challenge of operationalization

The debate about the meaning and policy implications of human security has continued unabated since the concept was first pioneered in the 1994 Human Development Report. The discussion between proponents and opponents of the concept is matched by a debate among proponents

¹ A similar argument has been recently put forward in Ashraf Ghani and Clare Lockhart, *Fixing Failed States: A Framework for Rebuilding a Fractured World*, Oxford University Press, Oxford 2008.

themselves.² In the latter camp, the interpretations of the concept have, in the meantime, multiplied and even diverged, with the common denominator being the irrelevance of a traditional state-centric approach to security. As a result, there is a growing body of scholarship aiming to make sense of the debate itself.³ So which are the issues of agreement and which are the bones of contention?

Human security has been a paradigm-shifting concept in so far as it dispenses with security's focus on territory and groups, and introduces a focus on the individual, both in physical and material terms. This focus includes the recognition of, for example, the multiplicity of threats going beyond violence.⁴ Human security entails both human development and human rights and, as Gasper points out, in conceptual terms is 'perhaps the biggest Russian doll of all'.⁵ The comprehensiveness of the concept has galvanized the 'in-house' human security debate.

The key issue of contention is that of a narrow versus broad conceptualization. The former focuses primarily on violent threats and the latter goes beyond violent threats to include issues such as poverty, disease, environmental disasters and so on.⁶ The debate about the meaning of human security is ever more pertinent as it impacts directly on the parallel dialogue focusing on the policy implications of new security models. The applicability of the concept of human security has been discussed in terms of policies but also in terms of global infrastructure and the capabilities required for its implementation.⁷

This contribution joins the debate on both the conceptual and the policy fronts. It sides with the broader end of the definitional discussion. The

² This also encompasses a mid-way position, which argues that both state-centric and human security approaches are relevant in different circumstances. See P. H. Liotta, 'Boomerang Effect: The Convergence of National and Human Security Concerns', *Security Dialogue* (2001), vol. 33, pp. 473–88.

³ Shahrabanou Tadjbakhsh and Anuradha Chenoy, *Human Security: Concepts and Implications*, Routledge, London/New York, 2007; Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN: A Critical History*, Bloomington/Indianapolis, 2006; Sabine Alkire, 'Concepts of Human Security', in Lincoln C. Chen et al. (eds) *Human Insecurity in a Global World*, Harvard University Press, Cambridge, MA/London, 2003.

⁴ Marlies Glasius, 'Human Security from Paradigm Shift to Operationalisation: Job Description for a Human Security Worker', *Security Dialogue* (2008), vol. 39, pp. 31–54.

⁵ Des Gasper, 'Securing Humanity: Situating 'Human Security' as Concept and Discourse', *Journal of Human Development* (2005), vol. 6, pp. 221–45, at p. 222.

⁶ Taylor Owen, 'Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for a Threshold-based Definition', *Security Dialogue* (2004), vol. 35, pp. 373–87.

⁷ Sandra MacLean, David Black and Timothy M. Shaw (eds), *A Decade of Human Security: Global Governance and New Multilateralism*, Ashgate, Aldershot 2006; Mary Kaldor, Mary Martin and Sabine Selchow, 'Human Security: A New Strategic Narrative for Europe', *International Affairs* (2007), vol. 83, pp. 273–88.

post-conflict context with which it is preoccupied highlights the need for a comprehensive approach to security. The recent post-conflict reconstruction literature has come to appreciate the need to integrate political, economic and security approaches.⁸ Importantly, the latter have been radically redefined by a modification of the traditional military role of forceful intervention to, inter alia, separate forces, and the adoption of civilian tasks. Nevertheless, however innovative in their conceptualization of indivisibility of external interventions these arguments are, they still fall short of providing a human-security approach to reconstruction.

According to Gasper, one of the key contributions of the human-security concept lies in 'analytical integration'.⁹ And, reflecting on the post-conflict context, Uvin has called attention to a need to further understand 'the overlaps and interactions between the fields of humanitarianism, development, human rights, and conflict resolution'.¹⁰ This insight, which brings in the specific focus on the aftermath of conflict, is, however, of little prescriptive value for policy-makers. Hence, this contribution attempts to operationalize the concept. It demonstrates that the multifaceted nature of the concept of human security does not necessarily make it 'unwieldy' and 'inapplicable', as critics like to say.¹¹

To operationalize the concept of human security, we introduce the notion of a weak state as a cornerstone of the analysis. This focus is informed by a need to appreciate the 'context- and structurally dependent' character of the problems of human security.¹² Newman refines this point, highlighting the issue of the structure-agency binarity raised by the concept:

Human security has at its core the individual as an object. Some advocates of human security also identify the individual as the key vehicle for attaining security through empowerment. Yet, much human insecurity surely results from structural factors and the distribution of power, which are essentially beyond the reach of individuals.¹³

State weakness as an analytical category addresses the structural context. The human security framework shifts the focus to the state's domestic

⁸ Robin Luckham, 'The International Community and State Reconstruction in War-torn Societies', *Conflict, Security and Development* (2004), vol. 4, pp. 481–507.

⁹ Gasper, 'Securing Humanity', p. 228.

¹⁰ Peter Uvin, 'A Field of Overlaps and Interactions', *Security Dialogue* (2004), vol. 35, pp. 352–3, at p. 353.

¹¹ Roland Paris, 'Human Security: Paradigm Shift or Hot Air', *International Security* (2001), vol. 26, pp. 87–102; Alkire, 'Concepts of Human Security', p. 33.

¹² Fen Osler Hampson, 'A Concept in Need of a Global Policy Response', *Security Dialogue* (2004), vol. 35, pp. 249–350, at p. 350.

¹³ Edward Newman, 'A Normatively Attractive but Analytically Weak Concept', *Security Dialogue* (2004), vol. 35, pp. 358–9, at p. 358.

responsibilities.¹⁴ Accordingly, in what Tadjbakhsh and Chenoy call post-communist 'weakened states', such as those in the Balkans, an individual can rarely attribute his or her sense of insecurity to a single source. Whether the manifestation of insecurity is economic, legal or even physical, it can ultimately be traced to the same root: a weak state. This status is directly related to the former conflict. As Hanson puts it aptly: '[t]he problem in the Balkans is not hatred, but fear – due to lack of human security and the institutions that provide it.'¹⁵

As we will argue below, by embracing a bottom-up perspective corresponding to the paradigm shift described above,¹⁶ a human-security approach provides not just an analytical avenue to thinking about a weak state as a cause of insecurity and an obstacle to democratization and post-conflict stabilization, but it also has a prescriptive value for precise policy recommendations. The civil-society perspective bridges the distance between the state and the individual that exists in post-communist, post-conflict societies and provides an arena for the individual to transcend the context-related constraints.

3.3 Distinguishing post-communist, post-conflict state weakness

What is state weakness? It is much easier to respond by defining what it is not. Rotberg argues that strong states can be distinguished from weak states based on their levels of effective delivery of the most crucial social and political goods, ranging from an enforceable rule of law and essential freedoms to health care and education.¹⁷ Put simply, the definition of state strength assumes an ideational and functional capability: the state's ability to provide national cohesion and public goods, respectively. A large

¹⁴ Tadjbakhsh and Chenoy, *Human Security*, p. 173.

¹⁵ Sam Hanson, 'Case Study: Bosnia and Herzegovina', in Rob McRae and Don Hubert (eds), *Human Security and the New Diplomacy: Protecting People, Promoting Peace*, McGill-Queens' University Press, Montreal/Kingston 2001, p. 94.

¹⁶ This is also one of the principles of human security elaborated in *A Human Security Doctrine for Europe: The Barcelona Report of the Study Group on Europe's Security Capabilities*, 15 September 2004. Presented to the EU High Representative for Common Foreign and Security Policy Javier Solana, Barcelona, and available online at <http://www.lse.ac.uk/Depts/global/2securitypub.htm>. Accessed on 25 February 2007. These principles include the primacy of human rights, clear political authority, a bottom-up approach, multilateralism and a regional focus. We focus explicitly on the bottom-up approach to analyse policy response to human insecurity, though fully aware that none of these can be completely isolated from the others especially given a conflict and peace continuum in wars fought in a global context.

¹⁷ Robert Rotberg, 'Failed States, Collapsed States, Weak States: Causes and Indicators', in Robert Rotberg (ed.), *State Failure and State Weakness in a Time of Terror*, Brookings Institution Press, Washington, DC 2003, pp. 1–25.

diversity of manifestations and intensities of state weakness in relation to conflict can be traced to local and global dynamics as well as to political and economic factors, and their interaction. Post-communist state weakness has been increasingly recognized as a distinct subtype of a weak state. It has been crucially shaped by a unique heritage of an all-empowering communist (party) state, which, in the existing accounts of the post-communist state and its weakness, has been analysed mainly through an emphasis on elite behaviour. However, these accounts of the communist legacy in the reconfiguration of the post-communist state have overlooked the impact of conflicts as dynamic processes that obstruct or hamper state consolidation.¹⁸ Therefore, they ignore a conceptual 'grey zone' of post-communist states from the Balkans to the Caucasus where state weakness has been underwritten by the legacy of war.¹⁹

There is a need for a change of perspective when analysing state weakness, since it is primarily studied in the existing scholarship as a cause rather than a consequence of conflict.²⁰ In the war-torn post-communist space, however, conflict is constitutive of state weakness, a proposition asserted by a number of authors who zoom in on different aspects of the relationship between state weakness and conflict.²¹ What transpires from this literature is that the post-communist state weakness in the Balkans is a specific kind of state weakness, because it is also a post-conflict state weakness. Therefore, conflict legacies in the form of ideology, actors and structure continue to shape post-conflict development, including the (re)building of the state. Post-conflict weak states are underwritten by illiberal ideologies, since they are entirely legitimized by exclusive identities, forged and solidified in the course of the conflict. Further, they are populated by 'conflict entrepreneurs', who are skilful in adapting their activities, but without altering their essentially extra-legal character. Lastly, the conflict transforms the nature of the state insofar as it leads to the conflation between the state and society. A variety of non-state actors, whose

¹⁸ Arista Maria Cirtautas, 'The Post-Leninist State: A Conceptual and Empirical Examination', *Communist and Post-Communist Studies* (1995), vol. 28, pp. 379–92.

¹⁹ Charles King, 'The Benefits of Ethnic War: Understanding Euroasia's Unrecognized States', *World Politics* (2001), vol. 53, pp. 524–52.

²⁰ Boaz Atzili, 'When Good Fences Make Bad Neighbors: Fixed Borders, State Weakness, and International Conflict', *International Security* (2006/7), vol. 31, pp. 139–73.

²¹ See, for example, Ivan Krastev, 'Weak State as a Security Threat', *Südosteuropäische Mitteilungen* (2004), vol. 4, pp. 102–16; Denisa Kostovicova and Vesna Bojicic-Dzelilovic, 'Europeanizing the Balkans: Rethinking the Post-Communist and Post-Conflict Transition', *Ethnopolitics* (2006), vol. 5, pp. 223–41; Dietrich Jung (ed.), *Shadow Globalisation, Ethnic Conflicts and New Wars: A Political Economy of Intra-State War*, Routledge, London 2003; Peter Andreas, 'Criminalized Legacies of War: The Clandestine Political Economy of the Western Balkans', *Problems of Post-Communism* (2004), vol. 51, pp. 3–9.

relationships are informal, based on patronage, clientelism or criminality penetrate the state, influencing, if not outright usurping, the execution of public policy. In such a framework the state loses its clout as a provider of necessary services for the public at large and instead operates as 'infrastructure' for predatory ethnic (political and economic) elites. These elites are the key actors in the operation of informal networks that permeate the state in pursuit of partial interests. In fact their interests would be jeopardized by complete state failure; therefore control of the state directly through public offices or indirectly through nurturing links with office-holders is essential. In extreme cases, argue Ghani and Lockhart, as a result of the operation of these networks, '[g]overnment offices degenerate into little more than a springboard for organized looting'.²²

Ultimately, as a consequence of the operation of these informal networks the state weakness becomes a protracted and self-perpetuating process that generates non-traditional security threats with local and global implications. Though an obstacle both for post-communist democratization and post-conflict stabilization,²³ state weakness has hardly ever been integrated into a human security-based framework of analysis.

3.4 State weakness and transnational networks

In the course of armed conflicts, the war economy becomes the key interface between conflict-affected countries and global flows of goods, money and people and an area for the emergence of transnational networks. Through the war economy these network structures evolve into a complex web that accommodates various interests pursued by an array of diverse actors who take advantage of the ensuing disorder. These networks are diverse in their 'membership', which includes high ranking public officials representing contending political authorities,²⁴ intelligence and security personnel, members of military and paramilitary forces, economic actors, members of the diaspora, elements of organized crime and many others capable of supporting the informal nature of the contemporary war economy. The variety of actors with otherwise genuinely benevolent motives such as humanitarian organizations, international agencies or, in some cases, official businesses, are often also drawn into this web whose actors have vested interests in sustaining the war economy.

²² Ghani and Lockhart, *Fixing Failed States*, at p. 80.

²³ Marta Muço, 'Low State Capacity in Southeast European Transition Countries', *Journal of Southeast European and Black Sea Studies* (2001), vol. 1, pp. 41–54.

²⁴ In post-communist countries, they tend to include large segments of former communist party nomenclature and bureaucrats who thus continue informal practices entrenched in the old regime.

War economies serve a variety of functions;²⁵ besides financing the war effort, they are a means of survival when the formal economic system has all but collapsed, and a lucrative source of income for the 'entrepreneurs of violence'. Their underlying mechanism is an informal one. It is nurtured in a fragmented economic and political space over which a weak state fails to assert its presence, as was evident both in Bosnia–Herzegovina and Kosovo during the conflict. This fragmentation is instrumental for asserting competing claims on statehood based on exclusive (ethnic) identity lines and creating spheres of control in which the access to resources, jobs, welfare or lucrative contracts, the exercise of law or other state functions, including providing for security, depend on one's links to, and affiliation with, the particular network.²⁶ Existing borders or those established through violence become an asset that the informal structures turn to their advantage, profiting from the clandestine movement of goods and people,²⁷ both in a material and a politico-ideological sense. Thus, underneath various forms of formal separation of territories, economies and societies, there is another realm in which intense communication takes place driven by the forces of 'shadow globalization'.²⁸ The official ideology justifies violence by pointing to the defence of these very borders as the political cause – this, however, does not cover the motives driving a range of diverse protagonists of war.

The involvement of state actors in informal structures and practices, which in the thick of war involves an almost symbiotic relationship with organized crime elements,²⁹ creates a framework in which the very notions of formal, informal and criminal become blurred. It ultimately leads to the routine infringement of legal rules by the population at large, and an environment in which non-compliance with rules is tolerated. Therefore, informality as an expression of the disrespect of rules no longer applies just to networks but engulfs the society at large. Networks create an arbitrary system of rules in which it depends on one's position *vis-à-vis* the relevant network(s) whether the rules are enforced and their breach sanctioned. This, in turn, complicates

²⁵ See, for example, Christopher Cramer, *Civil War is not a Stupid Thing: Accounting for Violence in Developing Countries*, Hurst and Company, London 2006.

²⁶ There are many examples of this across conflict zones worldwide; as for the Balkans, Bosnia–Herzegovina and the Serbian enclaves in Kosovo are illustrative.

²⁷ This is depicted in the notion of 'transborder trade'. See Mark Duffield, *Global Governance and the New Wars: The Merging of Development and Security*, Zed Books, London 2002.

²⁸ These relations are best described in Peter Andreas, *Blue Helmets and Black Markets: The Business of Survival in the Siege of Sarajevo*, Cornell University Press, Ithaca, NY 2008; see also his contribution to the present volume.

²⁹ The nuances of these informal links are many. In Bosnia–Herzegovina, for example, the arrival of mujahideen fighters was condoned by Bosnian Muslim government. Among those who remained in the country after the conflict were several linked to Al Qaeda.

the reconstitution of the legitimate state-sponsored rule of law in the aftermath of conflict, perpetuating state weakness.

Informality associated with the war economy does not disappear with the cessation of open violence; nor do transnational networks dissolve. In fact, as already emphasized, the structures and the actors engaged in the war economy adapt to the post-war context. Often the main forces involved in the onset of conflict and its conduct become responsible for peace-building, which in the aftermath of contemporary conflicts involves (re)building the state. They remain or, sometimes, become public office holders beholden to their war-time links³⁰ in the pursuit of agendas that are inimical to strengthening a regularized economy and transparent political process, which makes them reluctant state-builders. The close mutual links forged in the course of the war, including at the extreme those to criminal elements, make the separation of interests difficult and sometimes even impossible, as the assassination of former Serbian Prime Minister Zoran Djindji illustrates.³¹

The context of post-war reconstruction, interlaced in most cases with economic and political transition towards a liberal order, is awash with disincentives for establishing basic pillars of effective statehood which the networks are all too ready to exploit. For example, market reforms that open up the war-damaged economy to competition coupled with the set of reforms aimed at extracting the state from the economy constitute a straightjacket that makes widespread economic revival very difficult. Instead, the informal economy tends to expand and with it criminality as its extreme manifestation. Similarly, political opening, media freedom and access to information through improved communication produce a bifurcated transition to democracy, which sustains exclusive identities.

Consequently, public office tenure is not a mandate for strengthening the state and working towards a common good, but rather is a way of securing continued access to resources for the benefit of particular groups on which the network's 'membership' draws. The privileges derived from holding the office and/or being close and having privileged access to incumbents extend beyond economic (and private) gains and include, for example, impunity and the continuation of a political role.³² The lack of genuine commitment among power holders to mobilizing resources for economic development is one of the most important reasons why strong and widespread post-war

³⁰ This is illustrated by a significant number of former government officials charged for war crimes or maintaining close links with indictees, or criminals of various sorts who took part in violence.

³¹ On the occasion of the launch of the United Nations Office on Drugs and Crime (UNODC) report on the Balkans, Antonio Maria Costa, commenting on the reduction in the ordinary crime in the region, said: 'Profiteers of the past are trying to launder their reputation and money through business and politics', *Deutsche Welle*, 30 May 2008.

³² Protection of war criminals is an extreme example.

economic recovery fails to materialize despite substantial international assistance. Political and economic reforms are delayed or pursued hesitantly as the networks interests take priority and political considerations prevail. For example, privatization of state assets is held back or implemented depending on the benefits to those close to the political authorities,³³ tax reforms are delayed or only partially implemented, privileged access to business information and/or finance provided to selected clients both domestic and foreign, former combatants are made key beneficiaries of welfare reforms, and so on. A similar conduct applies to other reforms such as, for example, the security sector or judicial reform processes where maintaining control remains essential for sustaining the type of political authority underpinned by networks.³⁴ Around any power node it is possible to identify a complex web of relations that go back to conflict and stretch outward linking to regional and global dynamics of economic exchange. Thus the benefits that the reforms are intended to bring about in respect of strengthening the state are forfeit. The influence that these networks, that bring together political, economic, financial and media elites linked to criminal elements, have on political and economic governance makes difficult strengthening positive social forces, including legitimate business that have an interest in rule-based economy and transparent political process.³⁵

An underdeveloped civil society is an additional factor aggravating the breaking of network rule that stifles reform. It makes economic recovery insufficient to generate public revenue adequate to the needs of post-conflict society, which results in an inadequate provision of public services. For many ordinary people the informal economy continues to be a source of employment and welfare that the state fails to provide for the society at large, and the disregard for rules in day-to-day life remains common practice.

At the same time, those who benefit from access to the networks that exercise effective political and economic power grow wealthy and influential

³³ This phenomenon is usually referred to as 'crony' privatization. But in the post-conflict context it is usually possible to trace complex links that go beyond the personal and financial interests of those involved and are closely associated with war and political and ideological concerns. An illustrative example is privatization in Bosnia–Herzegovina, where a number of companies have been sold not only to private but also to the state entities of neighbouring Croatia and Serbia, the two countries integrated into the 'regional war complex'.

³⁴ This has direct implications for human security. For example, in Bosnia–Herzegovina the Security Minister Taric Sadovic reported that there were an estimated 10,000 persons suspected of having committed war crimes still at large as of early 2008, *Dnevni List*, 14 April 2008. Many of these people continue to live in the areas where the alleged crimes had been committed. This, in turn, works as a deterrent to the return of refugees who had been affected by those crimes and continue to fear for their safety.

³⁵ In fact even large private enterprises often avoid paying taxes because the quality of public goods is perceived as deficient and the government corrupt, which undercuts public revenue.

while the rest of society grows more unequal and fragmented, sustaining the context in which networks-based rule is allowed to operate and reinsert itself. To some groups and individuals this informal mechanism of social regulation provides security, welfare and political representation. Ethnic 'others', however, are excluded and face multiple insecurities,³⁶ on which the state not only turns a blind eye, but is, in fact, its source. In conclusion, the privatization of decision-making through networks that replace official mechanisms of governance and create a system of discretionary rule undermines the institutional infrastructure of the state, ultimately perpetuating its weakness.

3.5 Weak civil society

The conceptualization of a weak state is inseparable from an analysis of the relationship of the political authorities with civil society. In the post-communist, post-conflict context state weakness is directly related to the weakness of civil society, which complicates the process of (re)building the state so that it can reclaim its responsibility as a security provider. Civil society in the Balkans is weak for two reasons. One is related to the legacy of Communism and conflict; the other is related to the kinds of external aid granted to civil society groups and organizations in the post-conflict period. Specifically in the post-communist setting, the weakness of civil society has been attributed to the legacy of a totalitarian system.³⁷ Ordinary post-communist citizens are disinclined to participate in voluntary organizations due to their experience under Communism, where such groups were effectively a part of the state surveillance mechanism. The weakness of civil society has also been ascribed to the conflict and ethnic nationalism, which destroys non-sectarian links.³⁸ But civil society in the Balkans is weak or, rather, weaker than it should be, also because of the type of external assistance it has received in the post-conflict period.³⁹

The number of non-state organizations as an indicator of its density has been low in post-communist societies, despite a surge in support for civil society-building since the fall of the Berlin wall. This is usually explained by a lack of trust in the state based on an experience of a totalitarian system.

³⁶ Among those most affected are ethnic minorities, particularly returning refugees as one of the most vulnerable groups in post-conflict societies.

³⁷ Marc Morje Howard, *The Weakness of Civil Society in Post-Communist Europe*, Cambridge University Press, Cambridge 2003.

³⁸ Edward Shils, 'Nation, Nationality, Nationalism and Civil Society', *Nations and Nationalism* (1995), vol. 1, pp. 93–118; Kathleen Dowley and Brian D. Silver, 'Social Capital, Ethnicity and Support for Democracy in Post-Communist States', *Europe-Asia Studies* (2002), vol. 54, pp. 505–27.

³⁹ For an overview of the role of civil society in West Balkan countries, see Wolfgang Benedek (ed.), *Civil Society and Good Governance in Societies in Transition*, Belgrade Centre for Human Rights/NWV, Belgrade/Graz, 2006.

If one understands civil society as also going beyond Western-style organizational forms and recognizes the diversity of traditional forms, then the post-communist landscape does not appear to be quite so barren.⁴⁰ However, the recourse to familial and traditional networks, while having a potentially positive effect, has also had a negative impact on state-building, fostering nepotism and corruption.⁴¹ In other words, civil society can also embody negative social capital.⁴² This is a kind of capital that is not conducive to state strengthening, as it prevents civil society from fulfilling its critical role of ensuring accountability of state actions through advocacy, articulation and representation of a multitude of interests. Furthermore, due to the nature of war economies, this 'dark side' of civil society penetrates the state itself and thus loses its autonomy from the state. Ultimately, weak civil society cannot initiate the crafting of state legitimacy.

Because of its weakness, embracing civil society as a partner in post-communist, post-conflict state building is not straightforward. Civil society-building has been criticized as futile, because, at best, it produces artificial outcomes. Nonetheless, outside aid remains critical to strengthening and developing civil society, especially in the post-communist and post-conflict space, because often states are not able or willing to provide the necessary support. The state's financial ability to support the 'third sector' is most certainly limited. But, even more importantly, the post-communist state often views civil society as its rival and competitor, and often as an alien 'Western' construct. As a result, a post-communist state is loath to provide an enabling legal environment for civil society. Further, the ethnic polarization present on a post-conflict state-level is likely to be reflected in civil society. Ultimately, in the context of a weak state, the endogenous development of civil society is too slow and is ineffective in solving weak state-related problems and, even more, in helping to legitimize the state through its interaction with society.

3.6 Towards a policy of reconstruction guided by human security concerns

The question then is this: how can human security be promoted when the state is weak and what can the human security approach offer to state-building?

⁴⁰James L. Gibson, 'Social Networks, Civil Society, and the Prospects for Consolidating Russia's Democratic Transition', *American Journal of Political Science* (2001), vol. 45, pp. 51–9.

⁴¹Mikko Lagerspetz, 'From "Parallel Polis" to "The Time of the Tribes": Post-Socialism, Social Self-Organization and Post-Modernity', *Journal of Communist Studies & Transition Politics* (2001), vol. 17, pp. 5–9.

⁴²Dimitris Sotiropoulos, 'From an Omnipresent and Strong to a Big and Weak State: Democratization and State Reform in Southeastern Europe', *Journal of Southeast European and Black Sea Studies* (2001), vol. 2, pp. 63–74.

In responding to the problem of state weakness, international aid policy has been preoccupied with institution-building as a way of (re)building states emphasizing their capacity building. As efforts in the Balkans illustrate, this essentially top-down approach has been only partially successful. It has been pursued at the expense of civil-society building, which has not been conceptualized as critical to state strengthening. A human security approach opens a space for policy opportunities geared to a bottom-up perspective for strengthening a post-communist, post-conflict weak state. Civil society can play a pivotal role in counteracting state weakness by building trust, inclusion and cohesiveness – the underpinnings of legitimate state institutions and state sponsored rule which are the essence of effective statehood.

In making the case for civil society building, we assume the ambiguous outcome of external assistance to the non-state sector since the fall of Communism in 1989 and the rediscovery of civil society by academics, activists and practitioners. The proliferation of NGOs in post-conflict and transition countries worldwide has generally not been accompanied by greater civic participation, engagement and inclusion.⁴³ Western civil society aid has favoured the creation of a mirror image of Western-style NGOs, thus overlooking the plurality of non-state associational forms.⁴⁴ The dependence of some NGOs on external donors for their very existence, programmes and activities has directly undermined the autonomy and even capacity of civil society,⁴⁵ thereby directly affecting institution-building. With externally-funded higher salaries, the NGO sector has attracted well-qualified individuals, thus contributing to the internal brain drain. Lastly, the strengthening of civil society has taken place at the expense of the state,⁴⁶ with the non-state sector emerging as an alternative service provider. Likewise, the strengthening of civil society is not a guarantee for democratic progress.⁴⁷

The human security approach is critical for establishing a convincing framework for the support of civil society in view of both the insecurities emanating from the functionally weak state and the weakening of civil society as a result of Western aid. In the Balkan context this would mean

⁴³ Armine Ishkanian, 'Democracy Promotion and Civil Society', in Martin Albrow et al. (eds), *Global Civil Society 2007/8: Communicative Power and Democracy*, Sage, Los Angeles etc., 2008, pp. 58–85, at p. 78.

⁴⁴ Jude Howell and Jenny Pearce, *Civil Society & Development: A Critical Exploration*, Lynne Rienner, Boulder/London 2001, p. 114.

⁴⁵ World Bank, 'Engaging Civil Society Organizations in Conflict-Affected and Fragile States', Report No. 32538-GLB. The International Bank for Reconstruction and Development/World Bank (2005), pp. 12–5.

⁴⁶ Claire Mercer, 'NGOs, Civil Society and Democratization: A Critical Review of the Literature', *Progress in Development Studies* (2002), vol. 2, pp. 5–22.

⁴⁷ Pauline J. Luong and Erika Winthal, 'The NGO Paradox: Democratic Goals and Non-Democratic Outcomes in Kazakhstan', *Europe-Asia Studies* (1999), vol. 51, pp. 1267–84.

elevating initiatives that tackle employment, poverty, transitional justice, reconciliation, rule of law and education, while acknowledging the challenge that the inter-relatedness and the need for simultaneous action in tackling the multiplicity of threats poses. The process of rebuilding political institutions in the aftermath of violent conflict is slow. It is often obstructed by vested interests, which prolong distorted social dynamics and reliance on informal networks and economic hardship that accompanies war that ordinary people must endure.

Engaging civil society not only opens the possibility that the issues at the core of the individual's feeling of insecurity will move to the top of the post-conflict reconstruction policy agenda, but also gives a vital stake to grassroots activities in rebuilding state legitimacy in the global age. Ghani and Lockhart argue that 'illegitimate networks will not be conquered except through hierarchical organizations that have legitimacy and are rethought in terms of orientation to both citizenship and the flows of globalisation'.⁴⁸

In other words, the essential challenge is to arrest the negative impact of shady transnational networks on the state strength, in order to begin to reap the benefits of progressive globalization. Human security should be used as a pointer to identify key issue areas, trustworthy partners and terms of engagement, in order to avoid the risk of externally assisting and strengthening illegitimate states, collaborating with conflict entrepreneurs-cum-politicians while imposing rules of the game. To be meaningful, legitimacy needs to be built from below, while the process of strengthening the state needs to go hand in hand with the mutually supportive process of strengthening civil society.

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⁴⁸ Ghani and Lockhart, *Fixing Failed States*, at p. 4.

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4

Terrorism and Organized Crime: One or Two Challenges?

Christopher Daase

4.1 Introduction

It has become common wisdom that terrorist groups and organized crime organizations are increasingly joining forces to challenge states and threaten human security worldwide. Policy makers and scholars alike claim that new and unconventional methods are needed to counter the existential risks that arise from the cooperation, convergence and merging of terrorism and organized crime. Thus, as the distinctions between terrorists and criminals fade so too must the distinctions between traditional measures fighting them. Since organized crime and terrorism have become one, a single comprehensive concept is required to counter it.

Others disagree. Although sporadic cooperation between terrorist groups and criminal organizations cannot be denied, terrorists and criminals, they argue, are too different to enter into permanent alliances or even to fuse their organizations. Thus, the famous crime-terror nexus, believed by many to be the prime menace of the 21st century, is a temporary phenomenon at best or even a figment imagined by scared governments and self-interested international organizations.

Given the fact that the crime-terror nexus has become a topic for social science research only recently, it is not surprising that the evidence used to support these propositions is sparse. What I want to do in the following, then, is (1) to describe the state of the art in this field of research, (2) to point to some theoretical and methodological problems, and (3) to reflect upon the normative implications of the crime-terror debate in the larger context of differentiation and dedifferentiation of political violence.

4.2 State of the art

Although both terrorism and organized crime have been topics of academic research for many years, the link between them has only recently come into focus. This has led politicians and scholars to believe that both are

essentially 'separate phenomena'¹ and that the crime–terror nexus is a novel syndrome. Tamara Makarenko maintains for example that the traditional distinction between politically and criminally motivated violence is eroding. She uses a one-dimensional crime–terror continuum to describe four levels of cooperation ('alliances', 'operational motivations', 'convergence' and the 'black hole'). Only after the Cold War has the nexus become a global threat, she argues. 'As a result, non-state actors, in the guise of transnational organised crime and terrorism, are directly challenging the security of the state – arguably for the first time in history.'²

Indeed, it was Bill Clinton who declared international organized crime a US national security threat by signing *Presidential Decision Directive 42* in October 1995. Around the same time, Louise Shelley concluded that transnational organized crime groups could undermine state structures not only in developing countries but also in the West if no drastic countermeasures were taken.³ However, by that time the possible link between organized crime and terrorism was not yet an issue and downplayed by terrorism specialists and criminologists alike. While both criminals and terrorists could be seen as rational actors applying similar tactics and strategies such as the use or threat of violence, murder, kidnapping and so on, they were regarded as doing so for different reasons. Criminals, the argument went, are motivated by economic gain and greed, while terrorists act in the name of ideology and political grievance. Although both act in secrecy and develop clandestine networks, only terrorist groups seek media attention and claim legitimacy for their action while organized crime groups shun publicity, but aspire to the protection of corrupt state officials (see table 4.1). Bruce Hoffman summed up: 'Perhaps most fundamentally, the criminal is not concerned with influencing or affecting public opinion: he simply wants to abscond with his money or accomplish his mercenary task in the quickest and easiest way possible so that he may reap his reward and enjoy the fruits of his labours. By contrast, the fundamental aim of the terrorist's violence is ultimately to change 'the system' – about which the ordinary criminal, of course, couldn't care less.'⁴ Criminologist R. T. Naylor seconded this view by pointing to the obvious fact that criminals commit crimes to make money while terror groups commit crimes to attain political goals.⁵

¹ Tamara Makarenko, 'The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism', *Global Crime* (2004), vol. 6, no. 1, pp. 129–45, at p. 129.

² *Ibid.*, p. 141.

³ Louise I. Shelley, 'Transnational Organized Crime: An Imminent Threat to the Nation State?', *Journal of International Affairs* (1995), vol. 48, no. 2, pp. 463–89.

⁴ Bruce Hoffman, *Inside Terrorism*, Columbia University Press, New York 1998, p. 42.

⁵ R. Tom Naylor, *Wages of Crime: Black Markets, Illegal Finance and the Underworld Economy*, Ithaca, NY 2002, pp. 44–87.

Table 4.1 Similarities and differences between organized crime and transnational terror organizations

	Organized crime groups	Transnational terror groups
Similarities	<ul style="list-style-type: none"> • are rational actors • use or threaten severe violence • use kidnapping, assassinations, extortions • act clandestinely • act illegally under national and international law • pose an asymmetrical threat to states • are highly adaptable and resilient organizations • often act in sympathetic environments • often provide social services for local communities • profit from globalization and new technologies • increasingly develop networks • are particularly strong if operating from safe havens 	
Differences	<ul style="list-style-type: none"> • are motivated by economic gain and greed • have a status quo orientation • shun media attention • do not legitimate their action • deny responsibility for their acts • develop working relations with state organizations 	<ul style="list-style-type: none"> • are motivated by political ideology and grievance • have a revolutionary orientation • seek media attention • claim legitimacy for their actions • accept responsibility for their acts • rarely develop working relations with state organizations

Even after 9/11 the 'Methods not Motives' approach remained strong. In a joint study, Louise Shelley and John Picarelli reiterated the argument that organized crime and terror groups do apply similar methods, but they still have different if not contradictory motives that keep them apart and foreclose deeper working relations.⁶ However, a few years later, the same authors (with a number of collaborators) came to a different conclusion. Applying a new analytical tool, designed after a method used by the intelligence community, and conducting several case studies, the study group found that 'the interaction between terrorism and organized crime is growing deeper and more complex all the time'.⁷ Thus, methods and motives of criminal and terror organizations may coincide at times.

⁶ Louise I. Shelley and John T. Picarelli, 'Methods not Motives: Implications of the Convergence of International Organized Crime and Terrorism', *Police Practice and Research* (2002), vol. 3, no. 4, pp. 305–18.

⁷ Louise I. Shelley et al., *Methods and Motives: Exploring Links between Transnational Organized Crime and International Terrorism*, Washington, DC 2005, vol. 4.

Since then a number of authors have found that terrorism and organized crime are not incompatible in principle. Two ways exist in which terrorism and organized crime might coalesce. First, a terror group may engage in criminal activities to finance its sustenance and activities and be drawn willy-nilly ever deeper into non-political crimes such as robbery, kidnapping, smuggling and the trade of illicit goods. Although European left-wing terror groups like the Red Army Faction in Germany declared their bank raids as legitimate acts of political appropriation,⁸ it became clear that this activity distracted the group from its true political agenda. Vice versa, organized crime groups may find it useful to engage in terror activities to coerce the state or society into acquiescence. Thus, the Sicilian Mafia carried out a number of bomb attacks near tourist sites (such as the Uffizi Galleries in Florence or the Basilica St John Lateran in Rome in 1993) in order to compel the government to revoke harsh anti-mafia legislation.⁹ The second way in which terrorism and crime unite is when terrorist and organized crime groups cooperate and exploit each other's comparative advantages. Here the link between the Albanian mafia and the Kosovo Liberation Army (KLA) during the Kosovo conflict seems to be a good example. Makarenko cites a study that describes the funding of KLA activities through mafia drug money and the protection that the Albanian mafia enjoyed by the KLA in turn to carry out its smuggling of heroin into Western Europe.¹⁰

Of course, the two ways of coalescence may concur insofar as the cooperation of terror and organized crime groups may cause the organizations to change their very identity. The Revolutionary Armed Forces of Columbia (FARC) is often cited as a prime example of a guerrilla group originally committed to social revolution, but degenerating over time into a criminal organization solely interested in material profit. In the 1990, FARC cooperated with drug cartels and received money for protection and occasional contract bombings for which the cartels were not equipped. After the death of its ideological leader, FARC's involvement with the drug trade grew deeper and the organization more and more lost sight of its political agenda. Wilkinson sums up that this has made FARC 'both in reality and popular perception, little more than a branch of organised crime, decadent guerrillas rather than genuine revolutionaries, irredeemably corrupted by their intimate involvement with narco-traffickers and their cynical pursuits

⁸ Rote Armee Fraktion, 'Dem Volk dienen. Stadtguerilla und Klassenkampf', in *Rote Armee Fraktion. Texte und Materialien zur Geschichte der RAF*, Berlin, 1997 [1972], pp. 112–44, at p. 141.

⁹ Alison Jamieson, *The Antimafia: Italy's Fight against Organised Crime*, Palgrave Macmillan, Basingstoke/New York 2000.

¹⁰ Makarenko, *The Crime Terror Continuum* (2004), pp. 132 and 136.

of huge profits from kidnapping and from their “protection” of coca and opium production, processing and shipping facilities’.¹¹

Several authors have categorized the levels of cooperation between organized crime and terrorist groups. Shelley et al. differentiate between five stages: ‘activity appropriation’ is a situation in which one group imitates the strategies of another; a ‘nexus’ exists if occasional cooperation takes place; a ‘symbiotic relationship’ develops if methods and motives start to converge; this can lead to a ‘hybrid group’ when both terror and crime activities are committed on a regular basis; the final stage is the ‘transformation’ of a group if the original activity is abandoned for a new one.¹² Similar degrees of cooperation between organized crime and terror groups have been describe by O’Malley and Hutchinson, Mincheva and Gurr, Picarelli, Makarenko, Oehme and others.¹³

Many authors note, however, that there is no inevitability in the described sequence of steps. This slightly contradicts earlier assertions by civil war researchers who argued that guerrilla groups had a natural tendency to decay into criminal organizations by increasingly being drawn into what they called civil war economies.¹⁴ The natural tendency towards greed, they argued, would sooner or later overwhelm the political grievance that motivated individuals to rebel in the first place. According to Jessica Stern, this also applies to terrorist groups. For ‘professional terrorists’, she argues, the motivation is changing: ‘grievances can evolve into greed: for money, political power, status, or attention’.¹⁵ However, by

¹¹ Paul Wilkinson, *Terrorism versus Democracy. The Liberal State Response*, Frank Cass, London 2006, p. 15.

¹² Shelley et al., *Methods and Motives* (2005).

¹³ Pat O’Malley and Steven Hutchison, *Actual and Potential Links Between Terrorism and Criminality*, Ottawa 2005; Lyubov Mincheva and Ted R. Gurr, ‘Criminal and Terrorist Networks. Gauging Interaction and the Resultant Impact on Counter-Terrorism’ (2006), unpublished; John T. Picarelli, ‘The Turbulent Nexus Of Transnational Organised Crime and Terrorism: A Theory of Malevolent International Relations’, *Global Crime* (2006), vol. 7, no. 1, pp. 1–24; Makarenko, ‘The Crime Terror Continuum’; Chester G. Oehme, ‘Terrorists, Insurgents, and Criminals: Growing Nexus?’, *Studies in Conflict and Terrorism* (2008), vol. 31, no. 1, pp. 80–93; Görgen, Thomas and Detlef Schröder, ‘Organisierte Kriminalität und Terrorismus: unvereinbare Phänomene oder gefährliche Allianzen?’, *soFid Kriminalsoziologie + Rechtssoziologie* (2008), vol. 1, pp. 9–25.

¹⁴ Peter Waldmann, ‘Gesellschaften im Bürgerkrieg. Zur Eigendynamik entfesselter Gewalt’, in *Zeitschrift für Politik* (1995), vol. 422, pp. 343–68; Philipp Genschel and Klaus Schlichte, *Wenn Kriege chronisch werden: Der Bürgerkrieg*, in *Leviathan* (1997), vol. 25, no. 4, pp. 501–17; Georg Ellwert, ‘Gewaltmärkte. Beobachtungen zur Zweckrationalität der Gewalt’, in Trutz von Trotha (ed.), *Soziologie der Gewalt, Kölner Zeitschrift für Soziologie und Sozialpsychologie* (1997), special issue 37, pp. 86–101; Paul Collier, ‘Doing Well out of War’, in Berdal, Mats and David Malone (eds) *Greed and Grievance: Economic Agendas in Civil War*, Boulder, CO 2000, pp. 91–111.

¹⁵ Jessica Stern, ‘The Protean Enemy’, *Foreign Affairs* (2003), vol. 82, no. 4, pp. 27–41, at p. 28.

subsuming the fight for power, status and attention (in short: recognition) under the concept of greed, she mixes concepts that were meant to specify two different motives for violent conduct. Be that as it may, recent scholarship suggests that the processes of privatization and economisation of civil war, guerrilla warfare and also terrorism – which do exist – are much more complex than previously thought.

A number of factors have been identified that seem to enhance the propensity of terrorist groups to engage in ordinary criminal activities or to seek cooperative relationships with organized crime groups. One factor is obviously the existence of national, ethnic or religious groups, which are transnationally organized.¹⁶ They provide the basis on which clandestine group structures and networks can build, transgressing national borders. A second factor is instability and weak statehood, which allow illicit groups to flourish. Violent conflict and war clearly enhance the chances of a crime–terror nexus to develop. Svante Cornell has shown how civil war in several countries has intensified drug cultivation, production and trade. The cooperation between criminal and rebel groups is crucial in this development.¹⁷ Thirdly, the lack of external funding has been identified as driving crime–terror cooperation. The drop in state sponsorship after the Cold War forced guerrilla organizations and terrorist groups worldwide to look elsewhere for financial and material support. This situation has intensified in the post-September 11 era. As part of the global war on terrorism, the United States has pressured the international community to crack down on both governments and charitable organizations supporting non-state violent actors. The unintended consequence though is that guerrilla and terror groups either create ‘in-house’ criminal activities or seek profitable alliances with organized crime groups.¹⁸

A key security concern today is, obviously, the possibility of nuclear terrorism. Given the fact that nuclear weapons are so difficult to build that terror groups would almost certainly fail and states – even ‘rogue states’ – would be reluctant to give sensitive knowledge and material to non-state actors, organized crime is the most likely way through which terrorists could acquire such weapons. After the end of the Cold War, large amounts of weapons-graded material have been reported stolen, particularly from Russia and other republics of the former Soviet Union.¹⁹

¹⁶ Mincheva and Gurr, ‘Criminal and Terrorist Networks’ (2006).

¹⁷ Svante E. Cornell, ‘The Interaction of Narcotics and Conflict’, *Journal of Peace Research* (2005), vol. 42, no. 6, pp. 751–60; Svante E. Cornell, ‘Narcotics and Armed Conflict: Interaction and Implications’, *Studies in Conflict and Terrorism* (2007), vol. 30, pp. 207–27.

¹⁸ Thomas M. Sanderson, ‘Transnational Terror and Organized Crime: Blurring the Lines’, *SAIS Review* (2004), vol. 24, no. 1, pp. 49–61, at p. 50.

¹⁹ Harald Müller, ‘Nuklearschmuggel und Terrorismus mit Kernwaffen’, in Kurt R. Spillman (ed.), *Zeitgeschichtliche Hintergründe aktueller Konflikte*, Zurich 1997.

In Kazakhstan, an American research team came across a weapons-grade substance, which was stored in a steel plate shelter with wooden doors and secured only with simple padlocks. There are also reports on the theft of complete nuclear weapons, although such reports are regularly disclaimed. Since 1991, the US Ministry of Defence has supported states of the former Soviet Union with the 'Cooperative Threat Reduction Initiative' to increase the safety of their nuclear arsenals and stockpiles. Little is known about the situation in other countries, however, especially in those not submitting to the standards of the International Atomic Energy Agency (IAEA) like North Korea, India, Pakistan and Israel. For a long time, the actual existence of a nuclear black market was contentious. Critics argued that it was a product created by the artificial demand of Western intelligence agencies. In the meantime, however, the IAEA has uncovered over 650 cases of illegal trade of radioactive substance since 1993.²⁰ The recently discovered activities of A. Q. Khan have demonstrated that it was possible, at least for states, to acquire advanced nuclear technology illegally. Whether non-state groups have also profited from the Khan connection is unclear. It has been reported that Pakistani nuclear scientists not only passed on nuclear technology to dubious regimes like Iran, Libya and North Korea, but also shared information about the construction of nuclear weapons with Osama bin Laden and some of his followers. Sultan Bashiruddin Mahomood, former president of the Pakistani Atomic Energy Agency, was arrested in 2001 after it had become public that he had contact with the Taliban and may have discussed the construction of nuclear weapons with Osama bin Laden and his deputy, Ayman al-Zawahiri.²¹ It is unknown, however, whether Al Qaeda is in the possession of weapons-grade uranium, plutonium or any other Weapons of Mass Destruction agent.

4.3 Research problems

The problem with all these 'findings' and with the state of the art in this field of research in general is that the evidence is sketchy at best. Obviously it is difficult and dangerous to try to find hard evidence on crime or terror, let alone the crime-terror nexus. Most available information is from law enforcement and intelligence organizations, which have of course their own views, concepts and organizational interests. Other information is provided by more or less reliable investigative journalists who may or may not have access to first hand information, which, however, is not verifiable in most

²⁰ See IAEA, *Illicit Trafficking and Other Unauthorized Activities Involving Nuclear and Radioactive Materials*, Vienna 2006, available online at http://www.iaea.org/NewsCenter/Features/RadSources/PDF/fact_figures2005.pdf, last accessed 1 June 2008.

²¹ Bruno Schirra, 'Wo steckt er?', *Cicero* (2005), no. 9, at pp. 20–24.

cases. Consequently, much of the research in this field relies on anecdotal evidence and cannot be based on hard empirical data. However, more and more case studies are being conducted that will hopefully fill some of the gaps of knowledge.

This situation allows for political exploitation of the crime–terror nexus. Spectacular events, contradictory evidence and dubious scenarios are used to create narratives communicating the impression of an imminent existential threat. A good example is the testimony of Frank Cilluffo, Director of the Counterterrorism Task Force at the Center for Strategic and International Studies when he testified before Congress in 2000 as follows: ‘Both Russia and the United States left the fields of Afghanistan in tumultuous local hands soon to be dominated by the fundamentalist Taliban not averse to the drug trade.’²² The fact is, however, that by 2001 the Taliban had reduced the poppy growing to zero. Only when they were overthrown, one year later, was Afghanistan back on track, meeting more than 75 per cent of the global demand of heroin and opium.²³

But besides political bias, analytical distortions complicate research. International Relations scholarship is still dominated by the traditional thinking of international politics as state interaction.²⁴ Non-state actors are only seldom analysed in their own right and if they are they are given solid corporate and social identities that fixes them in time and space. This reification of social groups has severely limited the ability to understand the development and change of non-state actors, especially terror and organized crime groups, in international politics. What is needed is a more dynamic understanding of agency and a more historically informed narrative of the crime-terror nexus. I will come back to this issue below.

A further complication is the notional muddle. Neither organized crime nor terrorism is a clearly defined concept. While crimes and criminal activity can be described with reference to positive law, the existence of organizations or organizational structures to further such activities is difficult to gauge – theoretically and practically. The same is true for terrorism. While terrorist deeds have been agreed upon even in UN documents, the concept of terrorism itself is hard to define. Alex Schmid uses five different frameworks to clarify the concept: (1) Terrorism as/and crime; (2) Terrorism as/and politics; (3) Terrorism as/and warfare; (4) Terrorism as/and communication; and (5) Terrorism as/and religious fundamentalism). These frameworks, he argues, are able to highlight certain features of

²² Frank Cilluffo, ‘The Threat Posed from the Convergence of Organized Crime, Drug Trafficking, and Terrorism’, in Statement Before the U.S. House Committee on the Judiciary, Subcommittee on Crime, 13 December 2000.

²³ Sanderson, ‘Transnational Terror and Organized Crime’, p. 52.

²⁴ John T. Picarelli, ‘The Turbulent Nexus Of Transnational Organised Crime And Terrorism’, p. 10.

terrorism, but at the same time obscure others.²⁵ Clearly, terrorism is illegal according to national and international law and therefore a crime. But if contrasted with 'ordinary' crime, which is seen as calculating and selfish, terrorism is regarded a political, even altruistic, activity. Such dichotomous conceptualizations have made it difficult to conceive of hybrid forms and to account for 'normal' criminal acts committed by terrorists and terrorist excesses committed by traditional criminals.

A good example of dichotomous thinking is the greed–grievance debate in the literature on civil war mentioned above. The key argument concerns the question whether non-state violent actors act for a common good responding to political grievances, or for private gain satisfying individual greed. Economic greed-theories have the advantage of not needing to engage in the analysis of political motivations since egoistic utility maximization is postulated as an axiom of rational behaviour. This allows for the subsuming of civil wars and rebellion under the rubric of criminal activity and the denouncing of political violence other than by states as illegitimate. The problem with this view is, however, that other than economic agendas cannot be detected because of the preliminary theoretical decisions – just as if political grievances were not rational. This has made the study of terrorism and the crime-terror nexus difficult, because terrorists were seen as irrational or as being on a natural path to more ordinary, that is, egoistic, criminal behaviour. Personal greed, however, does not seem to explain terrorist behaviour very well. Rather, political just as economic motivations must be taken seriously in order to account for individual and collective choices to use terrorism and to seek cooperation with organized crime groups. Hence, a promising recent innovation in the study of terrorism is to focus on 'how actors, especially states, and global economic, social or normative structures can influence the formation and maintenance of a crime-terror nexus'.²⁶

4.4 Normative implications

This brings me to the last point I want to make in this chapter. It is necessary, I believe, also to reflect on the normative implications of current debates on the crime–terror nexus since they tend to affect the phenomenon and how we perceive it. The assertion that crime and terror have traditionally been two separate phenomena is a myth. Charles Tilly has made it abundantly clear that what is legal and illegal today was not

²⁵ Alex P. Schmid, 'Frameworks for Conceptualizing Terrorism', *Terrorism and Political Violence* (2004), vol. 16, no. 2, pp. 197–221.

²⁶ Picarelli, 'The Turbulent Nexus Of Transnational Organised Crime And Terrorism', p. 5.

so in the past.²⁷ The evolution of the nation state has created the differentiation between legal and illegal markets, the open and the shadow economy. The Italian Mafia serves as prime example of organized crime that has in the past also provided alternative structures of political 'order' *vis-à-vis* the modern nation state. Thus, historically, organized crime has also been a form of political defiance that was depoliticized by the state to deprive it of its legitimacy.²⁸ Therefore, it is government laws and practices like 'trade regulations, tax provisions and prohibitions' that define and set the boundaries of the illicit global economy.²⁹

The same is true with regard to violence. War and terror are not different in themselves,³⁰ but are so because historically the use of force has been differentiated into various forms of political violence enjoying gradual degrees of legitimacy. Again, it has been government laws and practices – and increasingly global governance – that define and set the boundaries of the legal and the illegal, the private and the political, crime and terror.

The question then is what is gained and what is lost if historical differentiations like the one between crime and terrorism are erased politically, conceptually and normatively. My impression is that the crime–terror nexus debate is just another example of a trend towards the dedifferentiation of modern or rather post-modern society. This trend is just as much driven by legal governments as it is by illegal non-state actors.

All this is not to deny that at times there may be dangerous cooperation between organized crime and terrorist groups. But we should think twice if we call for the erasure of conceptual distinctions between historically distinct social phenomena, and reflect upon the normative consequences and the prudence of 'comprehensive approaches' and 'integrated strategies' to fight such evils as crime and terror.

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²⁷ Charles Tilly, 'War Making and State Making as Organized Crime', in Peter B. Evans, Dietrich Rueschemeyer and Theda Skocpol (eds), *Bringing the State Back In*, Cambridge University Press, Cambridge 1985, pp. 169–91.

²⁸ Susan Strange, *The Retreat of the State. The Diffusion of Power in the World Economy*, Cambridge University Press, Cambridge 1996, pp. 114–7.

²⁹ H. Richard Friman and Peter Andreas (eds), *The Illicit Global Economy and State Power*, Lanham, MD 1999.

³⁰ Andrew Silke, 'Terrorism and the Blind Men's Elephant', *Terrorism and Political Violence* (1996), vol. 8, no. 3, pp. 12–28.

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5

Fear of Terrorism: Coping Paradox and Gender

Sarah Ben-David and Keren Cohen-Louck

5.1 Introduction

Terrorism is psychological warfare waged on the public mind for political gains. Its aim is to paralyse the population with fear and anxiety,¹ to intimidate and to induce a sense of vulnerability² worry and concern that is disproportional to and far exceeds the actual damage it causes.³ Terrorists terrorize by using threats or physical actions to kill and injure innocent people. In other words, although terrorist acts injure and kill some victims, their ultimate goal is to cause a sense of fear, anxiety, helplessness and vulnerability among the general population. As a result, these acts evoke feelings of potential victimization⁴ unrelated to the actual probability of becoming a victim.⁵ (The fact that terrorist attacks are unpredictable creates a perception of uncontrollability, which affects one's capability of coping with the threat.⁶)

¹ Eric A. Posner, 'Fear of Regulatory Model of Counterterrorism', *Harvard Journal of Law and Public Policy* (2002), vol. 25, pp. 681–91; B. Hudnall Stamm et al., 'The Terror Part of Terrorism', *IEEE Engineering in Medicine and Biology Magazine* (2004), vol. 23, no. 1, pp. 149–61.

² Boaz Ganor, 'Terrorism as a Strategy of Psychological Welfare', *Journal of Aggression, Maltreatment and Trauma* (2005), vol. 9, pp. 33–43.

³ Nehemia Friedland and Ariel Merari, 'The Psychological Impact of Terrorism on Society: A Two-Edged Sword', in N. Milgram (ed.), *Stress and Coping in Time of War*, Brunner/Mazel, New York 1986, pp. 234–56.

⁴ Lawrence Zelic Freedman, 'Why Does Terrorism Terrorize?', *Terrorism: An International Journal* (1983), vol. 6, pp. 389–401; Alex P. Schmid and Albert J. Jongman, *Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories and Literature*, North Holland, Amsterdam, 1988.

⁵ Friedland and Merari, 'The Psychological Impact of Terrorism on Society' (1986), pp. 234–56.

⁶ *Ibid.*, pp. 234–56; Yechiel Klar et al., 'Nonunique Invulnerability: Singular versus Distributional Probabilities and Unrealistic Optimism in Comparative Risk

In Israel, terrorism is a daily reality affecting its citizens in various aspects of their everyday life. During the past few years, thousands of civilians have been killed and injured by terrorist attacks.⁷ Terrorism carries out its deadly strike at the heart of the civilian population, both in central areas and in more isolated locations. Continual exposure to the threats of terrorism elicits a sense of anxiety, helplessness and great concern.

Because of the increase in terrorism and the wide exposure it has received in the past few years due to both the radical growth in numbers of terrorist attacks and the fact that terrorism has reached places never imagined before, there has been a significant rise in the amount of research on the issue and most of it has focused on the psychological impact of terrorism.

Studies conducted in Israel reveal an amplified sense of anxiety, helplessness and increased concern.⁸ The Israeli population perceives the chance of being a victim in a terrorism attack as almost completely beyond their personal control,⁹ and although the research participants reported some level of behavioural change and precautionary measures taken against the threat, most of them were doubtful about the effectiveness of these preventive attempts (of 458 participants, 59 per cent rated their degree of control as a flat zero).¹⁰

These findings are not isolated, and are consistent with studies conducted in other environments where terrorism is a problem. For example, studies conducted in the United States have examined the psychological reaction to the ongoing effects of the events of September 11.¹¹ The findings indicate

Judgments', *Organizational Behavior and Human Decision Processes* (1996), vol. 67, pp. 229–45.

⁷ Avraham Bleich, Marc Gelkopf and Zahava Solomon, 'Exposure to Terrorism, Stress-Related, Mental Health Symptoms, and Coping Behavior among a Nationally Representative Sample in Israel', *JAMA* (2003), vol. 290, pp. 612–21.

⁸ Yecheiel Klar, Dan Zakay and Keren Sharvit, 'If I Don't Get Blown Up: Realism in Face of Terrorism in an Israeli Nationwide Sample', *Risk Decision and Policy* (2002), vol. 7, pp. 203–19; Zahava Solomon, Marc Gelkopf and Avraham Bleich, [Is Terrorism Blind to Gender? The Exposure and Reactions of Women and Men to the Intifada], vol. 2, pp. 125–45.

⁹ Rachel Dekel, 'Motherhood in a Time of Terror: Subjective Experiences and Responses of Israeli Mothers', *Affilia* (2004), vol. 19, no. 1, pp. 24–38; Klar, Zakay and Sharvit, 'If I Don't Get Blown Up', pp. 203–19.

¹⁰ Klar, Zakay and Sharvit, pp. 203–19.

¹¹ Sandra Galea et al., 'Psychological Sequelae of the September 11 Terrorist Attacks in New York City', *New England Journal of Medicine* (2002), vol. 346, pp. 982–7; William E. Schlenger et al., 'Psychological Reactions to Terrorist Attacks: Findings from the National Study of Americans' Reactions to September 11', *JAMA* (2002), vol. 288, pp. 581–8; Roxane Silver-Cohen et al., 'Nationwide Longitudinal Study of Psychological Responses to September 11', *JAMA* (2002), vol. 288, pp. 1235–44; Joan Stephenson, 'Medical, Mental Health Communities Mobilize to Cope With Terror's Psychological Aftermath', *JAMA* (2001), vol. 286, pp. 1823–5.

post-traumatic stress disorder symptoms (PTSD), symptoms consistent with depression, anxiety and a reduced sense of safety. Although the prevalence of probable PTSD symptoms was significantly higher in the New York City metropolitan area, it was shown that the psychological effects were not limited to those who experienced it directly. Research shows that the effects of the events on September 11 spread throughout the country and that although PTSD symptoms are declining, they still remain more elevated than elsewhere, and individuals continue to have substantial anxiety about future terrorist attacks.

One of the most interesting and conflicting findings in the field of terrorism is embedded within gender differences. Studies found that although women are less likely to be exposed to terrorism,¹² they exhibit higher levels of negative psychological symptoms such as anxiety,¹³ and fear of terrorism.¹⁴

The elevated reaction to terrorism and the higher level of psychological vulnerability was illustrated by the fact that women had significantly more frequent symptoms of PTSD¹⁵ and higher levels of both depression and anxiety than men.¹⁶

5.2 Fear–victimization paradox

The fact that women have a more elevated fear of terrorism than men (although men are more likely to be exposed to terrorism) strangely resembles a phenomenon from the field of the fear of crime known as the ‘fear–victimization paradox’. This paradox is manifested by the disproportion between the lower likelihood for women to become victims and the higher fear they express about becoming one.¹⁷

¹² Solomon, Gelkopf and Bleich, ‘Is Terrorism Blind to Gender?’, pp. 125–45.

¹³ Avraham Bleich, Marc Gelkopf and Zahava Solomon, ‘Exposure to Terrorism’, pp. 612–21, Avraham Bleich, Marc Gelkopf, Yuval Melamed and Zahava Solomon, ‘Mental Health and Resiliency following 44 Months of Terrorism: A Survey of an Israeli National Representative Sample’, *BMC Medicine* (2006), vol. 4, no. 21, pp. 1–11, Ruth Pat-Horenczyk et al., ‘Risk-Taking Behaviors among Israeli Adolescents Exposed to Recurrent Terrorism: Provoking Danger under Continuous Threat?’, *American Journal of Psychiatry* (2007), vol. 164, pp. 66–72; Solomon, Gelkopf and Bleich, ‘Is Terrorism Blind to Gender?’, pp. 125–45.

¹⁴ Klar, Zakay and Sharvit, ‘If I Don’t Get Blown Up’, pp. 203–19; Silver-Cohen et al., ‘Nationwide Longitudinal Study of Psychological Responses to September 11’, pp. 1235–44.

¹⁵ Bleich, Gelkopf and Solomon, ‘Exposure to Terrorism’, pp. 612–21.

¹⁶ Yori Gidron, Reuven Gal and Sa’ar Zahavi, ‘Bus Commuters’ Coping Strategies and Anxiety From Terrorism: An Example of the Israeli Experience’, *Journal of Traumatic Stress* (1999), vol. 12, pp.185–92; Silver-Cohen et al., ‘Nationwide Longitudinal Study of Psychological Responses to September 11’, pp. 1235–44; Solomon, Gelkopf and Bleich, ‘Is Terrorism Blind to Gender?’, pp. 125–45.

¹⁷ Kenneth F. Ferraro, *Fear of Crime: Interpreting Victimization Risk*, State University of New York Press, Albany, NY 1995, pp. 85–101; James Garofalo, ‘Victimization and the

This parallelism is particularly interesting in light of the fact that terrorism is significantly different from other crimes regarding its non-discriminatory nature. For its central purpose, nature and aim, terrorism does not target a specific sector of the population. Rather, it tries to plant seeds of fear and chaos far beyond its immediate victims among the wider 'public'. This allows the creation of a reality to which both men and women are equally vulnerable.

The extensive literature in the field of the fear of crime presents a variety of explanations for the higher levels of fear that are common among women. One of the widespread reasons given in the literature is called the 'shadow theory', which claims that women associate rape with different types of offences. Thus, fear of crime actually expresses their fear of rape. In other words, sexual assault may 'shadow' other types of victimization among women.¹⁸ Women reported that their fear of other crimes stems from their concern that those crimes may eventually lead to rape.¹⁹

Since the nature of terrorism differs from other crimes, as aforementioned, this reason cannot explain the gender differences that arise in the field of the fear of terrorism. However, the shadow theory does reveal an important principle that can be applied (or at least must be taken into consideration) in the research on the effects of terrorism.

It demonstrates that a substantial difference between the perception of events by men and women exists. While men tend to exhibit a kind of 'what you see is what you get' perception, for women there is much more than meets the eye.

Indeed, studies that focused on gender discrepancies revealed significant differences concerning how terrorism is perceived by each gender. Thus, an alternative interpretation concerning the gender differences in the fear of terrorism might be found in the risk assessments and perception processes that men and women who face terrorism threats undergo.²⁰

Fear of Crime', *Journal of Research in Crime and Delinquency* (1979), vol. 16, pp. 80–97; Callie M. Rennison, *Criminal Victimization 2000: Changes 1999–2000 with Trends 1993–2000*, Bureau of Justice Statistics, Washington, DC, 2001; Mark Warr, 'Public Perceptions and Reactions to Violent Offending and Victimization', in A. J. Reiss jr. and A. Roth (eds) *Understanding and Preventing Violence. Consequences and Control*, National Academy Press, Washington, DC, 1994, pp. 1–6.

¹⁸ Mark Warr, 'Fear of Rape among Urban Women', *Social Problems* (1985), vol. 32, pp. 238–50.

¹⁹ Ferraro, *Fear of Crime: Interpreting Victimization Risk* (1995); Kenneth F. Ferraro, 'Women's Fear of Victimization: Shadow of Sexual Assault?', *Social Forces* (1996), vol. 75, pp. 667–90.

²⁰ Paul Slovic, Baruch Fischhoff and Sarah Lichtenstein, 'Behavioral Decision Theory Perspectives on Risk and Safety', *Acta Psychologica* (1984), vol. 56, pp. 183–203, Paul Slovic, Baruch Fischhoff and Sarah Lichtenstein, 'Characterizing Perceived Risk', in R. W. Kates, C. Hohenemser and J. X. Kaspersen (eds), *Perilous Progress: Managing the Hazards of Technology*, Westview/Boulder 1985.

An unpublished study involving in-depth interviews with a terror-stricken population that also included quantitative research exploring the fear of terrorism presents a number of possible explanations for this paradox.²¹ The research findings showed that women and men have a fundamentally different perception of terrorism from each other and that each gender experiences the threat of terrorism with different risk assessments.

Compared to men, women perceive and evaluate the threat of terrorism as being a significantly more dangerous threat. They evaluate the threat of terrorism as posing a direct, immediate danger, not only to themselves but also to their loved ones.²² Men, on the other hand, do not perceive terrorist attacks as being an immediate threat.

Moreover, women demonstrate a higher sense of vulnerability and a lower sense of controllability over the threat of terrorism, while men believe that they will be able to control any dangerous situation and therefore they do not feel vulnerable. Thus, women's higher sense of vulnerability and lower sense of controllability indicate the perception of high risk among women. For women, terrorist attacks are not a vague threat.²³ Women perceive themselves and the people close to them as potential victims of terrorist attacks regardless of the probability that this will actually occur. One of the interesting findings in a study conducted by the present authors²⁴ showed that the perception of vulnerability is dynamic. It also indicated the existence of 'vulnerability circles', which demonstrate a dynamic vulnerability process. Women perceive themselves and the people close to them as belonging to different 'vulnerability circles', which represent different levels of vulnerability (see Figure 5.1). It was found that a gradual shift exists between different 'vulnerability circles', leading from an external circle (which represents a low level of threat) to an internal circle (which represents higher vulnerability levels). This gradual shift corresponds to a change in the way the threat is experienced – regardless of the actual probability of being a victim of terrorism.

Compared to women, the research findings indicated that men's risk perception is lower, has a higher sense of controllability and a lower sense of vulnerability. Men have a one-dimensional perception of the threat of terrorism, and regard it as concerning only themselves. It seems that men do not tend to include other people in their threat perception and are able

²¹ Sarah Ben-David and Keren Cohen-Louck, 'Fear of Terrorism and the Coping Paradox', Paper presented at the Symposium for Victimology and Human Rights: Between the Local and the Global, Jerusalem, Israel, 21 May 2007.

²² Klar, Zakay and Sharvit, 'If I Don't Get Blown Up', pp. 203–19.

²³ Solomon, Gelkopf and Bleich, 'Is Terrorism Blind to Gender?', pp. 125–45.

²⁴ Sarah Ben-David and Keren Cohen-Louck, 'Fear of Terrorism and the Coping Paradox', (2007).

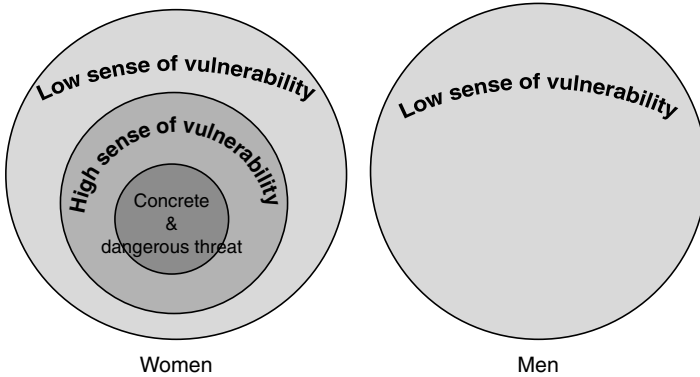


Figure 5.1 Vulnerability circles

to distance themselves from the anxieties of others. Thus, their risk perception is lower than women's.

The research findings also demonstrated that, for women, terrorist attacks instigate concern for a large amount of people. Men tend to distance themselves from concern for others. The multi-dimensional concerns of women, compared to the binary and one-dimensional concerns of men indicate that differences in the fear levels between men and women do exist.

In conclusion, women's risk perception is more generalized than men's. It includes the evaluation of risks and threats to more than just the individual itself. Consequently, women suffer from a higher fear of terrorism. Men, who do not tend to direct their emotions towards other people, have a lower fear of terrorism. Moreover, men have a tendency to deny danger.²⁵ Thus, their risk perception and their levels of fear are lower compared to those of women.

Therefore, the 'fear-victimization paradox' may be explained by the two different ways in which fear is perceived. The real difference is not truly quantitative in nature. Rather, it is directly related to perception. Women are not 'more afraid' than men; they simply fear for 'more people'.

5.3 Coping

The threat of terrorism contains various stress factors. Therefore, it may affect the psychological, physical and social well-being of an individual differently. Coping is a complex mechanism that employs behavioural and cognitive responses in order to cope with stressful situations.²⁶ The purpose

²⁵ Ronald C. Kessler and Jane D. McLeod, 'Sex Differences in Vulnerability to Understand Life Events', *American Sociological Review* (1984), vol. 49, pp. 620–31.

²⁶ Susan Folkman, 'Positive Psychological States and Coping with Severe Stress', *Social Science and Medicine* (1997), vol. 45, pp. 1207–21; Susan Folkman and Judith Tedlie

of coping is to reduce or avoid psychological stress.²⁷ Lazarus and Folkman defined coping as 'constantly changing cognitive and behavioural efforts to manage specific external and/or internal demands that are appraised as taxing or exceeding the resources of a person'.²⁸

In other words, coping is a never-ending quest for balance between the demands imposed by the stress factors in our lives and the mental resources we have available. Each cognitive or behavioural act that helps an individual to restore or achieve the balance between what seems to be an infinite stream of stress catalysts and a limited number of available resources to deal with them may be considered coping.²⁹

Coping is a vital mental skill required in order to be able to adapt to stressful situations. The different strategies applied in the struggle to reconcile the continuous conflict between negative life events and one's mental well-being can have a crucial impact on the end result.³⁰

Researchers generally agree that the general population uses three main coping strategies: problem-focused, emotionally-focused and avoidance coping. All of the above strategies aim to eventually reduce stress levels, yet the means that each one uses in order to reach the same goal differs.³¹

Problem-focused coping centres on the problem that causes the stress. It attempts, using a wider array of support techniques and complimentary strategies, to alter the source of the stress so that it no longer violates the self's cognitive and behavioural balance. One could say that problem-focused coping directs available resources inwards towards the stressor in an effort to overcome the obstacle it presents.³²

Contrary to the problem-focused strategy, the emotionally-focused strategy directs resources and attention away from the problem.³³ Emotional coping

Moskowitz, 'Positive Affect and the Other Side of Coping', *American Psychologist* (2000), vol. 55, pp. 647–54.

²⁷ Richard S. Lazarus and Susan Folkman, *Stress, Appraisal, and Coping*, Springer, New York 1984.

²⁸ *Ibid.*, p. 141.

²⁹ Richard S. Lazarus, 'The Psychology of Coping: Issues of Research and Assessment', in G. V. Coelho, David Adams Hamburg and John E. Adams, (eds), *Coping and Adaptation*, McGraw-Hill, New York 1974, pp. 170–211.

³⁰ James D. A. Parker and Norman S. Endler, 'Coping with Coping Assessment: A Critical Review', *European Journal of Personality* (1992), vol. 6, pp. 321–44.

³¹ Richard S. Lazarus and Susan Folkman, 'An Analysis of Coping in a Middle-Aged Community Sample', *Journal of Health and Social Behavior* (1980), vol. 21, pp. 219–39.

³² Margaret A. Chesney et al., 'A Validity and Reliability Study of the Coping Self Efficacy Scale', *British Journal of Health Psychology* (2006), vol. 11, no. 3, pp. 421–37; Richard S. Lazarus, *Stress and Emotion: A New Synthesis*, Free Association Books, London 1999.

³³ Lazarus and Folkman, *Stress, Appraisal, and Coping*, p. 150.

reduces stress by utilizing cognitive processes that lower and relieve distress using various strategies, such as minimization and distraction.³⁴

The third coping strategy could be defined as a radicalization of the emotional coping strategy and is termed 'avoidance coping'. This coping strategy occurs in situations in which an individual is unable to cope efficiently with the problem or with its emotional by-products. Avoidance, denial and distraction are used in order to ignore the stressor and its affects, or to avoid coping with the situation directly.³⁵

5.3.1 Gender differences

It has been widely recognized within the coping literature that gender differences do indeed exist. While women tend to use emotionally-focused coping strategies more often in stressful situations, men largely rely on problem-focused coping strategies.³⁶ Men tend to use strategies that are directed towards the stressful situation in order to change it, while women frequently look for relief through emotional and social support.³⁷ These gender differences in coping strategy become more significant when a stressful event is perceived by an individual (male or female) as ambiguous or uncontrollable.³⁸

³⁴ Chesney, 'A Validity and Reliability Study of the Coping Self Efficacy Scale', pp. 421–37; Lazarus, *Stress and Emotion*.

³⁵ Mark Anshel, 'Coping Styles Among Adolescent Competitive Athletes', *Journal of Social Psychology* (1996), vol. 136, pp. 311–23; Anita DeLongis and Sarah Newth, 'Coping with Stress', in H. S. Friedman (ed.), *Assessment and Therapy: Specialty Articles from the Encyclopedia of Mental Health*, Academic Press, San Diego, CA, 2001, pp. 139–50; Parker, 'Coping with Coping Assessment' (1992), pp. 321–44.

³⁶ Mesfin Araya et al., 'Gender Differences in Traumatic Life Events, Coping Strategies, Perceived Social Support and Sociodemographics among Post-Conflict Displaced Persons in Ethiopia', *Social Psychiatry and Psychiatric Epidemiology* (2007), vol. 42, no. 4, pp. 307–15; Bleich, Gekkopf and Solomon, 'Exposure to Terrorism', pp. 612–21; Charles S. Carver, Michael F. Scheier and K. Weintraub, 'Assessing Coping Strategies: A Theoretically Based Approach', *Journal of Personality and Social Psychology* (1989), vol. 56, pp. 267–83; Lazarus and Folkman, *Stress, Appraisal, and Coping*; J. T. Ptacek, Ronald E. Smith and Kenneth L. Dodge, 'Gender Differences in Coping with Stress: When Stressors and Appraisals do not Differ', *Personality and Social Psychology Bulletin* (1994), vol. 20, pp. 421–30.

³⁷ Stuart T. Hauser and Mary K. Bowlds, 'Stress, Coping and Adaptation', in S. S. *at the Threshold: the Developing Adolescent*, Cambridge, MA 1990, pp. 388–413; Susan Nolen-Hoeksema, 'Epidemiology and Theories of Gender Differences in Unipolar Depression', in M. V. Seeman (ed.) *Gender and Psychopathology*, Washington, DC 1995, pp. 63–87; J. T. Ptacek, Ronald E. Smith and John Zanas, 'Gender, Appraisal and Coping: A Longitudinal Analysis', *Journal of Personality* (1992), vol. 60, no. 4, pp. 747–70.

³⁸ Vincent J. Conway and Deborah J. Terry, 'Appraised Controllability as a Moderator of the Effectiveness of Different Coping Strategies: A Test of the Goodness of Fit Hypothesis', *Australian Journal of Psychology* (1992), vol. 44, pp. 1–7; Carolyn J. Forsythe and Bruce E. Compas, 'Interaction of Cognitive Appraisals of Stressful Events and

According to the 'goodness of fit' theory,³⁹ problem-focused coping is more applicable to situations that are evaluated as controllable since it produces practical solutions. Contrary to that, emotionally-focused coping and avoidance coping are less adaptive since they are directed towards the symptoms or the by-products of the problem rather than the problem itself.

However, in situations that are considered to be uncontrollable, the use of an emotionally-focused strategy was found to be more effective in reducing the negative psychological symptoms than a problem-focused coping strategy.⁴⁰

Studies conducted in Israel during the Gulf War show that under the 'Scud' missile attacks, an inherently uncontrollable situation, individuals who used problem-focused coping reported higher levels of anxiety and other negative psychological symptoms in comparison to those who used emotionally-focused and avoidance coping.⁴¹ These findings suggest that in uncontrollable situations, the use of problem-focused coping will not reduce the level of fear. Rather, it increases fear. Similar to those studies, research exploring the effects of terrorism found that the use of problem-focused coping was associated with a high level of fear.⁴² It was noted that problem-focused coping may be related to greater fear as individuals focused on the stressor, its source and its solutions. Yet, in the absence of an available solution, this type of coping re-emphasizes the uncontrollable aspects and increases the level of fear.

Coping: Testing the Goodness of Fit Hypothesis', *Cognitive Therapy and Research* (1987), vol. 11, pp. 473–85; Lazarus and Folkman, 'An Analysis of Coping in a Middle-Aged Community Sample' (1980), pp. 219–239; Linda L. Viney and Mary Westbrook, 'Coping with Chronic Illness: The Mediating Role of Biographic and Illness-Related Factor', *Journal of Psychosomatic Research* (1982), vol. 26, pp. 595–605.

³⁹ Forsythe, 'Interaction of Cognitive Appraisals of Stressful Events and Coping', pp. 473–85.

⁴⁰ Conway and Terry, 'Appraised Controllability as a Moderator of the Effectiveness of Different Coping Strategies' (1992), pp. 1–7; Norman S. Endler, Rachel L. Speer, Judith M. Johnson and Gordon L. Flett, 'Controllability, Coping, Efficacy and Distress', *European Journal of Personality* (2000), vol. 14, pp. 245–64; Folkman, 'Positive Affect and the Other Side of Coping' (2000), pp. 647–54; Forsythe and Compas, 'Interaction of Cognitive Appraisals of Stressful Events and Coping', pp. 473–85; Lazarus and Folkman, *Stress, Appraisal, and Coping*; Viney and Westbrook, 'Coping with Chronic Illness', pp. 595–605; Sandra G. Zakowski et al., 'Appraised Control, Coping and Stress in a Community Sample: A Test of the Goodness of Fit Hypothesis', *Annals of Behavioural Medicine* (2001), vol. 23, pp. 158–65; Moshe Zeidner and Donald Saklofske, 'Adaptive and Maladaptive Coping', in Moshe Zeidner and Norman S. Endler (eds), *Handbook of Coping: Theory, Research, Applications*, Wiley, New York 1996, pp. 505–31.

⁴¹ Matisyohu Weisenberg et al., 'Coping of School-Age Children in the Sealed Room during Scud Missile Bombardment and Post War Stress Reaction', *Journal of Consulting and Clinical Psychology* (1993), vol. 61, pp. 462–7.

⁴² Gidron, Gal and Zahavi, 'Bus Commuters' Coping Strategies and Anxiety from Terrorism', pp. 185–92.

5.3.2 The coping paradox

A closer scrutiny of the above studies and findings raises the obvious contradiction between the findings and the theory. On one hand, the 'goodness of fit' theory suggests that in uncontrollable and ambiguous scenarios the use of problem-focused coping will cause elevated levels of anxiety and fear. In the same situations, emotionally-focused coping reduces levels of fear and stress. There are also research findings indicating that men usually use problem-focused coping while women tend to use emotionally-focused coping. On the other hand, undisputable evidence exists that when faced with terrorism, an obviously uncontrollable scenario, higher levels of fear,⁴³ PTSD symptoms⁴⁴ and depression⁴⁵ were reported by women. Thus although, according to the 'goodness of fit' theory, higher levels of fear should have been found in men than in women, in reality the opposite was recorded. This contradiction will be referred to as the 'coping paradox'.

There are several possible solutions to the 'coping paradox', all of which are derived from the unique nature of the terrorism threat.

The present authors' 2007 research on the fear of terrorism uncovered a possible explanation for the 'coping paradox'. Until now, studies exploring terrorism found that men tend to use problem-focused coping with both general stressful situations and with terrorism specifically. The new research showed, for the first time, that when faced with the threat of terrorism, an extreme and unfamiliar situation, men tended to use a different coping strategy than that which they generally employed in other stressful situations. It was found that when facing the continuous threat of terrorism (like the situation in Israel at the time of the research), instead of using the problem-focused coping style that is dysfunctional in such situations, men used an 'adaptive style'. This is a new and unique style, characterized by employing a combination of both problem-focused and emotional-focused coping styles on a low level (because their anxiety levels are low). Apparently, by using this combination, terrorism was no longer perceived as an extreme or extraordinary situation. Rather, men tended to perceive terrorist events as part of the daily routine and maintained an adaptive or self adjustment practice towards the daily terrorist attacks in Israel. Therefore those men did

⁴³ Klar, Zakay and Sharvit, 'If I Don't Get Blown Up', pp. 203–19.

⁴⁴ Gidron, Gal and Zahavi, 'Bus Commuters' Coping Strategies and Anxiety from Terrorism', pp. 185–92; Silver-Cohen, 'Nationwide Longitudinal Study of Psychological Responses to September 11', pp. 1235–44; Solomon, Gelkopf and Bleich, 'Is Terrorism Blind to Gender?' (2004), pp. 125–45.

⁴⁵ Gidron, Gal and Zahavi, 'Bus Commuters' Coping Strategies and Anxiety from Terrorism', pp. 185–92; Silver-Cohen et al., 'Nationwide Longitudinal Study of Psychological Responses to September 11', pp. 1235–44; Solomon, Gelkopf and Bleich, 'Is Terrorism Blind to Gender?' (2004), pp. 125–45.

not feel any threat or danger, and therefore they did not feel the need to use any coping strategies.

Thus, the solution to the coping paradox, according to the study, is two-fold. First, women suffer from a higher level of anxiety or fear of terrorism than men. As was shown by the vulnerability circles, their risk perception is higher and includes the threat to more people than just themselves. Men, on the other hand, do not extend their anxiety and fear of terrorism to include threats to others. The second part of this solution can be found in the different coping styles used by women and men who face the threat of terrorism. While women use the emotionally-focused coping style (the same one they use for any other stressful situation), men resorted to the 'adaptive' coping style, which was found to be the most efficient strategy in coping with terrorism.

It can be concluded that men perceive and evaluate terrorism as less threatening than women. Due to the change from problem-focused coping to an adaptive coping style, men were able to obtain lower levels of fear.

5.4 Conclusion

This contribution presents two paradoxes that arise from research in the field of the fear of terrorism: the 'fear-victimization paradox' and the 'coping paradox'. Finding an explanation for the paradoxes requires master juggling in order to keep track of empirical facts, psychological theories and research findings. In this section, a brief summary presents the various components as a jigsaw-puzzle designed to demonstrate the multi-layered nature of the issues involved. This bottom-up approach should help to defuse the complexities.

The cornerstone of this contribution is the undisputed (and well-documented) empirical fact that women exhibit more negative psychological symptoms and show more fear of terrorism than men.⁴⁶

At first, this fact, although interesting and curious, does not seem confusing or conflicting. Yet, after delving deeper into the field of terrorism, some new factors are introduced into the equation, making it difficult to find a balance. Research discovered the following three intriguing facts:

- When facing a situation that is perceived as uncontrollable, men tend to use problem-focused coping while women usually resort to emotionally-focused coping.
- Problem-focused coping is less effective than emotionally-focused coping when the individual is presented with a vague, uncontrollable and

⁴⁶ Klar, Zakay and Sharvit, 'If I Don't Get Blown Up', pp. 203–19; Silver-Cohen et al., 'Nationwide Longitudinal Study of Psychological Responses to September 11'; Solomon, Gelkopf and Bleich, 'Is Terrorism Blind to Gender?', pp. 125–45. 46

indiscriminate threat. Moreover, in those situations, applying problem-focused coping will induce higher levels of fear.

- Terrorism is generally perceived as a vague, uncontrollable and indiscriminate threat.

An isolated view of the above three statements would predict higher levels of fear to exist among men than among women regarding terrorism. Yet the empirical facts clearly state the opposite. Thus, the 'coping paradox' emerges.

As described in the main body of the contribution, one possible explanation for the 'coping paradox' lies in the unique discovery of 'adaptive coping' mechanisms used by men. These mechanisms represent an adjustment from problem-focused coping to an adaptive coping process when living under the continuous threat of terrorism. This type of coping was found to be the most effective in situations like terrorism. Unlike men, women continued to use the emotionally-focused coping strategies that they used for all other stressful situations.

On the surface, the solution to the 'coping paradox' states that both genders have an effective coping strategy when confronted with terrorism. Hence, we would expect them to demonstrate somewhat similar fear levels. However, again, undisputable facts state that fear levels among women are higher than among men. Moreover, recent studies have shown that women not only show more fear of terrorism than men, but they also fear more, despite the fact that men are more likely to be exposed to terrorism than women. Thus, the 'fear-victimization paradox' emerges.

The resolution to the 'fear-victimization paradox' lies in the understanding that major differences in the perception of fear exist (especially the fear of terrorism, due to its uncontrollable and indiscriminate nature) between men and women. The solution to the paradox can be elegantly paraphrased by the statement that women are not more afraid, they simply fear for more people.

This contribution covers the main theories and research conducted in the field of terrorism and confronts the major dilemmas, conflicts and paradoxes. These problems were brought to a satisfactory conclusion by the presentation of an integrative explanation that accounts for the gender differences in the field.

This contribution holds in store significant implications as to the treatment of direct and indirect terror victims, who suffer from negative psychological outcomes. The understanding of the way these victims perceive the threat and their coping potential is an important component in the planning and success of the therapy. This understanding may enhance both the assessment and evaluation of the impact that exposure to terror has on them, and will assist the therapists to get a better picture of the patient's mental condition, in planning the short and long terms goals, and to evaluate the mode of the intervention.

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6

Networks and the Study of Criminal and Terrorist Organizations

Georgios Kolliarakis

6.1 The current problem landscape

In the past decade, and particularly in the time following September 2001, there has been a surge of interest in networks, both in academic research and within policy circles. A wave of scientific publications, think tank papers, and newspaper articles attempt to describe and explain current phenomena such as the turbulences in the financial markets, migration flows, transnational terrorism, or the impact of organized crime beyond national borders. On the one hand, the network trend seems to be the result of a more general paradigmatic shift away from individualist and linear explanations of complex phenomena towards more relational, systemic understandings of processes. On the other hand, networks seem to provide a prism that better captures unprecedented developments in a world that is densely interlinked through information and communication technologies as never before.

In the realm of contemporary armed conflict and the new arising challenges for security, the network paradigm has advanced to a mantra that seems to hold the secret of the success of terrorists, warlords, smugglers and traffickers, but also the promise of potential strategies to counter them. Nevertheless, the umbrella use of network models to describe such actors often takes a metaphorical character that leaves the phenomena under examination as indefinite and undefined as before. There are a number of methodological repercussions associated with the study of networks that go beyond the quality of data available. In a similar way to the framing of a terrorist act as a war-like or a crime-like phenomenon – which implicitly prescribes military or legal therapies respectively – the conceptualization of an actor as a network makes a huge difference in terms of assessing their operational and organizational capacity, as well as in terms of ascribing accountability, as opposed to framing this actor as a singular and discrete entity.

This brief methodological contribution will try to approach networks as a frame that describes a way of organizing. The focus will be directed towards

clandestine groups; that is, criminally or politically motivated actors that act most of the time in a covert way. Thereby I will make an analytical distinction between clandestine actors as networks, and clandestine actors 'in' networks. In the following part of this contribution I will examine certain core characteristics of an actor who is organized as a network, such as the centrality of nodes and the density or durability of links, as well as expose some comparative advantages and disadvantages of operating in such a mode, such as its boundary-transgressing properties, and the redundant, non-hierarchical command and control channels.

In the third part of the chapter I will examine clandestine groups as operating within networks, and focus upon the fluid opportunity structures that emerge through their interactions. Of major interest thereby is the capacity for adaptation and innovation of these groups which is generated through such internal windows of opportunity as well as through external pressure. The structural holes that warlords and gang leaders fill, as well as the dynamics of everyday coping strategies of many civilians that bring them to the brink of illicit networks, criminalized warfare and protracted low intensity conflict that result into peace spoiling, or the convergence of criminal and terrorist organizations are cases in point. In the concluding part of the chapter I will turn to a number of problems/limitations for scientific research, such as the question of the quality and quantity of data, or the criteria for the specification of the network boundary and the intermeshing of legal and illegal networks. Such aspects of the study of networks in conflict settings have not only an academic value, but much more they bear salience for security governance in conflict regions and their periphery. Understanding the instrument of networks mechanisms of member recruiting, resource acquisition or cooperation and conflict among criminal and terrorist groups will have an impact on the way we design and implement conflict resolution before, during and after peace settlements.

6.2 Clandestine groups as networks

I do not adopt the common perspective of a single 'network theory'. I take networks to be rather a paradigm or a research programme, or frame, shared across several disciplines. A major stream of research on networks comes from organization sociology and business administration, stressing the aspect of social capital. Two dimensions are of relevance thereby: firstly, the exchange of intangible goods, such as information, loyalty, solidarity or trust; and secondly, the exchange of tangible material goods, such as food, money and, in the case of criminal and terrorist groups, human resources and logistical support, such as new recruits and small arms.¹ At the same

¹ Cynthia Stohl and Michael Stohl, 'Networks of Terror: Theoretical Assumptions and Pragmatic Consequences', *Communication Theory* (2007), vol. 17, pp. 93-124;

time networks constitute socialization mechanisms, reinforcing rules of conduct but also encompassing heterogeneity of behaviours. Typical parameters for social network analysis (SNA) are the centrality of the nodes, that is, the degree of their connectivity, the frequency and durability of contacts, that is the density of links, the directionality of contacts, and, of course, the kinds of contact, which range from cooperative to conflictive. Networks manifest a considerable variation, from one-shot interactions or short-term projects to long-term relationships rooted in kin or spatial proximity.²

Beyond such measurable traits that build the basis of quantitative analyses, there are specific qualitative characteristics that shape the overall character of the network, such as the visibility (overt-covert) of the network, the legality or illegality, the degree of institutionalization or informality of contacts, the local and social embeddedness of the nodes, the cohesiveness or diversity, the core-periphery relations, and its boundaries.³ Recent analyses have borrowed insights from Organization Sociology and from Complexity Studies, to study the relational/interactionist dimension, whereby the aspect of a network consisting of variable connections between channels and nodes seems to be particularly illuminating.⁴ Therefore, transnational terrorism for example is organized unlike a hierarchical, centralized organization, in globally dispersed cells, diverse in character and intentions, with distributed control and command structures.⁵ This organization style does not follow the rationality of efficiency, as we know it from capitalist economies of big scale, or public administration, and it is not characterized by a stable, formal top-down authority.

Terrorist cells, like those of Al Qaeda, follow a pattern of temporally unstable couplings and decouplings, in a continuous integration-disintegration dynamic, that allows flow and renewal of know-how, much like in the circulation of executive managers across different transnational firm headquarters.⁶ Apart from that, coupling ties are not of uniform intensity. Realizing the old insight of the 'strength of weak ties'⁷ – contrasted to the weakness of strong ties, as in rigid hierarchical pyramids of western organizations – such

Stephen P. Borgatti et al., 'The Network Paradigm in Organizational Research: A Review and Typology', *Journal of Management* (2003), 6, pp. 991–1013.

² John Scott, *Social Network Analysis: A Handbook*, 2nd edn, Sage, Newberry Park, CA 2000.

³ Gernot Grabher and Walter W. Powell, *Networks*, Edward Elgar Publishing, Cheltenham, 2005, vols. 1 and 2.

⁴ J. Arquilla and D. Ronfeldt (eds), *Networks and Netwars*, Santa Monica 2001.

⁵ R. Marion and M. Uhl-Bien, 'Complexity Theory and Al-Qaeda: Examining Complex Leadership', *Emergence: Complexity & Organization* (2003), vol. 5, pp. 54–76.

⁶ K. Knorr Cetina, 'Complex Global Microstructures: The New Terrorist Societies', *Theory, Culture & Society* (2005), vol. 22, pp. 213–34.

⁷ Marc Granovetter, 'The Strength of Weak Ties', *American Journal of Sociology* (1973), vol. 78, pp. 1360–80.

networks are interconnected with couplings of variable intensity.⁸ They can comprise several tightly coupled cores, where solidarity, trust and ideological commitment are high, as well as peripheral, ad hoc coupled cells, such as diasporas and various affiliated groups and states, which are instrumental for getting access to financial support, ammunition, know-how transfer or fighter recruitment pools.⁹

In order to organize for criminal or terrorist goals, mere knowledge of how to do things does not result from handbooks. It is moreover the access to persons that carry tacit, non-codified expertise, that plays a crucial role, that is, it is rather 'who' you know than 'what' you know that makes a difference.¹⁰ To draw this argument further, organization sociologists have claimed that the knowledge of actors (nodes) is not as significant as the quality of the ties (channels), that is, 'how' you know them is more significant.¹¹ Besides their strength or weakness, these ties may be characterized by loyalty and solidarity, or by trust, or by weaker forms of mutual reciprocity. This accounts for the fact that networks are not homogenous, equally connected structures, but rather fluid and dynamic forms in continuous motion. Gender, ethnic or kin affiliation play a varying role for the preferential attachments within networks.¹² It seems therefore that it is the kind of links among the nodes, and not the nature of the nodes themselves that influences the character of the overall network.

According to their function, nodes in a network take behavioural traits that resemble those of 'patrons', that is, of leaders being at the cores of networks; of 'gatekeepers', that is, of regulators of membership to the network; and of 'brokers', that is of intermediaries that bring into contact nodes who belong to different networks.¹³ It is the interplay between brokerage and closure within a network, in the words of the prominent organizational scientist Ronald Burt, that results in the specific properties of each network.¹⁴

⁸ Paul Jackson, 'Warlords as Alternative Forms of Governance', *Small Wars and Insurgencies* (2003), vol. 14, pp. 131–50.

⁹ M. Basile, 'Going to the Source: Why Al Qaeda's Financial Network is Likely to Withstand the Current War on Terrorist Financing', *Studies in Conflict & Terrorism* (2004), vol. 27, pp. 169–85; M. L. Lynn, 'Organizational Buffering: Managing Boundaries and Cores', *Organization Studies* (2005), vol. 26, pp. 37–61.

¹⁰ Nigel Coles, 'It's Not What You Know – It's Who You Know That Counts', *British Journal of Criminology* (2001), vol. 41, pp. 580–94.

¹¹ Gabriele Plickert et al., 'It's Not Who You Know, It's How You Know Them: Who Exchanges What With Whom?', *Social Networks* (2007), vol. 29, pp. 405–29.

¹² Marc Sageman, *Understanding Terror Networks*, University of Pennsylvania Press, Philadelphia, 2004.

¹³ Phil Williams, 'Transnational Criminal Networks', in J. Arquilla and D. Ronfeldt (eds) *Networks and Netwars. The Future of Terror, Crime, and Militancy*, RAND, Santa Monica, pp. 61–97.

¹⁴ Ronald S. Burt, *Brokerage and Closure: An Introduction to Social Capital*, Oxford University Press, Oxford 2005.

Brokerage has an outward direction that guarantees an inflow of new ideas, information and material as well as the human resources necessary for the existence and further development of a network and its efficiency. Closure in contrast, has an inward direction, in order to guarantee corporate identity, and in the case of clandestine groups, secrecy and security. Carlo Morselli and his colleagues have called this the efficiency/security trade-off.¹⁵ This dilemmatic situation in covert networks results from the fact that they are illegal, so they have to be as loosely coupled as possible in order to safeguard their security, while, in order to become active and operate, they have to achieve a greater degree of coordination and thus visibility. These conflicting goals dictate different modes of organization: criminal networks are usually more densely-tied and 'cluster'-like than terrorist ones that are more dispersed and 'snake'-like in shape.

One of the comparative advantages of the network approach is the disentanglement of geographical proximity from social distance. This feature, known as scalability, expresses the property of networks to transgress familiar spatial/administrative entities such as neighbourhoods, cities, regions, nation states and so on. A further advantage is the fact that social network analysis does not exclusively focus on the most prominent or the most visible nodes of the network, but also on the most interconnected ones, the so-called hubs, who may be invisible brokers or gatekeepers of the network. These nodes are usually the convergence points of crucial relations that have to be intercepted if the network is to be destabilized.¹⁶ Lastly, the widespread bias that almost automatically associates networks with 'hyperconnectivity' has to be drastically reversed: empirical evidence from militant minority studies increasingly suggests that it is not the density, but the sparseness and selectivity of links that accounts for network robustness and resilience. Social and ethno-religious affiliation, which often lie at the basis of the 'small world' effect, are responsible for the preferential attachment among nodes within a network.¹⁷

Plausible as these network models may be, they face a major limitation. This is the lack of necessary and reliable data to construe a sweeping landscape representing clandestine networks and their emergence, evolution and termination. Furthermore, there is very little substantial qualitative research to illuminate mechanisms such as trust, or mechanisms of cooperation and conflict among members of a network.¹⁸ Thirdly, it has been the realist

¹⁵ Carlo Morselli and Cynthia Giguere, 'Legitimate Strengths in Criminal Networks', *Crime, Law and Social Change* (2006), vol. 45, pp. 185–200.

¹⁶ See, for example, the study on Chechnya by August Hämmerli et al. (2006), 'Conflict and Cooperation in an Actors' Network of Chechnya Based on Event Data', *Journal of Conflict Resolution* (2006), vol. 50, pp. 159–75.

¹⁷ Justin Magouirk et al., 'Connecting Terrorist Networks', *Studies in Conflict and Terrorism* (2008), vol. 31, pp. 1–16; Sageman, *Understanding Terror Networks* (2004).

¹⁸ An exception are the studies by Vincent Buskens et al., 'Consent or Conflict: Coevolution of Coordination and Networks', *Journal of Peace Research* (2008), vol. 45,

and rationalist assumptions of mainstream social scientific research that postulated fixed and constant group identities and preferences, as well as intentionally pursued goals. As a consequence, such groups are viewed to operate according to formal and unambiguous rules that prescribe how group behave and what goals they pursue.¹⁹ Such methodological lenses have been more or less blind to the contingent, dynamic character of networks and the opportunities for change once a group is networked. This is the aspect of groups in networks to which I turn in the following section.

6.3 Clandestine groups *in* networks

The distinction between groups *as* networks and groups *in* networks followed in this chapter is not solely an analytical one. There is recent evidence from the study of terrorist organizations that there is a functional link between the way groups are organized (as networks) and their operational capabilities and limitations when in contact with other actors (within networks).²⁰ The studies by H. Brinton Milward and Jörg Raab have set the agenda of studying the behaviour of dark networks in respect to their organization.²¹ Dark networks, in this sense, encompass clandestine covert groups, such as criminal, trafficking and terrorist ones. By adopting an organizational problem-solving perspective, these studies reformulate the relation between the operations within a network and the challenges in its institutional, legal or political environment. The cases studied by Raab and Milward include the operational team of Al Qaeda, arms-trafficking groups and the diamond trade in West Africa, and drug traffickers in South America. Certain features, as described below, link the organizational mode with the operational capacity of actors in networks.

Redundancy and flexibility of connections generate continuously a pool of potential collaborations among network members. This in turn results in a higher capacity for innovation. Synergies and innovation taken together dramatically enhance the adaptation potential of networks in the face of

pp. 205–22; Klaus von Lampe and Per Ole Johansen, 'Organized Crime and Trust: On the Conceptualization and Empirical Relevance of Trust in the Context of Criminal Networks', *Global Crime* (2004), vol. 6, pp. 159–84; Johanne Saint-Charles and Pierre Mongeau, 'Different Relationships for Coping with Ambiguity and Uncertainty in Organizations', *Social Networks* (2009), vol. 31, pp. 33–9.

¹⁹ Stohl and Stohl, 'Networks of Terror' (2007).

²⁰ See, for example, the report of a big RAND project: B. Jackson et al., 'Aptitude for Destruction Vol. 1: Organizational Learning in Terrorist Groups and its Implications for Combating Terrorism', *RAND Report MG-331*, Santa Monica 2005.

²¹ J. Raab and H. Brinton Milward, 'Dark Networks as Problems', *Journal of Public Administration Research and Theory* (2003), vol. 13, pp. 413–39; H. Brinton Milward and Jörg Raab, 'Dark Networks as Organizational Problems: Elements of a Theory', *International Public Management Journal* (2006), vol. 9, pp. 333–60.

internal opportunities and of external pressure. Instability and volatility on the micro-level accounts – counter-intuitively – for an overall remarkable resilience and persistence of the network. If certain cells are destroyed, or channels interrupted, this does not cause the collapse of the overall network. A distributed, flexible organizational modus like that may, of course, not have a straightforward control-and-command efficiency, and this is often the price paid.²² Yet such organization remains obviously very effective in helping to accomplish a wide spectrum of tasks, as documented by terrorist attacks by Al-Qaeda franchise organizations. A crucial point is that in such complex organizing, the aggregate properties and identity of the network are not inherent or reducible to the components of it, but are rather an emergent effect of contingent relations. In contrast to this, western bureaucracies are characterized by hierarchical control and command structures, higher stability in their identity, manifest stronger memory effects, and respectively more inertia in changing ways of thinking and acting, or adapting to new external demands.²³

The potential to generate innovation constitutes the comparative advantage of networked organizing. Under innovation we understand in this respect the development of material means (like warfare technologies), as well as the establishment of new procedural know-how and channels for recruiting new partners. Organization experts like Lin and his research group state clearly that ‘organizations can buffer the impact of a crisis and make fewer erroneous decisions through loose coupling or structural redundancy’.²⁴ Besides avoiding ‘bottlenecks’, that is, information congestion, typical of formal bureaucracies, loose couplings like those in informal settings may build a sort of sensitive early warning system, in order to respond more quickly to complex tasks and non-routine problems. On the face of both internal and external stress that challenge accuracy and timeliness of decision making, informal covert networks may prove more robust or resilient, that is, they are better at adapting to new tasks. Marc Keeney documents this in his study on the competitive adaptation of trafficking and terrorist networks to external pressure through the counterstrategies of national and international agencies.²⁵ Informal contacts allow for the exchange of both codified and non-codified knowledge in order to exchange

²² Brad McAllister, ‘Al Qaeda and the Innovative Firm: Demythologizing the Network’, *Studies in Conflict & Terrorism* (2004), vol. 27, pp. 297–319.

²³ T. Schatzki, ‘The Sites of Organizations’, *Organization Studies* (2005), vol. 26, pp. 465–84.

²⁴ Z. Lin et al., ‘Organizational Design and Restructuring in Response to Crises: Lessons from Computational Modeling and Real World Cases’, *Organization Science* (2006), vol. 17, p. 599.

²⁵ Michael Kenney, *From Pablo to Osama. Trafficking and Terrorist Networks, Government Bureaucracies, and Competitive Adaptation*, Pennsylvania University Press, University Park, 2007.

information, coordinate with one another, mobilize resources or enhance the implementation of agreements.²⁶

Heterarchy, as contrasted to hierarchy, is a term coined in Organization Studies to show that an organization that has multiple, distributed and networked control and command centres is better equipped to learn faster, facilitate knowledge transfer through horizontal channels, quickly provide correctives for mistakes, avoid risky optimizations that will not work in changing situations and generate innovation in the face of unprecedented problems.²⁷ Intelligence and capabilities through heterarchical organization are seen to reside more within relational channels, rather than in nodes. A heterarchical mode of organizing has nevertheless to cope with diversity, dissonance and incoherence – all properties traditionally viewed as undesirable and counterproductive in the light of efficiency, large-scale production or huge public administration bureaucracies. In cases that transcend the business-as-usual mode of operation, innovation is fostered by loosening the command and control ties at the cost of efficiency.²⁸ This is probably how Osama bin Laden managed Al Qaeda after 2001 in order to secure its survival in the face of enormous external pressure.²⁹ Innovation capacity contributes to a higher degree of systemic resilience. This includes the tendency to buffer or balance new incoming disturbing events by transforming past concepts and practices.³⁰

Raab and Milward inductively come to a number of propositions that can be taken as tentative policy prescriptions, but also as lines for further research. Firstly, covert networks come in all forms and shapes, just as do overt ones, but they have to remain more flexible since they need to react much faster to pressure coming from their opponents. Secondly, dark networks need territorial locations as bases, and these are usually found in

²⁶ L. J. O'Toole and K. J. Meier, 'Networking in the Penumbra: Public Management, Cooptative Links, and Distributional Consequences', *International Public Management Journal* (2006), 9, pp. 271–94; G. Dosi and L. Marengo, 'On the Evolutionary and Behavioral Theories of Organizations: A Tentative Roadmap', *Organization Science* (2007), vol. 18, pp. 491–502.

²⁷ J. A. Nickerson and T. R. Zenger, 'A Knowledge-Based Theory of the Firm – The Problem-Solving Perspective', *Organization Science*, vol. 15, pp. 617–32.

²⁸ R. D. Stacey, *Complex Responsive Processes in Organisations*, Routledge, London 2001; Ysan Carlisle and Elisabeth McMillan, 'Innovation in Organizations from a Complex Adaptive Systems Perspective', *Emergence, Complexity, and Organization* (2006), vol. 8, pp. 2–9.

²⁹ Kenney, *From Pablo to Osama* (2007); Raab and Milward, 'Dark Networks as Problems' (2003).

³⁰ M. R. Lissac and H. Letiche, 'Complexity, Emergence, Resilience, and Coherence: Gaining Perspective on Organizations and their Study', *Emergence, Complexity & Organization* (2002), vol. 4, pp. 72–94; Phil Williams, 'Transnational Criminal Networks', in J. Arquilla and D. Ronfeldt (eds), *Networks and Netwars. The Future of Terror, Crime, and Militancy*, RAND, Santa Monica 2001, pp. 61–97.

weak or failed states. Thirdly, both overt and covert networks face similar challenges in terms of integration and functional differentiation, but covert ones are under constant risk of detection, so they have to balance efficiency and security. In other words, they trade off capacity to act for persistence, and they are resilient to the extent they can successfully balance these competing tasks. Fourthly, a variety of material resources, such as territory, technology, finance, weapons and law serve as necessary – but not sufficient – conditions for the development of a network. How apt actors in networks are to adjust to a changing environment depends nevertheless on how they organize with the help of such resources, for example lack of geographic proximity and centralized structure can be compensated with information and communication technologies to add to the resilience of the network.³¹

6.4 Challenges for Security Governance and Conflict Resolution

As shown in the previous two sections, the organizational features of clandestine criminal and terrorist groups operating in networks account for their capabilities when they have to interact covertly in an adverse environment. The fluid and variable nature of the ties within a network provide shifting opportunity structures. Windows of opportunity constitute an emergent property of a network, which, together with the actors' preferences and strategies shapes their behaviour. The perspective of the emergent opportunity structures accounts for three major challenges for contemporary security governance and conflict resolution³² shortly discussed below: firstly, actors that become spoilers of conflict settlements; secondly, corrupted political economies that undermine young or fragile states; and thirdly, the convergence of criminal and terrorist groups.

Edward Newman and Oliver Richmond from the UN Peacebuilding Commission have initiated a research agenda that views spoiling not from the perspective of spoilers, that is, of actors that in a resolved and premeditated way obstruct a peace process. They treat the whole array of actors that participate in a conflict setting as potential spoilers, depending upon the opportunity structures that provide the incentives for spoiling behaviour.³³ Their analysis encompasses the whole network of state institutions (ministries, law-enforcement agencies), political parties, international organizations, non-governmental organizations, broadcasting media, private military

³¹ Raab and Milward, 'Dark Networks as Problems' (2003), pp. 413–39; Milward and Raab, 'Dark Networks as Organizational Problems' (2006), pp. 333–60.

³² Mette Eistrup-Sangiovanni, 'Transnational Networks and New Security Threats', *Cambridge Review of International Affairs*, vol. 18, pp. 7–13.

³³ Edward Newman and Oliver Richmond, 'Peace Building and Spoilers', *Conflict, Security & Development* (2006), vol. 6, pp. 101–10.

organizations, militia leaders, ethno-separatist groups, diasporas, regional and transnational trade partners, neighbouring states, religious institutions and civilians. The asymmetric relations and unequal resources of the actors in that nexus influence their cost/benefit calculus to a far higher degree than usually assumed, so that they opportunistically shift their strategies and goals, undermining the resolution or the peace consolidation process.

Similarly, Kelly Greenhill and Solomon Major claim that spoilers are not born but made, depending on the opportunity windows that arise in exchange networks during and after conflict settlement. They use a capabilities-based model to find out when spoiling behaviour emerges or retreats, and test it in the civil war cases of Angola, Mozambique and Cambodia. Besides the domestic opposition's relative power, the results indicate that it is external actors and the resources (tangible and intangible) they bring into the conflict resolution game that determines such behaviour.³⁴ August Hämmerli and his colleagues found something similar in their sociometric study on Chechnya, where the crucial hubs encompassed profiteers with an interest in the continuation of fighting.³⁵ In Ken Menkhaus's case study on Somalia, it is survival networks that degenerate into clusters of profiteers, which in a vicious circle keep a fragile state weak and prevent proper state and institutional building.³⁶ The study on Bosnia by Lyubov G. Mincheva and Ted Robert Gurr in this volume argues that it has been the connection between the transnational jihadist networks and the local nationalist but moderate Islamists that dramatically enhanced the capacity of the latter to wage war and further destabilize a fragile peace agreement.³⁷

A second bloc of issues is weaved around the institutional weakness of fragile states with limited de facto sovereignty. This is often the case in countries with ethnoseparatist movements and war-torn regions, such as the Balkans, the South Caucasus and Western Africa. A number of recent studies have approached the thematic of warlords and militia leaders from the perspective of the structural holes they fill. According to such accounts, such illicit actors are parts of alternative forms of governance, where central government is absent or ineffective.³⁸ On the one hand they exploit and privately profit from public resources, while simultaneously they fulfil a

³⁴ Kelly M. Greenhill and Solomon Major, 'The Perils of Profiling. Civil War Spoilers and the Collapse of Intrastate Peace Accords', *International Security* (2007), vol. 31, pp. 7–40.

³⁵ August Hämmerli et al., 'Conflict and Cooperation in an Actors' Network of Chechnya Based on Event Data' (2006).

³⁶ K. Menkhaus, 'Governance without Government in Somalia. Spoilers, State Building, and the Politics of Coping', *International Security* (2007), vol. 31, pp. 74–106.

³⁷ Lyubov G. Mincheva and Ted R. Gurr, 'Unholy Alliances: Evidence on Linkages between Trans-State Terrorism and Crime Networks: The Case of Bosnia', in this volume.

³⁸ K. Menkhaus, 'Governance without Government in Somalia' (2007), pp. 74–106.

regional administrative role, such as raising taxes, administering justice and maintaining a certain degree of order, oppressive and selective as it might be.³⁹ In this respect, actors such as rebel organizations are never mere criminal gangs, as often simplistically claimed, but take advantage of opportunity structures and get organized in order to perform multiple, political, financial, trade and social tasks. Irrespective to the legality or illegality of such actors, this approach accounts for their resilience on the basis of the high degree of legitimacy they enjoy among a considerable part of the population. This seems to explain the widespread acceptance of the Taliban in Afghanistan or of the clan militias in Somaliland and in Puntland in Somalia, despite the brutal coercive strategies they follow.⁴⁰ Such networked governance is based upon informal linkages, such as state-like foreign relations to international trade partners and other gangs in the neighbouring countries, media propaganda and control of local resources and infrastructure, as in the contemporary case of Kosovo and its links to Albanian groups. On the one hand, informal and illicit markets as well as nepotism in public administration fill in the gaps that the formal rule of law and politics cannot in the everyday. On the other hand, they seriously undermine state-building.

In a broader sense, criminalized warfare or political economies in the post-settlement phases of conflict are serious impedances to permanent peace building and state reconstruction. When black markets that used to fund warfare survive conflict settlement and go on to establish a network of profit, they do not always lead to a mutually hurting stalemate, but foster instead protracted low-intensity conflict where most of the participants draw a benefit.⁴¹ This has been the case in the unrecognized, ethnoseparatist regions of South Ossetia, Transnistria, Moldova and Abkhazia in the South Caucasus, as documented in Charles King's study, where it seems difficult to overbid the incentives such corrupted state and non-state actors have within the conflict-criminal economy nexus.⁴² The beneficial shadow economies of stalemate are equally well documented in the case of Bosnia. While conflict actors resort to criminal business in order to

³⁹ Stathis N. Kalyvas, "New" and "Old" Civil Wars. A Valid Distinction?, *World Politics* (2001), vol. 54, pp. 99–118.

⁴⁰ Paul Jackson, 'Warlords as Alternative Forms of Governance' (2003); Kimberly Marten, 'Warlordism in Comparative Perspective', *International Security*, vol. 31, pp. 41–73.

⁴¹ Monika Heupel, 'Shadow Trade War Economies and Their Challenge to Peacebuilding', *Journal of International Relations and Development* (2006), vol. 9, pp. 140–69; Walter Kemp, 'The Business of Ethnic Conflict', *Security Dialogue*, vol. 35, pp. 43–59; Achim Wennmann, 'Resourcing the Recurrence of Intrastate Conflict: Parallel Economies and Their Implications for Peacebuilding', *Security Dialogue* (2005), vol. 36, pp. 479–94.

⁴² Charles King, 'The Benefits of Ethnic War. Understanding Eurasia's Unrecognized States', *World Politics* (2001), vol. 53, pp. 524–52.

fund warfare, their aptitude to transform in the post-settlement period within their existing network of contacts is remarkable. In other words, the opportunity structures that arise within the conflict network provide the actors with the capability of transformation and adaptation to new environmental conditions, by changing their preferences and strategies. Based on their violence expertise they turn into criminal profiteers that have an interest in the continuation of the conflict within a lax system of formal state control, as Peter Andreas and Timothy Donais document in their studies.⁴³ Dejan Anastasijevic in this volume maps the current criminal landscape of the Balkans, documenting that revenue from drug trafficking can be a substantial although dark percentage of a state's overall domestic product.⁴⁴

A third issue of concern has been for the past couple of years the convergence of organized crime and terrorist groups. This phenomenon applies most commonly to the involvement of terrorist groups in criminal activities as a source of funding. Particularly after the intensification of the combat against terrorist financing, transnational terrorist organizations such as Al Qaeda reacted not with extinction, but with increased dispersion and local anchoring in order to find access to funds.⁴⁵ Moreover, there is evidence of alliances formed between smuggling and trafficking groups and with armed groups possessing the expertise to protect the former. Such processes have led to a symbiosis of a new quality, whereby the distinction of politically and criminally motivated violence is often blurred.⁴⁶ Roughly speaking, politically motivated groups are interested in the subversion of the status quo, while criminally motivated ones have an important stake at maintaining it, so that they can keep on operating. Furthermore, while illicit revenue is the goal for criminal organizations, it is the means for politically motivated organizations. Vice versa, violence is the goal for terrorist organizations, whereas only an instrument to their purpose for organized criminal groups. Nevertheless when such actors merge within a network the emergent clandestine actions seem to be multifunctional in both directions. Usually, crispy denominations such as 'criminal' or 'terrorist' provide clarity

⁴³ Peter Andreas, 'The Clandestine Political Economy of War and Peace in Bosnia', *International Studies Quarterly* (2004), vol. 48, pp. 29–51; Timothy Donais, 'The Political Economy of Stalemate: Organized Crime, Corruption and Economic Deformation in Post-Dayton Bosnia', *Conflict, Security and Development* (2003), vol. 3, pp. 359–82.

⁴⁴ Dejan Anastasijevic, 'Getting Better? A Map of Organized Crime in the Western Balkans', in this volume.

⁴⁵ C. Dishman, 'The Leaderless Nexus: When Crime and Terror Converge', *Studies in Conflict and Terrorism* (2005), vol. 28, pp. 237–52.

⁴⁶ Tamara Makarenko, 'The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism', *Global Crime* (2004), vol. 6, pp. 129–45.

for policy makers, but do little service to the diagnosis of a messy reality.⁴⁷ Known cases, although not always surmounted by sufficient empirical evidence, are the entanglement between FARC and Mexican cocaine traffickers, Al Qaeda and Liberian warlords (diamonds) or with Central Asian and North Caucasian groups (heroin), or the ties between the Albanian Mafia and the Kosovo Liberation Army (KLA).⁴⁸ In this volume Mincheva and Gurr show the existence of such ‘marriages of convenience’ in the case of Bosnia.⁴⁹ In any case, the correct interpretation of motives and preferences of clandestine networks is a presupposition for the right choice of counter-strategies, and this poses an additional challenge for security governance.

Defining the boundaries of a clandestine network is consequently a tricky task in many senses, since it can be politically instrumentalized and abused by security analysts and public administration officials, who usually tend to overstate the salience of dark networks in order to forward restrictive measures. It should be clear at this point that the validity and completeness of covert network data will remain a problem that not even the most careful intelligence agencies and law enforcement officials can circumvent. Still, sweeping definitions of who poses a critical threat for state security have posed a challenge for the US administration in the past couple of years: Arbitrary boundary specifications have repeatedly misguided interventions to combat the targeted networks, such as in the cases of Afghanistan, Pakistan, Iraq and Somalia.⁵⁰ Criteria of network membership should include – beyond mere ideological affinity – coordination, control and membership integration, if the network approach is not to become a catch-all, ineffective analytical instrument for security governance. In phases of transition from violent conflict to stability and peace it is of crucial relevance for policy makers to differentiate parts of the dark networks that could be negotiated with and become institutionally accommodated and re-politicized, from those parts that could be productively marginalized or persecuted. Currently, Bosnia and Herzegovina experiences radicalization and polarization tendencies, and Kosovo is still a very fragile state-like entity that has to be stabilized.

This leads me to the politically controversial issue of when it is acceptable to negotiate with whom, without risking the certification and recognition of illicit actors and induce them to spoiling behaviour. Empirical research has documented that actors in dark networks can be both problems and

⁴⁷ Steven Hutchinson and Pat O’Malley, ‘A Crime-Terror Nexus? Thinking on Some of the Links between Terrorism and Criminality’, *Studies in Conflict & Terrorism* (2007), vol. 30, pp. 1095–107; John T. Picarelli, ‘The Turbulent Nexus of Transnational Organized Crime and Terrorism: A Theory of Malevolent International Relations’, *Global Crime* (2006), vol. 7, pp. 1–24.

⁴⁸ Hutchinson and O’Malley, ‘A Crime-Terror Nexus?’ (2007).

⁴⁹ Mincheva and Gurr, ‘Unholy Alliances’, in this volume.

⁵⁰ Stohl and Stohl, ‘Networks of Terror’ (2007).

problem-solvers, by privately benefiting and undermining legitimate institutions, but at the same time providing solidarity buffers and financial security to wide parts of the population.⁵¹ Such coping strategies are the heart of the ambivalence that security governance and post-conflict peacebuilding increasingly face. By destroying such illicit networks it can occur that a great deal of the reconstruction potential in the local political economies gets lost. It is most probably a combination of a methodological and ideological bias on the side of researchers and policy makers to recognize only tribalism, chaos and anarchy in conflict regions, compared to the institutionally regulated sovereign states in the North-American and European West. The truth is, though, that even in conflict-torn or in post-conflict regions, informal ties within clandestine networks do their job pretty well, and that is the reason why they seem to be so persistent despite the fact that our analytical lenses are blind to that sort of local governance orders. The dilemma exists in the choice of instruments in order to balance justice, security and peace building, by selectively accommodating or marginalizing certain actors without disrupting the social fabric in the societies that host such clandestine networks. This constitutes not the least an understudied topic for research, that is, the study of the interfaces and entanglements between legal and illegal networks.⁵²

In concluding this brief research note, I turn to the elementary components of a network, its nodes and its links. In order to grasp the organizational complexity and operational specificities of the 'new' forms of conflict and insecurity, as they are materialized by clandestine criminal and terrorist networks, 'we must move beyond structure and topology and start focusing on the dynamics that take place along the links. Networks are only the skeleton of complexity, the highways for the various processes that make our world hum' in the words of Albert Barabasi.⁵³ Indeed, in order to understand the formation, evolution, transformation and eventually termination of networks we increasingly have to focus less upon their static building elements, that is, the individual actors, but rather upon the changing relationships among them. It is the various and variable links that give a network a certain character, and consequently it is there where policy and strategy should intervene, by draining up links or reinforcing others, in order to control and steer them.

⁵¹ Andreas, 'The Clandestine Political Economy of War and Peace in Bosnia' (2004); King, 'The Benefits of Ethnic War' (2001); Menkhaus, 'Governance without Government in Somalia' (2007), pp. 74–106.

⁵² Carlo Morselli and Cynthia Giguere, 'Legitimate Strengths in Criminal Networks'; Michael Stohl, 'Networks, Terrorists and Criminals: The Implications for Community Policing. Crime', *Law and Social Change* (2008), vol. 50, pp. 59–72.

⁵³ Albert-Laszlo Barabasi, *Linked: The New Science of Networks*, Perseus, Cambridge, MA 2002, p. 225.

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7

Money Laundering and Financing Terrorism: Legal Distinctions

Marianne Hilf

7.1 Preliminary remarks

In recent years, an important development at the international level has been observed: measures taken in combating organized crime – such as the criminalisation of money laundering, the creation of regulations to improve the detection of profits, and their seizure as well as confiscation or forfeiture – represent instruments that should now also be implemented to some extent to combat terrorism. This deals primarily with the control over the flow of money and access to assets that at least appear to be suspicious.¹

Accordingly, in the year 2002 Austrian legislation complied with international obligations and introduced not only specific additions regarding confiscation and forfeiture as well as terrorism offences, but also the crime of *financing terrorism* (sect. 278d StGB), which was simultaneously adopted in the list of predicate offences for money laundering (sect. 165 StGB) – for the exact wording of these two offences, see sections 7.3.1 and 7.3.2 below.²

The continual expansion of the list of predicate offences for money laundering, incidentally, constitutes the major further development regarding the statutory offence of money laundering. Since its introduction in Austria in the year 1993, existing amendments to meet international obligations have not once reduced the breadth of the statutory offence of money laundering despite numerous attestations to its (already) limitless scope. On the contrary, they have always expanded the list of predicate offences.

Special thanks are owed to Karen Pommer for the translation of the German manuscript.

¹ See Hans-Jörg Albrecht, 'Vorwort', in Michael Kilchling (ed.), *Die Praxis der Gewinnabschöpfung in Europa, Eine vergleichende Evaluationsstudie zur Gewinnabschöpfung in Fällen von Geldwäsche und anderen Formen Organisierter Kriminalität*, Kriminologische Forschungsberichte aus dem Max-Planck-Institut für ausländisches und internationales Strafrecht, Freiburg im Breisgau 2002, p. v.

² Strafrechtsänderungsgesetz 2002 (BGBl I 2002/134).

It is exactly this creation of an independent statutory offence of financing terrorism and its subsequent inclusion among the predicate offences for money laundering that represent a new element in the criminal law enforcement concerning money laundering. However, this creates problems in the field of legal dogmatics, in practice and in legal policy, relevant to all national legal systems that implement the relevant international obligations. In order to illustrate the problems that arise, the following observations will focus on concrete examples of the Austrian legal system. Beginning with the criminal policy objectives with respect to the offence of money laundering, the relationship between financing terrorism and money laundering will be investigated. Subsequently, the question arises whether or not the constellation of terrorism financing as a predicate crime of money laundering is conceivable (and if so, how). A further question arises concerning the legal consequences.

7.2 On the relationship between money laundering and financing terrorism – preventive aspects of the criminalisation of money laundering

7.2.1 On money laundering as subsequent support of the previous offender

From the perspective of the (unpunished) previous offender, money laundering serves to obscure the criminal origins of profits after-the-fact as well as to create the pretence of a legal source of the acquired assets. For the money launderer, these actions are a subsequent support of the previous offender.³ Money laundering is therefore a value-maintaining legal or actual operation that attempts to obfuscate the criminal origins of assets in order to provide them with the appearance of legal procurement.⁴

Of course, if need be, some of the – laundered – money also flows back into new criminal activities. A goal of criminal policy in the criminalization of money laundering is surely and primarily to prevent dirty money resulting from criminal acts from flowing to background operators as apparently legal profits or assets that are now seemingly legal and can be invested anew in criminal enterprises – in both cases with the purpose of obscuring the paper trail and circumventing punishment and the confiscation claims of the state.⁵ The original policy objective is certainly to prevent contaminated assets from affecting the integrity of the financial system.⁶ This should

³ Albin Dearing and Marianne Hilf, *Geldwäsche und Terrorismusfinanzierung*, vol. 8, pp. 5 et seq, in preparation.

⁴ Wolfgang Bogensberger, 'Die Bestrafung der Geldwäscherei – Gefahr oder Chance für die Banken?', *ÖBA* (1992), vol. 40, pp. 1049 et seq.

⁵ See Eckart Rainer, *Salzburger Kommentar zum Strafgesetzbuch*, sect. 165 para. 1–4 no. 11.

⁶ See Diethelm Kienapfel, *Grundriss des österreichischen Strafrechts, Besonderer Teil II (BT II)*, 3rd edn, Vienna 1993, sect. 165 no. 3; Kurt Kirchbacher and Walter

prevent or impede the utilization or disposition of (sizeable) assets acquired through committing certain crimes or those belonging to criminal or terrorist organizations.

In this sense, the statutory offence of money laundering serves in the first place to combat underlying profit-oriented crime.⁷ The criminalization of subsequent actions lessens the incentive to commit the original act. One can ascertain a preventive approach to explain the punishability of subsequent offences.⁸

7.2.2 On money laundering as support for future punishable actions

Sect. 165 para. 5 of the Austrian Penal Code (*StGB*) subjects the following to punishment: (intentional) organization-related money laundering, pertaining to assets of criminal as well as terrorist organizations (under their instructions or in their interest). Whereas a criminal organization lives from crimes committed and these coincidentally represent their primary source of income, this is not the case for terrorist associations. As a rule, terrorism is not solely or primarily financed through profits from punishable actions. These represent only one source of financing among others. With respect to the assets of criminal organizations, the fact that organization-related money laundering is punishable *de facto* does not imply a total abandonment of a predicate relationship, but at least a loosening of the same.⁹ This is all the more true with respect to the assets of terrorist associations.

But exactly this offence of criminal organization-related money laundering has a strong preventive connotation. The dangerousness of the designated organizations should be countered by preventing the investment of assets in criminal activities. This preventive goal especially justifies loosening the proof for the predicate relationship.¹⁰

In the case of predicate offence-related money laundering, portions of the assets managed by money launderers can naturally also be invested

Presslauer, *WK*, sect. 165 no. 3; see also Christian Bertel and Klaus Schwaighofer, *Österreichisches Strafrecht, Besonderer Teil I*, 10th edn, Vienna 2008, sect. 165, 165a no. 1.

⁷ Peter Lewisch, *Strafrecht, Besonderer Teil I*, 2nd edn, Vienna 1999, p. 278.

⁸ Helmut Fuchs, *Grundsatzdenken und Zweckrationalität in der aktuellen kriminalpolitischen Diskussion*, in Helmut Fuchs and Wolfgang Brandstetter (eds), *Festschrift für Winfried Platzgummer zum 65. Geburtstag*, Vienna, 1995, p. 430; Dearing and Hilf, *Geldwäsche*, p. 9.

⁹ Dearing and Hilf, p. 11.

¹⁰ *Ibid.*, p. 11 (A consequence of the mentioned preventive alignment lies in the discarding of the privilege for predicate offenders in organization-related money laundering: whoever already participated as a perpetrator in the criminal material gain of assets can be punishable for safekeeping, investing, converting and so on, under the money laundering offence.)

back into the committing of crimes. In this way, money laundering is not actually a subsequent offence, but a predicate offence with respect to future punishable actions.¹¹

In the case, however, that the alleged (statutory) ‘money laundering’ serves only to invest – or to be more precise: consists solely of investing – criminally acquired money immediately into further criminal actions, and therefore is not a matter of true laundering, the question arises whether a separate punishment for money laundering is appropriate or whether the statutory offence of money laundering overshoots the mark here in terms of what makes sense in criminal policy. Ultimately this would mean that the preparatory phase or maybe even the execution phase of (other) offences are criminalized as money laundering, despite the fact that the criminal intention is not directed at actual laundering of assets.¹² The question of limiting the statutory offence of money laundering can be raised at least for those cases in which, through the alleged act of money laundering, another (the financed) offence is committed at the same time (see example below).

The Austrian statutory offence of (predicate offence-related as well as organization-related) money laundering, formulated according to international specifications, undoubtedly includes such behaviours: according to sect. 165 para. 2 and para. 5 StGB, a true ‘laundering’ intention is not required. Conscious knowledge is required, but only with respect to the origin of assets and their acquisition or transfer.

7.2.3 On money laundering with respect to asset components derived from financing terrorism

This preventive approach now obtains a new dimension due to the creation of the statutory offence of terrorism financing and its inclusion in the programme of measures against money laundering. The fact that financing terrorism itself is punishable should not be cast in doubt in light of the necessity for special strategies in combating terrorism.

Moreover, the inclusion of terrorism financing in the catalogue of predicate offences of money laundering certainly upholds the construction of a predicate relationship in a purely formal respect. This is based on the fact that the financing of terrorism, which represents a preparatory offence for later terrorist crimes is, as such, already threatened with punishment. If, now, the ‘classic’ structure of predicate-related money laundering consists of a two link chain – one ‘true’ predicate offence and the money laundering as subsequent act – the chain of money laundering related to terrorism financing consists of three links with the financing terrorism as predicate offence, the money laundering, and the financed terrorism. This formal construction

¹¹ *Ibid.*, p. 13.

¹² The punishability for participation sometimes fails of course, due to a lack of substantiation of the supported future offence.

preserving the predicate relationship does not, however, change the fact that the illegitimacy of money laundering ultimately results not from the offence of predicate terrorism financing, but from the subsequent (financed) terrorist act. Eventually, the preparatory offence of financing terrorism itself derives its illegitimacy from the future terrorist offence. A content oriented perspective reveals that the formal construction of money laundering as a subsequent offence to financing terrorism merely conventionalizes a loophole: the illegitimacy of money laundering and financing terrorism derives equally from the impending terrorist offence in whose preparation they serve. Money laundering as a subsequent crime of financing terrorism is therefore a predicate offence of terrorism that is merely procured by the crime of financing terrorism.¹³

The contamination of assets captured within the statutory offence of terrorism financing consists primarily of the intention of the perpetrator that these will be used in the future to carry out certain punishable actions. In addition, these assets should, by definition, not be reinvested into any legal economic circulation, but rather into the financing of terrorism.¹⁴

Along with these structural considerations, a fundamental question arises: is the crime of financing terrorism a viable predicate offence of money laundering at all? Have the (subjectively) contaminated assets been 'obtained through the offence of financing terrorism' as stipulated in sect. 165 para. 4 StGB?

7.3 Terrorism financing as predicate offence of money laundering?

7.3.1 The statutory offence of money laundering

The statutory offence of money laundering reads as follows in the Austrian Penal Code:¹⁵

Section 165. (1) Whoever conceals property items that derive from the crime of another person, from such an offence under sections 168c, 168d, 223, 224, 225, 229, 230, 269, 278, 278d, 288, 289, 293, 295 or 304 to 308, or from such a tax offence of smuggling or evasion of import or export taxes (insofar as these fall within the competence of the courts), or disguises the origin thereof, particularly by giving in legal relations false information regarding the origin or true nature of those property items, the ownership of or other rights to them, the right to dispose of them, their transfer or their location, shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding 360 daily rates.

¹³ *Ibid.*, p. 13.

¹⁴ *Ibid.*, p. 6.

¹⁵ Translation used by the Ministry of Justice.

(2) Whoever knowingly acquires such property items, holds them in custody, invests, administers, converts, realizes, or transfers them to a third party, shall be liable in the same way.

(3) Whoever commits the offence involving items worth more than 50,000 Euro or as the member of a criminal group associated for the purpose of continuous money laundering shall be liable to imprisonment for a term of six months to five years.

(4) A property item shall be deemed to derive from an offence when the perpetrator of the crime has obtained it through that offence or received it for the commission of that offence, or when it represents the value of the originally obtained or received property item.

(5) Whoever knowingly, acting on behalf or in the interest of a criminal organization (sect. 278a) or of a terrorist group (sect. 278b), acquires property items of that organization or group, holds them in custody, invests, administers, converts, realizes, or transfers them to a third party, shall be liable to imprisonment for a term not exceeding three years; whoever commits the offence involving items worth more than 50,000 Euro, to imprisonment for a term from six months to five years.

7.3.2 The statutory offence of financing terrorism

Section 278d (1) A person who provides for assets of property or collects them with the intent that they are used for the commitment

(i) of a hijacking (sect. 185) or an intentional danger to the safety of aviation (sect. 186);

(ii) of an extortionate kidnapping (sect. 102), or the threat with it;

(iii) of an attack on life and limb or the freedom of a person protected by international law or a violent attack on an apartment, the official premises or the means of transportation of such a person which is appropriate to expose this person to a danger to life and limb or freedom or a threat with it;

(iv) of an intentional endangering by nuclear energy or ionized radiation (sect. 171) or a threat with it, of a unlawful use of nuclear materials or radioactive substances (sect. 177b), of any other criminal offence to obtain nuclear materials or radioactive substances or of the threat to commit a theft or robbery of nuclear materials or radioactive substances aiming to force another person to an action, permission or omission;

(v) of a considerable attack on life and limb of another person on an airport serving the international civil aviation, of a destruction or considerable damaging of such an airport or a civil aircraft being on it or an

interruption of the services on the airport, so far as the offence is committed by the use of a weapon or other device and is appropriate to endanger the security of the airport;

(vi) of a criminal offence committed in a way mentioned in sects. 185 or 186 against a vessel or a fixed platform, against a person being on board of a vessel or a fixed platform or against the cargo loaded on a ship or an equipment of the ship;

(vii) of the transportation of a blasting composition or another deadly device in a public place, to a governmental or public institution or a public traffic system or services of supply or of the operation of these means aiming to cause the death or a grievous bodily injury of another person or the destruction of the place, institution or system to a high degree, as far as the destruction is appropriate to bring about a considerable economic damage;

(viii) of a criminal offence which shall effect the death or a grievous bodily injury of a civil person or another person not being actively involved in the hostilities of an armed conflict if this act is aimed for the reason of its nature and the circumstances at threatening a group of the population or forcing a government or an international organization to an action or omission; is to be sentenced to imprisonment from six months to five years. But the nature and extent of the sentence must not be severer than the penalty provided for the financed offence.

(2) The offender shall not be punished under para. 1 if the offence is subject to a severer penalty under another provision.

(i) Fundamentals

The statutory offence of terrorism financing – introduced in the 2002 amendment of the penal code that served to fulfil the obligations of the *International Convention for the Suppression of the Financing of Terrorism* (1999) – makes it punishable to provide or collect property assets with the (expanded) intent that these assets, or part of them, will be used to commit certain punishable acts (for example, hijacking, extortionate kidnapping, and so on), thereby relocating the punishability to the forefront of committing terrorist crimes. For punishability due to terrorism financing, it is not required actually to use financial or other means.

The threat of punishment is imprisonment from six months to five years. In this sense, sect. 278d StGB constitutes a ‘felony’.¹⁶ However, the punishment may not be stricter in type or degree than the law provides for the financed act. If the concrete, financed act is only a ‘misdemeanour’, then only the lesser penalty is applied within the framework of sect. 278d.

¹⁶ See sect. 17 StGB.

In any case, due to the circumstance described, this resulted in an explicit adoption of the offence of terrorism financing as a predicate offence for money laundering.¹⁷

A subsidiary clause is also valid, however, namely that the perpetrator is not to be punished for financing terrorism according to sect. 278d if the act is threatened with stricter punishment under a different provision. Such a case exists when the person who collects or provides assets participates as a member of a terrorist association (sect. 278b para. 2: threat of imprisonment for 1 to 10 years)¹⁸ or participates as an abettor to the (more harshly punished) financed action, which naturally is only the case when the action is made sufficiently concrete. Due to a lack of causality, merely collecting assets, without making them available, can in no way be interpreted as contributing to a crime.¹⁹ Similarly, if the crime was not committed, merely providing the available means represents only an attempt to contribute. The existing loophole caused by the lack of punishment for attempts to contribute (whether it be that the contribution itself was unsuccessful or that the action to be financed was not attempted) has been closed in turn by sect. 278d StGB,²⁰ although only for the area of financing terrorism.

For its part, sect. 278d can be attempted, whereby an even farther reaching forward displacement of punishability is effected, in particular in relation to the act of collecting. According to the general rules, participation in the form of instigating or abetting is also possible.²¹

The assets collected or made available for terrorism financing comprise all material, movable and immovable, as well as immaterial objects, and material papers and documents of any form that substantiate rights to property.²² The assets for financing terrorism can stem from legal or illegal sources. This makes no difference with regard to the punishability under sect. 278d StGB.

The questions posed here require a closer examination of the criminal actions financing terrorism: the 'collecting' and the 'providing'.

¹⁷ *Erl zur RV des StRÄG 2002*, 1166 BlgNR 21.GP, p. 31.

¹⁸ Whoever deposits a sum of money into a bank account for the purpose of the later organizing a terror cell makes himself liable to punishment for the crime of financing terrorism when just this terror cell shall commit one of the crimes listed in sect. 278d. One cannot speak of participation as member in this case. (Dearing and Hilf, *Geldwäsche*, p. 43).

¹⁹ 'Financing' is a contribution to the offence: Christian Bertel and Klaus Schwaighofer, *Österreichisches Strafrecht, Besonderer Teil II*, 8th edn, Vienna 2008, sect. 278d, no. 1. Financing usually is a contribution to the offence: Hubert Hinterhofer, *Strafrecht, Besonderer Teil II*, 4th edn, Vienna 2005, sect. 278d, no. 3.

²⁰ *Erl zur RV des StRÄG 2002*, 1166 BlgNR 21.GP, p. 42.

²¹ *Ibid.*

²² *Ibid.*

(ii) Collecting and providing (as obtainment of asset components through the act of financing terrorism)

The offence of *money laundering* requires asset components that stem from a predicate offence (sect. 165 para. 1 StGB). First and foremost, this includes all assets that the perpetrator procured for or – of exclusive interest in this context – through the predicate offence, but not necessarily directly through it (sect. 165 para. 4 StGB). That arguably means every increase in assets originating from a committed crime, which is not only the case with the targeted accrual of funds and other immediate influxes, but also when assets increase as an indirect result of a committed crime,²³ and insofar as it is interpreted broadly.

The realization of the money laundering offence does not depend on (unlawful) enrichment. The assets acquired through the crime (of money laundering) need not necessarily lead to an increase of wealth for the launderer, because he can have acquired these for an appropriate service in return or without being paid for the money laundering or he can merely have exchanged or transferred the assets to a third party.

Also the possibilities for confiscating assets that are collected, or provided for terrorism, do not depend on unlawful enrichment; lawmakers have created a claim for forfeiture here, even when the assets are not (yet) at the disposal of the terrorist association.

The decisive question now, however, is whether the offence of financing terrorism is such a predicate offence or, in other words, a punishable act through which assets are acquired?

The offence of terrorism financing consists of collecting or providing assets with the intent that these will be used in the execution of certain punishable actions. In the strict sense, the act consists not only of financing terrorism, which means the supportive, actual (causal) provision of financial means for terrorist acts, but also of the attempt to contribute in such a way that the collected or provided means have not even been applied yet.

A differentiation must be made between the act of (dedicated) collection and that of (dedicated) provision: collectors and providers are usually punishable as participating members of the terrorist association (according to sect. 278b para. 2 StGB). Providing funds is designated in the law as substantiating or at least as reinforcing membership. In any case, collecting falls under participation in a different way, namely in the knowledge that it promotes the association or its punishable acts (as the recruiting of members also applies here).²⁴ For these

²³ Helmut Fuchs and Alexander Tipold, in Höpfel Frank and Eckart Ratz (eds) *Wiener Kommentar zum Strafgesetzbuch*, Vienna 2007, sect. 20, no. 11 et seq.

²⁴ Hinterhofer, *Strafrecht, Besonderer Teil II*, sect. 278, no 7. Actually, both the provision and the collection must already fall under the alternative, according to which committing a criminal act in the context of the criminal orientation of the association

reasons, however, the collected or provided assets are not (yet) necessarily at the disposal of the whole organization, provided that one even exists.²⁵ In the other case, the explicit and additional listing of these collected or provided assets, along with those at the disposal of a criminal or terrorist organization, would be superfluous in the forfeiture clause.²⁶

On the question of who can be liable to punishment under sect. 278d StGB for collecting and providing, it can be ascertained that the answer – according to the wording of the law – is everyone. This means that collecting can be done by the leaders of the terrorist organization itself, or by members instructed to do so, or by members of the terrorist association on their own will, or by third parties, who, as a rule, become members of the association in the process of doing so.²⁷

Now the task is to identify the significance of the two actions in detail, in order to clarify whether the offence of financing terrorism actually even qualifies as a predicate offence of money laundering, irrespective of the fact that it is listed in the inventory of sect. 165 StGB. Collecting can be understood as the customary or also as the fraudulent, extortionate or predatory material gain of assets. Collecting can be done by not-yet-members, by members, but also by the organization itself through an assignment to single members. However, whether those people (the donators), who are punishable for providing funds, may ‘collect’ is questionable: the provision of one’s own funds or those collected by third parties requires a clear and conspicuous separation of assets from the rest of those held by the terrorism financier,²⁸ as well as the granting of the authority to dispose, at least in the sense of permanent access for one or more people who intend to commit offences listed in sect. 278d StGB; therefore, there is no longer the necessity of their collecting assets that have already been provided.

Seen in this way, no act of separation is necessary; the terrorism financier could simply supply the later perpetrators with the authority to dispose of his own account (or over a certain sum of money). The mere granting of access (exercised) by the provider must also suffice, as long as those being provided with assets are aware of it. Providing information as a criterion

represents participation as member. In the end, financing terrorism is such a punishable action.

²⁵ Fuchs and Tipold, *Wiener Kommentar zum Strafgesetzbuch*, sect. 20b, no. 7, 10: Assets of a common member or even a third party are then subject to the authority of the organization’s leadership to dispose of when these are administrated and used in the interest of the organization on order of the leadership.

²⁶ However, for provision, it is necessary to institute an authority to dispose, even if only for individuals (see below).

²⁷ The providing of an organization’s own money by the leadership level does not carry weight with respect to the punishability of the leader or to the forfeiture possibilities.

²⁸ Fuchs and Tipold, *Wiener Kommentar zum Strafgesetzbuch*, sect. 20b, no. 18.

of organization membership also cannot mean that it is sufficient just to have the intention to provide information when needed without outwardly articulating it. Such information must at least be at the disposal of the organization at all times (in the sense of access and authority) and the organization must therefore be knowledgeable in any case. However, the consent alone to procure or provide access to information when needed (and here the borders become blurred) cannot suffice – just as the mere promise to help cannot.²⁹ The wording of the law itself is conceivably broad in any case and therefore in need of a limitation.

This is also true for collecting. According to the wording of the law, collecting can apparently be a precondition of providing, because the means to be provided must first be gained and this takes place far in advance. This, however, goes very far. Clearly nothing can be deduced from positioning the act of collecting after that of providing within the statutory offence. Aside from this, providing would lose its contours in turn. If one can collect from providers, then providing is actually meaningless or it goes much too far.³⁰ Collecting by the definition of the word – just as collecting for the purpose of financing terrorism – means nothing more and nothing less than that the collector acquires assets for a designated purpose (at first). The intention to use these funds for terrorist acts is a purely subjective characteristic of the statutory offence. The collector is also not described in more detail in the wording of the law. A containment of potential offenders therefore seems impossible. A teleological reduction, however, appears to be necessary to ensure the accordance with the rule of law, or else the purely mental dedication would decide on punishability and money laundering viability. Any appropriate limitation of the offence of collecting would, however, apparently lead to a levelling of the difference to providing. If one requires providing access for collecting, then its significant content is exhausted with the provision of external means.³¹ If that were the solution, it could no longer be concealed that in reality, the act of collecting is superfluous in that statutory providing is not limited to one's own funds.

Independent of the concluding solution to this problem, the question can already be answered as to what this all means for the viability of financing terrorism for money laundering.

7.3.3 Findings

Through the dedicated provision of one's own financial means, the terrorism financier (and thereby the predicate money launderer) does not gain assets.

²⁹ See Hinterhofer, *Strafrecht, Besonderer Teil II*, sect. 278, no. 7; Bertel and Schwaighofer, *Österreichisches Strafrecht, Besonderer Teil II*, sect. 278, no. 6.

³⁰ See the explanations made on pp. 106–109.

³¹ One may be able to provide without having previously collected, but in the case of needing to collect, one cannot have already provided.

He does not acquire parts of the assets through the act; he only dedicates or rededicates them. Through the punishable provision of one's own funds – with the necessary intent (in the defined sense: through granting an authority to dispose) – the terrorism financier does not effect that the corresponding asset components are to be understood as contaminated in the sense of sect. 165 StGB. The rededicated granting of access does not find cover in the applicable wording of the law in sect. 165 para. 4 StGB.

In the case of dedicated collecting, it is to be stated that the terrorism financier acquires assets suitable for money laundering through the act. It is difficult to shake this finding. Laundering these assets is possible without stretching the wording of para. 4 of sect. 165. The punishable act is the material gain of assets for the purpose of financing terrorism. Due to exactly this circumstance, the further result is that the terrorism financier or a third party is enriched to the amount that has been collected. As this enrichment stems from a punishable act serving the goal of financing terrorism, it must no doubt also be unlawful. The unlawfulness of the enrichment ensues not only in the case in which the assets are 'collected',³² by committing a crime (for example robbery, fraud, blackmail), which naturally plays no role in this context.

As soon as assets are made available to the terrorist association as such, the offence of organization-related money laundering incidentally also becomes applicable, and this is independent of whether the concrete assets are dedicated to terrorist acts or not.

If assets no longer serve the financing of terrorism and do not (or no longer) stand at the disposal of a terrorist association (that means not only to individual members), then one can naturally no longer commit money laundering with them.

7.3.4 Case examples of money laundering and terrorism financing

Case 1: A wants to deposit €60,000 of legal origin³³ in a bank account, which T should have access to, in order to perform terrorist acts. The bank employee B knows about this and creates the account.

In this act, A provides assets with the intent that they will be used to commit offences listed in sect. 278d StGB and commits the offence of financing terrorism but certainly not money laundering. For B, A's committed terrorism financing is the predicate offence for his consciously realized money laundering through creating, safekeeping and administering the account according to sect. 165 para. 2 StGB.

At the same time, however, this act of money laundering (that is, the major offence from B's perspective) is (at least) a contributory act to terrorism

³² Other opinion: Fuchs and Tipold, *Wiener Kommentar zum Strafgesetzbuch*, sect. 20b, no. 16.

³³ But not out of A's own original assets.

financing (the general rules of participation are namely valid). Or, to put it in other words, one and the same money transfer simultaneously represents the major offence of money laundering and the (contribution to the) predicate offence.

The financial management of money laundering is in itself a financing of terrorism. In the end result, this means, however, that B cannot possibly commit money laundering due to his role as a predicate offender. Here the question whether an action, considered in terms of its primary intention, can appropriately or should be deemed money laundering and a further offence at the same time, is solved in an adequate way.

Case 2: The extortionist A uses the extorted money (that is, his 'haul') to buy bars of gold (which from now on represent a surrogate in the assets of the predicate offender); B acquires the bars of gold from A in the knowledge of their origins and in the intention to invest these in terrorism.

With this action, B commits money laundering in the sense of sect. 165 para. 2 StGB. The money collected to finance terrorism is contaminated – originating from the extortion – which naturally plays no role itself for the realization of sect. 278d StGB. The financing of terrorism is punishable separately. And this is to be seen as *Idealkonkurrenz* (coincidence of offences), because acquiring – at least according to the wording of the law – at the same time means 'collecting' in the sense of sect. 278d StGB that precedes the 'providing'.

As far as problems in the act of collecting are viewed, this example also 'works' for the money laundering act of transferring to a third party (for the purpose of financing terrorism) or of safekeeping with possibilities of access for the terrorist perpetrators, because this can be seen as providing in the sense of sect. 278d StGB at the same time.

One and the same act – the money laundering and terrorism financing – is simultaneously a predicate offence of money laundering (for a third party) in turn. However, whereas a money laundering chain can only be considered when the first instance of money laundering deals with a crime, the financing of terrorism is always suitable as a predicate offence of money laundering. This means that as soon as terrorism shall be financed through simple money laundering, money laundering of the collected or provided assets is possible due to the fact that thereby the crime of terrorism financing was realized.

According to the wording of the law (sect. 165 para. 2 StGB), the commission of money laundering (concealing, obfuscating, acquiring, holding custody, converting, transferring and so on) does not depend on either the agreement with the predicate offender, or the underlying intention (whether it be to channel the assets into legal economic circulation and to give them the appearance of legality or in contrast to directly invest them in further crimes). The criminal intention to invest and at best the actual investment in further criminal activities might not obviate the realization

of the statutory offence. For that reason, B undoubtedly commits money laundering in the sense of sect. 165 para. 2 StGB.

In this way – as mentioned at the onset – the Austrian statutory offence of money laundering in effect actually protects more than the lawful order of economic and financial dealings. According to para. 2 (as well as para. 5) of sect. 165 StGB), obfuscation (or intent to do so) is not required.³⁴

In this example, the tension attested to at the start is revealed in particular, namely between the purpose that should actually underlie the criminalization of money laundering and the breadth of the statutory offence that arises in fulfilling international obligations.

In laundering this money, B now commits – as ascertained – a further crime at the same time (even as an immediate perpetrator here), namely terrorism financing, which he would also commit in the case of collecting legal assets.

Therefore the question arises whether, in this context, a teleological reduction of the statutory offence of money laundering would be necessary, or at least the exclusion of punishment for money laundering under the assumption of a Scheinkonkurrenz (meaning that one offence rules out the other one).

A (separate) punishment for money laundering should be reserved for those constellations in which the launderer does not support or commit criminal activities directly and simultaneously through his behaviour and therefore acts without actual money laundering or obfuscating intentions. The presumption of a Scheinkonkurrenz in which the ‘not actual’ act of money laundering (irrespective of the concrete threat of punishment) is ruled out, certainly must be applied to not only the case of terrorism financing, but also to all cases in which the money launderer along with his actions at least contributes to a further crime (for example transfers to a third party); that means the act of money laundering itself represents the criminal contribution or the crime.³⁵ Money laundering and terrorism financing (or the support or committing of other acts) are *de facto* exclusive seen from the subjective side of the offence – not to the contrary according to the wording of the statutory offence of money laundering.

It is a matter of doubt what punishment is deserved for these actions that do not actually constitute money laundering (and not only in cases of terrorism financing). The sanctioning, however, should be effected exclusively on the basis of the threat of punishment for the financed crimes. Due to sect. 165 para. 6 StGB (to be newly created), those people should not be punished for money laundering who are at risk of punishment for committing an offence supported by money laundering.

³⁴ Whereby concealment (according to para. 1) alone cannot achieve a laundering effect, but might imply one.

³⁵ A mere temporary safekeeping with the intention to promote (any) later crime is not (yet) a contribution to a future offence.

7.4 Concluding remarks

Those who have continually commented on the expansive and indefinite nature of the statutory offence of money laundering experience a reconfirmation in connection with the predicate offence of financing terrorism.

On the one hand a developing process is to be observed of a continual shift of the focus of state measures against money laundering, beginning with the punishment of ‘concealing after the fact’ (with a strong relationship to the criminal predicate offence) and moving toward the prevention of future offences; in other words from a sanction paradigm to a prevention paradigm.³⁶ The intensifying fundamental tendency of anti-money laundering policy to obligate the economy to take measures toward public safety and criminal prosecution also points in this direction.

On the other hand, the continuation of another line of development is to be noted exactly in the area of combating organized crime and terrorism: to an increasingly alarming degree, international legal instruments ignore the principle of definiteness as well as fundamental principles of criminal law. In keeping with this, the proposal of the EU Commission in June 2004³⁷ for a directive to prevent the use of the financial system for the purpose of money laundering included financing of terrorism in the definition of money laundering (!). Along with the known money laundering activities, therefore, the intentional provision or collection of legally acquired assets for use in terrorist purposes or in awareness of their use were also regarded as ‘money laundering’. The obvious associated advantage of immediately applying all strategies of combating money laundering to terrorism financing is not sufficient to show these proposed regulations in a better light. This proposal was not adopted in the final version of the guidelines.

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³⁶ Dearing and Hilf, *Geldwäsche*, p. 3.

³⁷ COM (2004), 448.

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**Part II Transnational Terrorism
and Organized Crime
in the Western Balkans**

8

Researching Terrorism and Organized Crime in Southeast Europe

Hans-Jörg Albrecht and Anna-Maria Getoš

8.1 Introduction

Post-conflict societies like Southeast Europe (SEE)¹ feature most of the so-called root causes of terrorism,² sometimes also referred to as preconditions, that set the stage for terrorism in the long run.³ Since a great part of these preconditions at the same time provide fertile grounds for organized crime, it makes sense to look at both crime phenomena in order to assess the security situation in SEE. Besides the presence of extremist ideologies of a secular and/or religious nature, historical antecedents of political violence, civil wars, dictatorship and occupation, as well as discrimination on the basis of ethnic and/or religious origin (all acknowledged 'root causes' of terrorism), SEE displays a lack of democracy, civil liberties and the rule of law, inheriting either weak or even failed states with illegitimate and/or corrupt governments and a history of social injustice and state repression,

¹ The term Western Balkan, as used by the HUMSEC Project, is not used in this essay, since it refers much more to a political concept, than a scientific one. Moreover, the Western Balkan concept includes only countries emerged from Former Yugoslavia with the exception of Slovenia thus adding Albania, whereas there is no such term in geography. On the other hand, the term Southeast Europe (also referred to as Balkans) includes Slovenia, Croatia, Hungary, Bosnia Herzegovina, Serbia, Montenegro, Kosovo, Macedonia, Albania, Greece, Bulgaria and Romania, as well as sometimes Moldavia, Cyprus and parts of Turkey. See for example: UNODC, *Crime and its Impact on the Balkans and Affected Countries*, March 2008.

² For in-depth argumentation on 'root causes' of terrorism present in SEE, see Anna-Maria Getoš, *Präventive Terrorismusbekämpfung in Übergangsgesellschaften*, Stuttgart 2005, pp. 75–113, or the summary of findings on pp. 117–2.

³ On 'root-causes' and preconditions of terrorism in general see Tore Bjørgo, 'Conclusions: Debunking Myths about Root Causes of Terrorism', in Tore Bjørgo (ed.), *Root Causes of Terrorism: Myths, Realities and Ways Forward*, Routledge, London, 2005, p. 234; Matenia P. Sirseloudi, 'Early Detection of Terrorist Campaigns', *Forum on Crime and Society* (2005), vol. 4, nos. 1 and 2, pp. 74–9.

thereby not only providing fertile grounds for terrorism, but also enabling organized criminal activities.⁴

The complexity of the ethnic-security situation in SEE, preconditioning ethnic terrorism, together with past atrocities and repeating cycles of violence along ethnic and/or religious lines on one side, as well as the region's geopolitical setting as a transit-region for transnational organized criminal activities (especially trafficking of people, drugs, weapons, cigarettes and so on) on the other side, becomes most obvious when taking a look at a map of the region (See for example: Samary, Catherine and Jean-Arnault Dérens, *Les conflits yougoslaves de A à Z*, Paris 2000). While considering it in a broader European context.

Clearly the question of conflict-resolution, democratization, reinstalling trust and confidence,⁵ rule of law and effective protection of civil liberties in SEE is of interest to the region itself, as well as one of the EU's long-term priorities in SEE.⁶ But when it comes down to the evaluation of measures taken so far, or even a well founded assessment on the security situation in SEE, there is little if any coherent work done so far. This can be noticed especially in the field of research on terrorism and organized crime in SEE. In addition to the acknowledged general research problems in the field of terrorism⁷ and organized crime research, post-conflict societies feature additional research challenges as a direct result of past conflicts. Such challenges concern first of all the availability of relevant data as well as the access to such data.

Past conflicts and large scale victimization, experienced throughout SEE in the recent past, have their impact not only in influencing day-to-day

⁴ Bjørge, 'Conclusions', pp. 234–6. See also Sirseloupi, 'Early Detection of Terrorist Campaigns', pp. 71–87.

⁵ On the importance of regaining trust and confidence in post-conflict societies as a way to prevent terrorism see Hans-Jörg Albrecht, 'Regaining Trust and Confidence in Post-Conflict Societies as a Way to Prevent Terrorism', in Uwe Ewald and Ksenija Turković (eds), *Large-Scale Victimisation as a Potential Source of Terrorist Activities – Importance of Regaining Security in Post-Conflict Societies*, IOS Press, Amsterdam 2006, pp. 30–53.

⁶ Nadia Alexandra-Arbatova, 'European Security and International Terrorism: The Balkan Connection', *Southeast European and Black Sea Studies* (2004), vol. 4. no. 3, p. 376.

⁷ On terrorism research Silke notes, 'Research is ultimately aimed at arriving at a level of knowledge and understanding where one can explain why certain events have happened and be able to accurately predict the emergence and outcome of similar events in the future. Terrorism research, however, has failed to arrive at that level of knowledge.' Furthermore he concludes, 'Ultimately, terrorism research is not in a healthy state. It exists on a diet of fast-food research: quick, cheap, ready-to-hand and nutritionally dubious.' See Andrew Silke, 'The Devil You Know: Continuing Problems with Research on Terrorism', *Terrorism and Political Violence* (2001), vol. 13, no. 4, p. 1 and 12. See also Andrew Silke, *Research on Terrorism: Trends, Achievements and Failures*, Frank Cass, London, 2004; Lum Cynthia, Leslie W. Kennedy and Alison Sherley, 'Are counter-terrorism strategies effective? The results of the Campbell systematic review on counter-terrorism evaluation research', *Journal of Experimental Criminology*, vol. 2, no. 4, 2006, pp. 6–9.

relationships among people, but also in hindering cross-border research efforts and data sharing (as well as law enforcement efforts or judicial cooperation). The huge number of NGOs and various international actors present in SEE and engaged in some sort of monitoring, reporting, data collecting, or even research activities on related topics, does not necessarily solve this problem. In order to conduct meaningful research on terrorism and organized crime in SEE, and to evaluate already existing work on these topics, it is first of all necessary to create a basic understanding of the (specific) research setting in the region. The research setting will be sketched by grouping and analysing the most relevant actors conducting some sort of research and/or producing relevant outputs. Even this first step proves to be complex and connected with a huge number of practical difficulties (ranging from language and script issues to the unavailability of outputs or online information). The next logical step is to analyse the state of the art regarding research on terrorism and organized crime in SEE, as well as highlighting some of the major findings on the topics. This should then point to the deficits in research on terrorism and organized crime in SEE and generate an understanding on the potential fields and modalities of research capacity development.

The overwhelming majority of research on terrorism and organized crime in SEE is done by various research institutions, governmental agencies and NGOs from outside the SEE region. At the same time SEE researchers rather focus on foreign and international trends in terrorism and organized crime, than work on domestic issues. This creates a strange situation in which researchers from outside SEE seem to know more about it, than the researchers actually living and working there. Such a tendency inherits a number of risks concerning the research outcome. Besides the usual lack of local language proficiency, and differences in mentality, researchers from outside SEE almost inevitably have to rely solely on second-hand data (most commonly press clipping). Furthermore, effective ways of dealing with organized crime are dependent on local knowledge and the particulars coming with organized crime in a specific location.⁸

Information on organized crime and terrorism tends to be generated mainly by official institutions, in particular by police and intelligence bodies. Organized crime and terrorism in SEE is partially also covered by European national police agencies, which collect intelligence and information as regards 'threats' resulting from criminal and terrorist networks located outside their jurisdictions. Organized crime and terrorism in SEE have found particular attention, mainly due to the European Union's focus on the control of organized crime and a particular reputation of some regions in the Balkans for human and drug trafficking.

⁸ Olli Rehn, 'The EU and Western Balkans: Tackling Crime with Better Governance', *Policy Dialogue on Crime and Governance: Challenges for the Balkans*, EPC Conference, Brussels 29 May 2008.

8.1.1 The research setting in post-conflict southeast Europe

One of the best examples demonstrating the current research situation in SEE (in the field of criminal law and criminology) is the tradition of interdepartmental meetings of criminal law professors from law faculties throughout Former Yugoslavia. The last of such meetings was held in 1989 in Skopje, Macedonia. In the following 20 years the contacts were lost and new generations of researchers from the newly established states meet rarely and only by chance. Similar to resentments in day-to-day relationships among people, grounded in past conflicts and hostilities, research attempts that try somehow to establish new networks need time and patience. Still, the loss of research potential remains enormous. Similarly, cooperation in the law enforcement and judicial sectors throughout SEE has started to work out only in recent years. Therefore it comes as no surprise that the best developed networks and fertile cooperation can be found in the NGO sector and between international actors in SEE. One of the main reasons for this lies in the fact that the actors closely cooperating in the past were also those most affected by the conflict and its consequences. On the other hand NGOs, international actors and even the media evolved and settled in SEE either during or in the aftermath of the conflicts. This makes past grievances irrelevant for them.

The following grouping of different actors, potentially involved in some sort of research or output on terrorism and organized crime in SEE, will show their characteristics and explain some of the specific research issues in SEE.

8.1.2 Relevant scientific research facilities in southeast Europe

Research facilities in SEE dealing with terrorism and organized crime that have been considered are mainly university faculties (Law & Criminology and Criminal Sciences) and social sciences research institutes. Due to their vast number and their similarities, the analysis focuses on research facilities in Former Yugoslavia: Bosnia–Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Slovenia. The following tables (Tables 8.1 and 8.2) shows only part of the analysis, by focusing on faculties of law, due to their traditionally more visible research outputs in SEE, compared to criminal sciences and research institutes.

This short overview already demonstrates that most feasible research is centralized in the region's biggest cities: Zagreb, Belgrade and Ljubljana. It also indicates that no specialization takes place in the region – meaning everybody does everything and specializes in nothing. This corresponds with the findings on criminal sciences and social sciences research institutes. With regards to the feasibility of the relevant outputs from SEE by local researchers dealing with terrorism and/or organized crime in SEE, the findings are still poor and dominated by 'outside' research findings. When it comes to cooperation and common research in the related fields, it is indicative for the whole region that past atrocities and divisions along 'enemy' lines are wide spread. Therefore intrastate cooperation is quite high (especially teaching

Table 8.1 Selection of relevant scientific research facilities in SEE – Faculties of Law (Part I)

Actor	Country/ City	Activity	Relevant Output	Http:// www.	Language ⁹	Feasibility ¹⁰
Bosnia–Herzegovina						
Scientific Research Facility Faculty of Law	Sarajevo	HE & scientific	publications, research	pfsa.unsa.ba	BA	medium
	Mostar	HE & scientific	publications, research	sve-mo.ba/pf	HR	medium
	Tuzla	HE	Education	pf.untz.ba	BA	low
	Banja Luka	HE	Education	pfbl.rs.sr	SRĉ	low
	Zenica	HE	Education	prf.unze.ba	BA	low
	Bihać	HE	Education	pravni.unbi.ba	BA	low
	Pale	HE	Education	unssa.rs.ba	SR, SRĉ	low

Open source internet research done from October until December 2008.

assistance to smaller faculties), whereas interstate links come down to ‘war time alliances’ (Slovenian–Croat, Croat–Bosnian, Serb–Montenegrin and so on).

8.1.3 NGOs

The nongovernmental sector evolved in SEE in the aftermath of communism: in the Former Yugoslavia its development was ‘boosted’ by the conflicts and presence of various international actors, as well as by respective foreign funding. Nevertheless, civil society still develops rather slowly. When it comes to the main characteristics of NGOs in SEE, one must notice the large number of different organizations and the relatively small number of membership (especially active membership). If looking only at those NGOs involved in human rights issues, a common feature in all the countries of the region is the rather strong positioning and public presence of a few NGOs, whereas

⁹ The language of available Internet pages is indicated in the table by using 2-letter codes, applicable as follows: BA – Bosnian language, DE – German language, EN – English language, FR – French language, HR – Croatian language, KA – Shqip language (Kosovo), MKĉ – Macedonian language (Cyrillic script), RS – Serbian language (Latin script), Rĉ – Serbian language (Cyrillic script), SI – Slovenian language, YU – Montenegrin language.

¹⁰ The term ‘Feasibility’ should be considered as research/data output availability, and in indicating this, 3 levels have been introduced: high feasibility – information on and research or data available in local and/or other European languages; medium feasibility – some information and contacts for research projects and data gathering available in local language; low feasibility – no useful information or contacts for research projects and data gathering available. ‘Scientific’ in this respect means that scientific research projects, funded either through national, European or international research foundations, are being conducted and at least some results distributed/publicized (by note on Internet pages).

Table 8.2 Selection of relevant scientific research facilities in SEE – Faculties of Law (Part II)

Actor	Country/ City	Activity	Relevant Output	Http:// www	Language ¹¹	Feasibility ¹²
Scientific Research Facility Faculty of Law	Bosnia and Herzegovina					
	Osijek	HE & scientific	Publications research	pravos.hr	HR EN	medium
	Rijeka	HE & scientific	publications research	pravri.hr	HR EN	high
	Split	HE & scientific	publications research	pravst.hr	HR	medium
	Kosovo					
	Priština	HE	education	Uni-pr. edu/up/? cid=1,96	KA	low
	Macedonia					
	Skopje	HE & scientific	publications research	pf.ukim. edu.mk	MKč EN	medium
	Montenegro					
	Podgorica	HE & scientific	publications research	pravni.net	YU	medium
	Serbia					
	Belgrade	HE & scientific	publications research	ius.bg. ac.yu	SR SR EN	high
	Belgrade	HE	Education	fpp.edu.yu	SR	low
	Kragujevac	HE	Education	jura.kg. ac.yu	RSč	low
	Niš	HE	Education	prafak.ni. ac.yu	RSč	low
Novi Sad	HE	education	pravni.ns. ac.yu	RS	low	
Slovenia						
Ljubljana	HE & scientific	publications research	pf.uni-lj.si	SI EN	high	
Maribor	HE & scientific	publications research	pf.uni- mb.si	SI EN	medium	

Open source internet research done from October until December 2008.

¹¹ See supra: footnote 9.

¹² See supra: footnote 10.

the majority formally exists, but without noticeable impact. The feasibility of their outputs in general is high. Still, when it comes down to the specific topic of terrorism and organized crime in SEE and useful research or data, there is little to be found. With regards to networking and cooperation the NGOs take a leading role in SEE, especially in interstate and international cooperation. One of the main reasons for this is probably the young age of the people employed, who usually have proficiency in English and an overall willingness to interact. The more liberal spirit of the NGOs in general thus makes them somewhat immune to past grievances. As a result the present human rights NGOs in SEE often participate in public debate, organize round tables, publish online and so on, but again more in a general human rights dimension, than dealing with terrorism and organized crime.

NGO activities in SEE are manifold, though few of the NGOs are involved in research on organized crime and terrorism. There are, however, two exceptions. NGOs dealing with human trafficking, refugees and the smuggling of migrants tend to publish studies on the extent of problems, trends and in particular on the implementation of anti-trafficking policies and its impact on victims of trafficking.¹³ NGOs in general have played an important role in the development of anti-trafficking policies. Human Rights Watch, IOM (International Organization for Migration) and various other NGOs through regular publication of studies on trafficking and migration also continue to lobby for their respective clientele and specific human rights policies.

8.1.4 Governmental agencies

Governmental agencies are routinely involved in the generation of knowledge on organized crime as well as political violence through various instruments that are allowed to account for the extent and trends in crime and other behaviour deemed to impact on security. As it is shown in the table below (Table 8.3), it is in particular law enforcement agencies, but also intelligence services, that collect such information and produce crime statistics and reports that are, of course, limited in terms of their validity and reliability, as such information rather describes the activities of police and intelligence forces and not the phenomena they are dealing with.

8.1.5 International actors in southeast Europe

There is a multitude of international actors, including UN organizations, NATO and European Union actors, as listed in Table 8.4. While UN (UNMIK) and NATO (KFOR) are mostly operational, others, like the OSCE as well as the United Nations and the European Union, provide assistance in carrying out research and are themselves involved in research activities. The reasons to engage in research on crime and terrorism concern on the one hand an

¹³ Violeta Velkoska, *Combating Trafficking in Human Beings through the Practice of the Domestic Courts*, 'All for Fair Trials' Skopje, 2005.

Table 8.3 Selection of relevant governmental agencies in SEE – Law Enforcement and Intelligence

Actor	Country/Entity	Activity	Relevant Output	Http://www. [...]	Language ¹⁴	Feasibility ¹⁵
Governmental Agency Ministry of Interior	Abbreviation					
	Bosnia and Herzegovina	Law enforcement	laws, crime statistics	fup.gov.ba	BA	medium
	Bosnia-H, Republic of Serbia	Law enforcement	laws, crime statistics	mup.vladars.net	RSč, BA,	medium
	Croatia	Law enforcement	laws, crime statistics	mup.hr	HR, EN	medium
	Slovenia	Law enforcement	laws, crime statistics	policija.si	SI, EN	medium
	Montenegro	Law enforcement	laws, crime statistics	vlada.cg.yu/ minunutr	YU, EN	medium
	Serbia	Law enforcement	legal framework	mup.st.gov.yu	RSč, RS	low
	Macedonia	Law enforcement	laws, crime statistics	moi.gov.mk	YU, EN	medium
	Kosovo	Law enforcement	legal framework	kosovopolice.com	KA, EN, RS	low

Governmental Agency	Intelligence Agency								
Bosnia and Herzegovina – OSA	intelligence agency	legal framework	osa-oba.gov.ba	BA, HR, SRČ, EN	low				
Croatia – SOA	intelligence agency	legal framework	soa.hr	HR	low				
Slovenia – SOVA	intelligence agency	legal framework	sova.gov.si	SI, EN, FR, DE	low				
Macedonia – IA	intelligence agency	legal framework	ia.gov.mk	MKČ, EN	low				
Montenegro – ANB	intelligence agency	legal framework	anb.cg.yu	YU, EN	low				
Serbia – BIA	intelligence agency	legal framework	bia.gov.rs	RSČ, EN	low				

Open source internet research done from October until December 2008.

¹⁴ See supra: footnote 9.

¹⁵ See supra: footnote 10.

Table 8.4 Selection of relevant international actors in SEE – OSCE and EU

Actor	Country/ Name	Activity	Http:// www. [...]	Language ¹⁶	Feasibility ¹⁷	
International Actor	OSCE	Mission to Bosnia Herzegovina ¹⁸	elections, human rights, military stabilization	oscebih.org	EN, HR, SRČ, BA	high
		Office in Zagreb	monitoring, reporting	osce.org/zagreb	EN	high
		Mission in Kosovo	component of UNMIK ¹⁹	osce.org/kosovo	EN	high
		Spillover Monitor Mission to Skopje ²⁰	constitutional, legislative, implementation building	osce.org/skopje	EN	high
		Mission to Montenegro	promotion, cooperation	osce.org/montenegro	EN	high
	Mission to Serbia	monitoring, assistance	osce.org/serbia	EN	high	
	DEC to Bosnia–Herzegovina	representation, political analysis, assistance	delbih.ec.europa.eu	EN, BA	medium	
	DEC to Croatia	representation, political analysis, assistance	delhrv.ec.europa.eu	EN, HR	medium	
	EU	European Commission Liaison Office to Kosovo	reporting, substantial financial assistance	delprn.ec.europa.eu	EN, KA, SR	medium
		EULEX Kosovo	technical assistance, executive power	Eulex-kosovo.eu	EN,KA, SR	medium
DEC to Serbia		reporting, substantial financial assistance	delscg.ec.europa.eu	EN, SR	medium	

Open source internet research done from October until December 2008.

¹⁶ See supra: footnote 9.

¹⁷ See supra: footnote 10.

interest in knowing how social and political stability in SEE might be affected by organized crime groups and political violence, and what measures can be taken to respond to such problems. On the other hand European countries in particular carry out threat analyses that focus on the impact organized crime groups might have on the crime situation in Europe at large. Human trafficking is under particular scrutiny in SEE by international actors including, for example, the UN Special Rapporteur on Human Trafficking.²¹

8.1.6 Other relevant publications

The SEE region has received attention from various independent and UN, EU-related or national governmental research institutes specializing in the issues of international relations, security and failed states as well as peace- and nation-building. Within these research perspectives crime in general, organized crime, political violence and terrorism also play a significant role. In particular, transitional countries that have gone through a period of civil war and mass violence are assumed to face considerable problems when re-establishing rule of law, security, state institutions and a sustainable economy.²² With the outbreak of the civil wars in the 1990s research interests first focused on the causes of large scale violence in the Balkans as

¹⁸ The OSCE's mandate was established under the *General Framework Agreement for Peace* (GFAP), drawn up in Dayton in late 1995 and signed in Paris in December 1995 to end close to four years of conflict. The 1995 Dayton Peace Accords assigned the Mission responsibility for elections, human rights and regional military stabilization, with democracy-building added subsequently. Available online at <http://www.oscebih.org>, last accessed 10 November 2008.

¹⁹ UNMIK – United Nations Interim Administration Mission in Kosovo based on UN's Security Council *Resolution 1244* adopted on 10 June 1999, available online at <http://www.nato.int/Kosovo/docu/u990610a.htm>, last accessed 11 November 2008.

²⁰ Their work is based on the Mission's original mandate and on Permanent Council decisions stemming from the *Ohrid Framework Agreement* (signed following a seven month conflict on 13 August 2001). The original mandate included monitoring developments along the borders with Serbia and in other areas that may suffer from spillover of the conflict in former Yugoslavia, in order to promote respect for territorial integrity and the maintenance of peace, stability and security, as well as help preventing possible conflict in the region. Source: <http://www.osce.org/skopje>, last accessed 11 November 2008.

²¹ Huda, Sigma, 'Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children', Integration of the Human Rights of Women and the Gender Perspective. Mission to Bosnia and Herzegovina, E/CN.4/2006/62/Add.2 (30 November 2005).

²² United Nations, 'Report of the Secretary General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies', S/2004/616, 23 August 2004; NEDCOR, 'The NEDCOR Project on Crime, Violence and Investment', Main Report, Pretoria 1996; Mungiu-Pippidi et al., *Plan B – B for Balkans. State Building and Democratic Institutions in Southeastern Europe*, Berlin/Nijmegen/Vienna, 2007, p. 52, available online at http://www.cap.lmu.de/download/2007/2007_planB.pdf.

well as on the markets of violence and the war economies that developed as civil war dragged on.²³

When violence came to an end the focus switched to issues like peace and nation-building, conflict resolution and the re-establishment of social order in deeply divided societies.²⁴ The diversity of research perspectives is paralleled by the diversity of research institutes that have studied the situation in SEE over the past 20 years. Among such research institutes we find for example the US based RAND organization,²⁵ which began in the 1990s to carry out research on SEE.²⁶ Other research institutes are specifically involved in studies on security and stability in the Balkan region (see for example The Lord Byron Foundation for Balkan Studies²⁷ or the Foundation for Middle East and Balkan Studies²⁸). It doesn't come as a surprise that research institutes belonging to ministries of defence (examples: Defence Academy of the United Kingdom,²⁹ National Defence Academy/Institute for Peace Support and Conflict Management Vienna,³⁰ Center for Contemporary Conflict³¹) are actively involved in generating security related analyses for the region of the SEE. Several research organizations emphasizing peace and peace-building, conflict and conflict resolution, legal capacity building and rule of law approaches have studied related questions in the SEE area (Swisspeace,³² United States Institute of Peace,³³ The Forum for Civic Initiatives (FIQ),³⁴ International Crisis Group³⁵).

²³ See, for example, Xavier Bougarel, 'Zur Ökonomie des Bosnien-Konflikts: zwischen Raub und Produktion', in Francois Jean and Jean Christoph Rufin (eds), *Ökonomie der Bürgerkriege*, Hamburger Edition, Hamburg 1999, pp. 191–218; Vesna Nicolic-Ristanovic, 'Illegal Markets, Human Trade and Transnational Organised Crime', in Petrus van Duyn et al. (eds), *Threats and Phantoms of Organised Crime, Corruption and Terrorism*, Wolf Legal Publishers, Nijmegen 2004, pp. 117–37.

²⁴ See for example, Bieber, 'Institutionalizing Ethnicity in the Western Balkans. Managing Change in Deeply Divided Societies'. ECMI Working Paper No. 19, Flensburg February 2004.

²⁵ See <http://www.rand.org>. January 2009.

²⁶ Thomas Szayna, *Ethnic Conflict in Central Europe and the Balkans: A Framework and U.S. Policy Options*, RAND, Santa Monica, 1995; Seth G. Jones, Jeremy M. Wilson, Andrew Rathmell and Jack K. Riley, *Establishing Law and Order after Conflict*, RAND Corporation, Santa Monica, 2005.

²⁷ See <http://www.balkanstudies.org>. January 2009.

²⁸ See http://www.obiv.org.tr/ana_eng.html.

²⁹ See <http://www.defac.ac.uk>.

³⁰ See <http://www.bundesheer.at/organisation/beitraege/lvak/eifk/eifk.shtml>.

³¹ See <http://www.ccc.nps.navy.mil>.

³² See <http://www.swisspeace.org>.

³³ See <http://www.usip.org>.

³⁴ See <http://www.fiq-fci.org>.

³⁵ See <http://www.crisisgroup.org>.

Institutes that deal with international relations and security issues (The International Institute for Strategic Studies,³⁶ The Center for Security Studies³⁷) have been active in the region as well as institutes that cover minority issues, refugee problems and ethnic conflicts (European Center for Minority Issues³⁸ or the International Organization for Migration³⁹). A particular focus on SEE has been placed by European Union-related institutes that are involved in policy and security studies within the framework of the European Union's emerging security strategies (Center for European Policy Studies⁴⁰ and the Institute for Security Studies (ISS, Paris)⁴¹). Within the structure of the United Nations UNODC has vested research efforts in studying trends in crime in the Balkans and assessing its impact on other countries in Europe.⁴²

Of relevance are publications issued by international, European and national police bodies that deal with the assessment of threats stemming from organized crime and terrorist/political violence (see for example the FBI's account on Balkan Organized Crime⁴³ or Europol's 2007 and 2008 Organized Crime Threat Assessment⁴⁴).

Within the framework of international and European efforts to stabilize the region of SEE combating organized crime (and related problems such as corruption) has become a focal concern. The Stability Pact Initiative against Organised Crime (launched in 2002) is based on the conviction that organized crime has infiltrated some SEE governments and continues to undermine democratization, human rights and respect for the law. From this it is concluded that combating organized crime is of utmost importance for achieving social and political stability in SEE. Also the Council of Europe has focused on SEE in a particular project (CARPO⁴⁵) that aims at analysing the situation of organized and economic crime in SEE.⁴⁶ The research perspectives adopted in the Stability Pact and European approaches concern in particular implementation and evaluation. Research interests aim at knowledge about how organized crime containment policies and anti-terrorist policies are implemented and what effects various policies have.

³⁶ See <http://www.iiss.org>.

³⁷ See <http://www.css.ethz.ch>.

³⁸ See <http://www.ecmi.de>.

³⁹ See <http://www.iom.int>.

⁴⁰ See <http://www.ceps.be>.

⁴¹ See <http://www.iss.europa.eu>.

⁴² UNODC, *Crime and its Impact On the Balkans and Affected Countries*.

⁴³ See <http://www.fbi.gov/hq/cid/orgcrime/balkan.htm>.

⁴⁴ Europol, *EU Organised Crime Threat Assessment 2007*; Europol, *EU Organised Crime Threat Assessment 2008*.

⁴⁵ The CARPO project, *Development of Reliable and Functioning Systems, and Enhancing of Combating Main Criminal Activities and Police Co-operation*.

⁴⁶ See Council of Europe, European Commission, CARPO Regional Project, *Situation Report on Organised and Economic Crime in South-Eastern Europe*.

Organized crime in the Balkans has then been studied from a criminological perspective in a recent comprehensive European survey on organized crime, published in 2004 and accounting for the history and current trends in the phenomenon as well as on policies implemented to counter organized crime.⁴⁷ Ethnology started to contribute to the body of knowledge through throwing light on the nature and origin of ethnic conflicts⁴⁸ as well as premodern features of some regions of SEE.⁴⁹

In the analysis of organized crime in a particular region it is of utmost importance to account for the historical specificity of the phenomenon.⁵⁰ Historical analysis may point to a range of conditions that are important when trying to enforce anti-organized crime policies. Historical knowledge thus may contribute to an understanding of the social roots of organized crime and to explaining the relationship between organized crime groups and their social and cultural environment. Organized crime in the Balkans has a long legacy and studies on the relationship between gangs and bandits on the one hand and state institutions on the other demonstrate that such relationships may influence in significant ways the formation of modern states and its institutions.⁵¹ International actors emphasize in their approaches the re-establishment of order and security and the containment organized crime through an inherently European concept of the modern state that is strongly influenced by Max Weber's ideas on statehood.⁵² Basic elements of the state according to that concept concern strict separation between the public and the private as well as the monopoly of power, which is owned by state institutions alone. From the perspective of such a conception the developments in the area of SEE

⁴⁷ Cyrille Fijnaut and Letitia Paoli (eds), *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Springer Netherlands, Dordrecht 2004.

⁴⁸ See, for example, Donald L. Horowitz, 'Structure and Strategy in Ethnic Conflict', Annual World Bank Conference on Development Economics, Washington, DC 20–21 April 1998, available online at <http://www.worldbank.org/html/rad/abcde/horowitz.pdf>, last accessed 7 January 2009.

⁴⁹ Stephanie Schwandner-Sievers, 'Humiliation and Reconciliation in Northern Albania: The Logics of Feuding in Symbolic and Diachronic Perspectives', in Georg Elwert et al. (eds), *Dynamics of Violence. Processes of Escalation and De-Escalation in Violent Group Conflicts*, Duncker & Humblot GmbH, Berlin 1999, pp. 133–52.

⁵⁰ Sappho Xenakis, 'The Challenge of Organised Crime to State Sovereignty in the Balkans: An Historical Approach', available online at http://www.hks.harvard.edu/kokkalis/GSW3/Sappho_Xenakis.pdf, last accessed 7 January 2009.

⁵¹ Thomas W. Gallant, 'Brigandage, Piracy, Capitalism, and State-Formation: Transnational Crime from a Historical World Systems Perspective', in Josiah McC Heyman (ed.), *States and Illegal Practices*, Oxford 1999, pp. 25–62; Karen Barkey, *Bandits and Bureaucrats: The Ottoman Route to Centralisation*, Cornell University Press, Ithaca, NY 1994; Esther Bacon, 'Balkan Trafficking in a Historical Perspective', in Kimberley Thachuk (ed.), *Transnational Threats: Smuggling and Trafficking in Arms, Drugs, and Human Life*, Praeger Publishers, Westport, CT 2007, pp. 79–112.

⁵² Max Weber, *Politik als Beruf*, Duncker & Humblot, Munich/Leipzig, 1919.

are still characterized by political practices that do not reflect a strict separation of private and public but – according to a study into the history of state building in the Balkans – include clientelism, brokerage, corruption, favouritism, nepotism and blood feuds.⁵³ In fact, these aspects also portray a weak (or failed) state that cannot provide for an adequate measure of security. The retention of a ‘privativistic’ political culture⁵⁴ in some – not all – countries of SEE may also be due to the multiethnic and multi-religious background of SEE societies, which fosters kin-based solidarity and systems of loyalty that centre around an ethnically, religiously or clan defined identity. Historical research and contemporary analyses of the Balkan reality point to a strongly rooted tradition of behaviour patterns contrary to the requirements of a modern state but still perceived to be legitimate by people.⁵⁵ Research in this respect has dealt with blood feuds in Albania, Kosovo and in Montenegro⁵⁶ as well as ‘honour killings’⁵⁷ and the role bribes play in the Balkan region. A survey carried out in 2006 in countries of the SEE reported that on the average some 80 per cent of the samples said that corruption is widespread. Although a substantial share of the respondents declared that bribes are more harmful than useful, evidently bribing a government official is still an effective way to ‘get things done’.⁵⁸ SEE thus figures prominently in case studies on post-conflict societies and the re-establishment of the rule of law, security and state institutions.⁵⁹

8.2 Findings on terrorism and organized crime in southeast Europe

8.2.1 Terrorism and radical developments in Southeast Europe

From the viewpoint of Western researchers and policy analysts the threat of terrorism in the region of SEE stems mainly from the aftermath of Bosnian wars and the fact that as result of these wars radical Islam has entered the

⁵³ Mark Mazower, *The Balkans*, Modern Library, London 2000, p. 23.

⁵⁴ Xenakis, ‘The Challenge of Organised Crime to State Sovereignty in the Balkans’, p. 4.

⁵⁵ *Ibid.*, p. 16.

⁵⁶ Rainer Mattern, ‘Blutrache in Kosovo’, *Gutachten der SFH-Länderanalyse*, Schweizerische Flüchtlingshilfe, Bern 2004; Christopher Boehm, *Blood Revenge: The Anthropology of Feuding in Montenegro and Other Tribal Societies*, University of Kansas Press, Lawrence, KS 1984, pp. 111–12.

⁵⁷ Tanya Mangalakova, *The Kanun in Present-Day Albania, Kosovo, and Montenegro*, International Centre for Minority Studies and Intercultural Relations, Sofia, 2004.

⁵⁸ Zsolt Nyiri and Timothy B. Gravelle, ‘Corruption in the Balkans: A Real Issue for the People, Majorities See it as Widespread and Harmful for the Country’, *Gallup News* (16 November 2007).

⁵⁹ Peter Finell, *Contemporary Challenges for Post-conflict Governance and Civilian Crisis Management – A Study of the Protection of Minority Groups and the Re-building of the Judiciary in Post-conflict Societies*, Åbo Akademi, Institute for Human Rights, Turku 2002, p. 11; Jones et al., *Establishing Law and Order After Conflict*, pp. 27–60.

Bosnian and other Balkan arenas through different routes. In particular after September 11 concerns have been raised as regards the possible infiltration of Balkan countries by international terrorist groups, among which Al Qaeda of course figure prominently.⁶⁰ Analysts point to various developments in Bosnia–Herzegovina that created favourable conditions on the one hand in terms of support and safe havens for networks of international terrorism and on the other hand for the emergence of terrorist activities due to radicalization of Bosnian Muslims and the risk of ‘homegrown terrorism’.⁶¹ These favourable conditions are located in areas with important communities of Muslims (which had suffered atrocities in the civil war at the hand of paramilitary forces). Among the signs that are interpreted as risk factors we find the presence of so called foreign fighters (mainly from the Middle East and Northern Africa) allying with Bosnian military forces in the Bosnian wars of the 1990s,⁶² the funding of the Bosnian military efforts by Islamic countries and the development of subsequent political relationships with countries such as Saudi-Arabia and Iran, the role of Islamic charities as well as the import of Islamic education devoted to radical versions of Islam and the education of Bosnian young people in religious schools in countries of the Middle East (in particular Iran, Saudi Arabia and Yemen).⁶³ A special concern has been raised to the presence and spread of radical Wahhabist and Salafist ideologies,⁶⁴ which have been said to have made headway in Bosnia and other regions of SEE.⁶⁵ Further conditions that are assumed to provide for fertile grounds for activities of international terrorist groups concern the Bosnian state’s weakness⁶⁶ in controlling effectively the territory and

⁶⁰ International Crisis Group, *Bin Laden and the Balkans: The Politics of Anti-Terrorism*, ICG Balkan Reports (9 November 2001), no. 119.

⁶¹ Velko Atanasoff, ‘Bosnia and Herzegovina – Islamic Revival, International Advocacy Networks and Islamic Terrorism’, *Strategic Insights* (2005), vol. 4, no. 5, p. 1.

⁶² Most foreign fighters left Bosnia after the Dayton Peace Accords 1995, however, several hundreds remained after being nationalized. These decisions have been subject to a review through Bosnian authorities after 9/11 leaving but a small group of former foreign fighters.

⁶³ Lagendijk et al., *Travels Among Europe’s Muslim Neighbours. The Quest for Democracy*, Centre for European Studies, Brussels 2008, pp. 10–34. For a detailed account on mujahideen and Al Qaeda presence in Bosnia and Herzegovina and their foreign funding from the Middle East see, for example, Ivica Mlivončić, *Al Qaida se kalila u Bosni i Hercegovini mjesto i uloga mudžahida u Republici Hrvatskoj i Bosni i Hercegovini od 1991. do 2005. godine*, Naša ognjišta, Tomislavgrad 2007; Vlado Azinović, *Al-Kai’da u Bosni i Hercegovini: mit ili stvarnost?* Radio slobodna Europa, Centar za savremenu umjetnost, Sarajevo 2007.

⁶⁴ For a general account see David Byman, ‘Passive Sponsors of Terrorism’, *Survival* (2006), vol. 47, no. 4, pp. 117–44.

⁶⁵ Kenneth Morrison, ‘Wahhabism in the Balkans’, Advanced Research and Assessment Group, Defence Academy of the United Kingdom, Shrivenham 2008, p. 4.

⁶⁶ Misha Glenny, ‘Balkan Organised Crime’, in Judy Batt (ed.), *Is there an Albanian Question?*, European Institute for Security Studies, Paris 2008, pp. 87–104.

implementing anti-terrorist policies.⁶⁷ The political situation is furthermore seen as being dominated by ethnic (and religious) hostility⁶⁸ as well as the legacy of atrocities committed during the civil war,⁶⁹ which may provide for justificatory systems of political violence. In 2004 the International Strategic Studies Association came forward with allegations that the London and Madrid bombings had links to Bosnia.⁷⁰ A case originating from Sarajevo in 2005 involved dismantling a terrorist cell that allegedly planned to bomb the British embassy.⁷¹ The finding of a cache of explosives and firearms has caused intelligence officials to believe that the Balkans could play a greater role in the planning of international terrorism.⁷² Nevertheless, the target of the attempted attack was never determined, and there is no mention of the British embassy in the actual case files.⁷³

However, assessments from outside the Balkans in general now assume that the risk of Balkan countries serving as a significant area for international terrorist activities currently is rather low.⁷⁴ This assessment is also based on a

⁶⁷ Ken Menkhaus, 'Quasi-States, Nation-Building, and Terrorist Safe Havens', *The Journal of Conflict Studies* (Fall 2003), pp. 7–23.

⁶⁸ For Kosovo and the relationship between Kosovo-Albanians and the Serb minority see, for example, Martti Ahtisaari, *Comprehensive Proposal for the Kosovo Status Settlement*.

⁶⁹ Steven Oluic, 'Radical Islam on Europe's Frontier-Bosnia & Herzegovina', *National Security and the Future* (2008), vol. 9, nos. 1–2, p. 38.

⁷⁰ International Strategic Studies Association (ISSA), *Madrid Bombings Highlight Extent and Capability of Islamist Networks*, 2004, available online at <http://128.121.186.47/ISSA/reports/Balkan/Mar1204.htm>, last accessed 7 January 2009.

⁷¹ Maroevic Rade and Daniel Williams, 'Terrorist Cells Find Foothold in the Balkans', *Washington Post* (1 December 2005), p. 16.

⁷² Steven Woehrel, 'Future of the Balkans and U.S. Policy Concerns', CRS Report for Congress (22 May 2008), available online at <http://www.fas.org/sgp/crs/row/RL32136.pdf>, last accessed 17 November 2008, p. 10.

⁷³ The trial in first instance, as well as the harsh conviction, was by many observers characterized as a 'show trial' (this becomes most obvious after analysing the court files) in order to demonstrate the Bosnian zero-tolerance policy towards Islamic Fundamentalists. The first accused (a Bosniak from Sweden aged 18) was convicted to a prison sentence of 15 years and 4 months in first instance; the second instance court altered the prison sentence to 8 years and 4 months. The second accused (a Bosniak from Denmark aged 20) was convicted to a prison sentence of 13 years and 4 months in first instance; the second instance court changed the prison sentence to 6 years and 4 months. The third accused (a Bosniak from Bosnia–Herzegovina aged 29) was convicted to a prison sentence of 8 years in first instance; the second instance court changed the prison sentence to 4 years. The fourth accused (a Bosniak from Bosnia–Herzegovina aged 19) was convicted to a prison sentence of 2 years and 6 months in first instance; the second instance court altered the prison sentence to 6 months. The court files are publicly available online at: <http://www.sudbih.gov.ba>, last accessed 20 November 2008.

⁷⁴ National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report*, at pp. 366–7.

positive evaluation of countries in SEE to support international anti-terrorist campaigns, to implement international instruments to combat terrorism⁷⁵ and to establish an internal security infrastructure that is in line with international standards.⁷⁶ But, although radical versions of Islam evidently do not find popular support, are estimated to have but a few followers⁷⁷ and moderate versions of Islam still prevail,⁷⁸ risks associated with the presence of radical Islam are nonetheless located not only in the possible impact on future generations but also in an imagined threat that could affect social relationships in an already fragile ethnic and religious environment.⁷⁹

While most of the attention in assessing terrorism risks over the last decade was placed on Bosnia–Herzegovina, other regions in SEE evidently also show also signs of continuing ethnic conflicts, religious divisions and political instability that could serve to trigger political violence. The Sandžak region, for example, located in the south-west of Serbia and the north of Montenegro, is seen as a potential zone of instability.⁸⁰ Then, the possible emergence of separatist violence has been noted as a consequence of Kosovo's independence in early 2008⁸¹ and for the Vojvodina.⁸²

Several key issues should be addressed in the analysis of risks of terrorism in SEE. The short summary of studies on terrorism shows that there is first of all a need to achieve a complete picture of politically motivated violence in the region. Most of the studies until now rely on media content as well as on case analysis. Although analysis of terrorist activities in SEE can make use of terrorist incidence databases that systematically collect information on terrorist acts,⁸³ these information systems cannot fully provide for a dense description needed to establish motives, targets and impact. Such dense descriptions in principle can only be delivered by locals familiar with local conflicts and conflict parties.

From the viewpoint of policy making and containment of terrorism, creation and implementation of anti-terrorist policies and legislation are of

⁷⁵ Stability Pact for South Eastern Europe, *Assessing the Implementation of International and European anti-Terrorism Instruments in South-East Europe*.

⁷⁶ Steven Woehrel, 'Islamic Terrorism and the Balkans', CRS Report for Congress (26 July 2005), available online at <http://www.usembassy.it/pdf/other/RL33012.pdf>, last accessed 7 January 2009.

⁷⁷ Morrison, 'Wahhabism in the Balkans', at p. 11.

⁷⁸ Angel Rabasa et al., *Building Moderate Muslim Networks*, Santa Monica, 2007, at p. 102.

⁷⁹ Morrison, 'Wahhabism in the Balkans', at p. 11.

⁸⁰ Kenneth Morrison, *Political and Religious Conflict in the Sandžak*, at p. 1.

⁸¹ Branislav Radeljic, *Independent Kosovo: A Threat for the Balkan Region?* MPRA Paper No. 11722 (23 November 2008).

⁸² Morrison, *Political and Religious Conflict in the Sandžak*, at p. 13.

⁸³ See for example the RAND-MIPT Terrorism Incident Database or the Lawson Terrorism Information Center.

relevance. But there should be also emphasis placed on the negative side effects of such policies and legislation. Research and policy analysts have, for example, dealt with the use of allegations of harbouring terrorist training camps and threats of terrorism as instruments in political conflicts. The potential instrumentalization of allegations of terrorism (and organized crime) points to the relevance of unintended side effects of anti-terrorism policies, which must be monitored closely.

Issues such as radicalization and the sponsorship of terrorism need to be addressed. Especially in light of the potential for terrorist recruitment, radicalization, as well as the factors contributing to violent radicalization, should be explored in the SEE context. The terrorist attacks in Madrid in 2004 and London in 2005, have reinforced the EU's priority treatment of addressing violent radicalisation as part of a comprehensive approach to the preventive side of fighting terrorism.⁸⁴ Violent radicalization, defined as the phenomenon of people embracing opinions, views and ideas that could lead to acts of terrorism, has therefore become one of the cornerstones in the EU's fight against terrorism.⁸⁵

8.2.2 Organized crime in southeast Europe

Research on organized crime in SEE can be broken down into several lines. These lines have been drawn by various approaches and reflect differences in the disciplinary, theoretical and institutional backgrounds of researchers.

A historical approach to organized crime in SEE (or in the Balkans) has been guided by an interest in the study of state formation and in the differences in the formation of the modern state in Europe. The Balkans are seen as representing a region where – for various reasons – the establishment of a modern state in the form it takes in Western Europe did not yet take place and lags behind Western European developments.

Organized crime research has then been stimulated in particular by the 'global bads' that have motivated the creation of international instruments aiming at the containment of transnational, organized crime and efforts to implement such instruments effectively. Organized crime groups in the Balkans are perceived as a threat to European countries as well as for the Balkan countries themselves.⁸⁶ In turn, the European Union security strategy 'A Secure Europe in a Better World' adopted in 2003 suggests that it will be of paramount importance for European security at large to empower Balkan

⁸⁴ Communication from the Commission to the European Parliament and the Council, *Terrorist Recruitment: Addressing the Factors Contributing to Violent Radicalisation*, p. 1. On research addressing violent radicalization see for example: The Change Institute, *Studies into Violent Radicalisation; Lot 2. The Beliefs, Ideologies and Narratives*.

⁸⁵ Communication from the Commission to the European Parliament and the Council, *Terrorist Recruitment*, p. 1.

⁸⁶ See Rehn, 'The EU and Western Balkans'.

countries to contain effectively organized crime in their own countries. Balkan based organized crime is mentioned in European police reports routinely in the context of human smuggling, drug trafficking and trafficking in women.⁸⁷ The CARPO project launched by the Council of Europe and the European Commission devoted significant resources on analysing and combating organized and economic crime in SEE.⁸⁸ Kosovo has attracted special attention due to allegations of strong links between politicians, (para)military forces and organized crime, the wide availability of firearms, its reputation as the ‘epicentre of human trafficking’⁸⁹ and as a stronghold and safe haven of organized crime groups.⁹⁰ The 2004 Organized Crime Report of Europol suggests that ethnic Albanian organized crime groups have established themselves in many Member States and that these groups are controlled from within Kosovo, Albania and other parts of the former Yugoslavia. Furthermore, it is said in the report that the significance of these groups is increasing in Europe at large and that they present an increasing threat to European Union member states’ goals of achieving full control over drug trafficking, illegal immigration and human trafficking.⁹¹

However, such allegations have been also rejected and denounced as reflecting an image problem construed by forces hostile to Kosovo and interested in strengthening a picture of Kosovo run by criminal thugs.⁹² These conflicts over the ‘image of Kosovo’ demonstrate – besides political interests – that there is an abundance of estimates that are rarely placed under scrutiny and a drastic lack of reliable data on the phenomenon of organized crime.

In fact, drug trafficking, trafficking in humans and arms, corruption and the smuggling of immigrants are routinely mentioned as key criminal activities when the crime problems of SEE are listed. Trafficking in humans is an area that has been covered by studies carried out by NGOs, international actors in the region, Special Rapporteurs as well as police bodies outside

⁸⁷ See, for example, Serious Organized Crime Agency, *The United Kingdom Threat Assessment of Serious Organized Crime 2008/2009*, at pp. 8, 38; Bundeskriminalamt, *Lagebild Organisierte Kriminalität 2007*, at p. 21; Europol, *Trafficking of Women and Children for Sexual Exploitation in the EU: The Involvement of Western Balkans Organised Crime 2006*.

⁸⁸ See Council of Europe, European Commission, CARPO Regional Project, *Update of the 2006 Situation Report on Organised and Economic Crime in South-eastern Europe*; Council of Europe, European Commission, CARPO Regional Project, *CARPO Project Final Report* (March 2004–June 2007).

⁸⁹ Europol, *Trafficking of Women and Children for Sexual Exploitation in the EU*, at pp. 4–5.

⁹⁰ Radoslava Stefanova, ‘Fighting Organized Crime in a UN Protectorate: Difficult, Possible, Necessary’, *Journal of Southeast European and Black Sea Studies* (2004), vol. 4, no: 2, pp. 257–79.

⁹¹ Europol, *European Union Organised Crime Report 2004*, at p. 8.

⁹² IKS-Kosovar Stability Initiative, *Image Matters! Deconstructing Kosovo’s Image Problem*, at p. 5.

the SEE.⁹³ Most of the reports emphasize a victimological and human rights perspective and do not analyse organized crime (or the shadow economy) itself in a systematic way and on the basis of sound theories. The report of the Special Rapporteur on trafficking for example relies on talks with representatives of NGOs and government institutions and reflects particular problems when faced with the question of what human trafficking is and how it should be measured and its consequences evaluated. It is interesting to note that the report stresses that the problematization of human trafficking, initiation of action plans and implementation of anti-trafficking measures were due to the activities of the international community. However, the international community was evidently also part of the problem as it was assumed that market demand (for prostitution) decreased significantly with the departure of large sections of the international community from the Balkans.⁹⁴

While the focus of studies carried out by NGOs and international actors is placed on the analysis of policy development and policy implementation, they tend also to summarize data on the incidence and prevalence of trafficking. Data on the incidence of human trafficking stem mainly from police information systems and from NGOs accommodating victims of trafficking in various regions of SEE. Such data are then taken as a basis for estimating the size of the problem (mainly in terms of the number of trafficked women and children). According to such summarizing accounts the incidence of trafficking seems to decline during the last years.⁹⁵ However, available data do not allow a proper test of competing assumptions (real decline or less visibility and respectively less control). The validity and reliability of the data are not scrutinized. In general the data reflect investments in the control of trafficking and particular interests in the problem. These problems have been noted in particular also by the United Nations 2005 report of the General Secretary on human trafficking. The report says frankly that information on human trafficking is generally related to individual cases or has been prepared for advocacy purposes. The report goes on to state that a lack of systematic collection of data makes it difficult to establish the size of the trafficking problem.⁹⁶

Recently, a study published by UNODC came up with a rather unexpected result. The report argued that on the basis of the available official and survey crime data the Balkan countries are a safer place than most Western European countries. The report bases this conclusion also on the finding that

⁹³ For an overview see Lehti, *Trafficking in Women and Children in Europe*, pp. 22–4.

⁹⁴ Huda, 'Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children', at p. 11.

⁹⁵ Barbara Limanowska, *Trafficking in Human Beings in South Eastern Europe*, UNDP 2005, at pp. 49–50.

⁹⁶ Report of the Secretary-General, *Strengthening International Cooperation in Preventing and Combating Trafficking in Persons and Protecting Victims of Such Trafficking*, at p. 17.

the Balkans do not fit the profile of high crime regions (large share of the population lives in metropolitan areas, high birth rate and with that a large number of young men).⁹⁷ Moderate income inequality levels, low ranking on the GINI Index (compared with developing countries) and other rather favourable economic and social indicators are interpreted as demonstrating the region's comparatively low exposure to crime problems. The picture drawn with further socio-economic and educational data reveals according to the report that the Balkan countries do not have a conventional crime problem. This is underlined by comparing murder rates in Balkan countries with other European countries murder rates and showing that most of the Balkan countries exhibit murder rates similar to those found in Western Europe. The particular crime problem of Balkan countries is then located in organized crime activities that are perceived to be rooted in the general transition from communist rule to democracy and the rule of law,⁹⁸ in the Yugoslav wars of the 1990s,⁹⁹ which caused political instability, and the rise of war economies and various black markets.¹⁰⁰ The report also states that organized crime seemed to be on the decline. The basis for this assertion is taken from European police sources, which report a decrease of organized crime activities with a Balkan background in the fields of human trafficking, immigrant smuggling and heroin trafficking.¹⁰¹ Cigarette smuggling and trafficking in arms certainly lost some of its momentum through the end of civil wars and the suspension of the embargo that especially in Serbia and Montenegro (but also in the neighbouring countries) created the conditions for large scale smuggling operations with huge profits involved. Despite this positive assessment the report still says that the region of SEE remains an important corridor for the transit of heroin from Afghanistan (a finding corroborated by the latest report of the EMCDDA¹⁰²) as well as for human trafficking and the smuggling of immigrants.¹⁰³ What is left out of the picture, however, are the historical specifics of organized crime and with that also parts of the current basis of organized crime in the Balkans. Furthermore, there is a significant lack of knowledge about organized crime groups,¹⁰⁴ the way they operate, how recruitment functions and how they are related to their social environment.

⁹⁷ UNODC, *Crime and its Impact on the Balkans and Affected Countries*, at p. 23.

⁹⁸ *Ibid.*, at pp. 10–11.

⁹⁹ Glenny, 'Balkan Organised Crime', at p. 98.

¹⁰⁰ UNODC, *Crime and its Impact on the Balkans and Affected Countries*, at p. 12.

¹⁰¹ *Ibid.*, at p. 19.

¹⁰² EMCDDA, *Monitoring the Supply of Heroin to Europe*, at pp. 9–10.

¹⁰³ UNODC, *Crime and its Impact on the Balkans and Affected Countries*, at p. 19.

¹⁰⁴ For a review of specific neglected areas of research on organized crime in general see, for example, Edward R. Kleemans and Christiane J. de Poot, 'Criminal Careers in Organized Crime and Social Opportunity Structure', *European Journal of Criminology* (2008), vol. 5, no. 1, pp. 69–98.

The UNODC report on crime in the Balkans has been until now by far the most comprehensive account on crime and organized crime in the region. Although the report is not based on primary data collection, it summarizes all of the available survey and official data on crime.¹⁰⁵ Most of the data have been generated by research initiating outside the region, by foreign European police forces, international actors in the SEE region (in particular in Kosovo) as well as by the (rather limited) participation of Balkan states in crime and health related data collection within the framework of the United Nations (*World Crime Survey*), the World Health Organization (*Violence Report 2002*)¹⁰⁶ as well as the Council of Europe (*European Sourcebook on Crime and Criminal Justice Statistics*)¹⁰⁷ and the corruption related data provided by Transparency International. The latter, however, still demonstrate that the Balkan countries fall into categories with (perceived) elevated levels of corruption that make them a region distinct from Western and Northern Europe. As indicated by Figure 8.1, the 2007 report shows a marked increase in the share of the population having paid a bribe to obtain a service only for SEE.¹⁰⁸ The Transparency International data on perceptions of corruption and bribery point to a (slight) decrease although the period for which data have been collected for various countries of the former Yugoslavia is still too short for drawing conclusions on trends.

It is certainly also interesting to note that the picture drawn by the UNODC report is quite different from those that have been produced by other European actors. The report on organized and economic crime 2006 commissioned by the Council of Europe and the European Commission paints a rather dramatic picture of organized crime in SEE, evidently on the basis of more or less the same data used by UNODC. The 2006 report of the Council of Europe even goes so far as to allege that it was the enlargement of the European Union that has driven organized and economic crime in SEE by opening new markets and new opportunities.¹⁰⁹ The UNODC report certainly de-dramatizes the crime situation in the Balkans.

¹⁰⁵ Some countries of SEE have participated in some of the waves of international crime surveys, see for example van Dijk et al., *Criminal Victimization in International Perspective, Key Findings from the 2004–2005 ICVS and EU ICS*; Killias et al., *European Sourcebook of Crime and Criminal Justice Statistics – 2003* (2nd edn); Aebi et al., *European Sourcebook of Crime and Criminal Justice Statistics – 2006* (3rd edition).

¹⁰⁶ Krug et al. (eds), *World Report on Violence and Health*, World Health Organization, Geneva 2002.

¹⁰⁷ Aebi et al., *European Sourcebook of Crime and Criminal Justice Statistics – 2006*.

¹⁰⁸ Transparency International, *Report on the Transparency International Global Corruption Barometer 2007*, at pp. 7–8.

¹⁰⁹ Council of Europe, European Commission, CARPO Regional Project, *Situation Report on Organised and Economic Crime in South-Eastern Europe*, at p. 9.

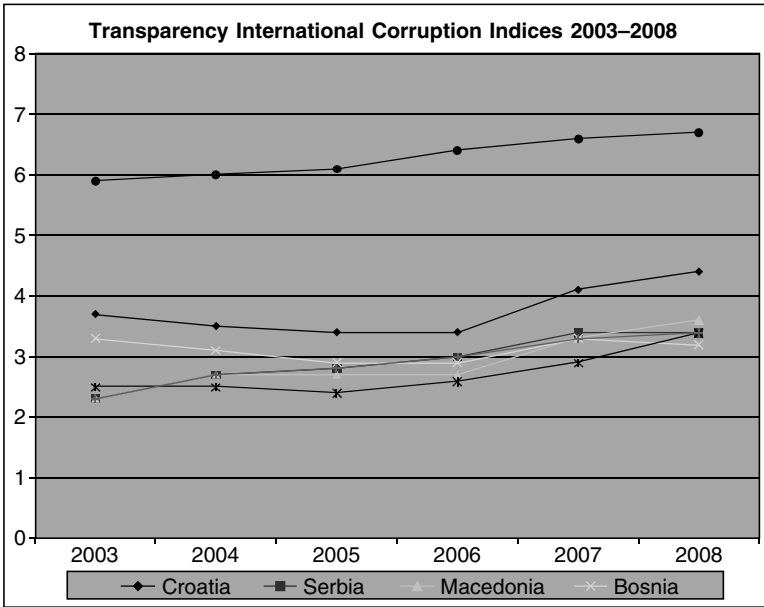


Figure 8.1 Transparency International 2003–8

8.2.3 The nexus between terrorism and organized crime in southeast Europe

Links between terrorism and ordinary crime groups have been documented already in the 19th century with alliances between revolutionary-political movements and underworlds. Alliances can then be observed in the 20th century in the new terrorist movements in Germany as well as in North America.¹¹⁰ Recent years saw a growing interest in exploring the relationships between terrorist movements and organized crime,¹¹¹ in particular on the basis of network approaches.

Current descriptions of financing terrorist movements point to the important role illicit markets play for generating terrorist funds, in particular drug markets.¹¹² The links to illicit markets may pose problems for terrorist groups, as such relationships certainly will have an impact on the support of terrorist

¹¹⁰ Walter Laqueur, *Terrorismus. Die globale Herausforderung*, Frankfurt/Berlin 1987, at p. 41.

¹¹¹ Chris Dishman, 'Trends in Modern Terrorism', *Studies in Conflict and Terrorism* (1999), vol. 22, no. 4, at p. 362.

¹¹² Shelley et al., 'Methods not Motives: Implications of the Convergence of International Organized Crime and Terrorism', *Police Practice and Research* (2002), vol. 3, no. 3, pp. 305–18.

groups in the general population.¹¹³ The way the funding of terrorist groups is organized will be dependent on local particulars, for instance the type of illicit markets available. However, the range of activities that can provide for terrorist funds is wide. The involvement of terrorist groups in bank robberies, extortion and blackmailing, kidnapping for ransom, drug trafficking and credit card fraud demonstrate that it is also conventional property crimes that serve to raise terrorist funds. The existence of substantial funds and illicit economic opportunities may then provide for an important condition for the survival of terrorist organizations beyond the cessation of terrorist activities if such organizations choose to continue to exploit illicit economic opportunities.¹¹⁴ Finally, economic motives may serve as a trigger for changing terrorist groups into criminal organizations active solely for financial gains.¹¹⁵

The move of terrorist groups to fund their activities by criminal means is evidently also influenced by the disappearance of conflicts related to the Cold War and the antagonism between superpowers. After the political transition in the former sphere of influence of the Soviet-Union the superpowers withdraw widely from financing violent actors and insurgent groups. If states or a diaspora willing to finance insurgencies are not available then violent groups are dependent on acquisitional crime activities. Participating in economic activities makes sense only in those areas where violent groups have a competitive advantage. The competitive advantage of violent/terrorist groups lies in their ability effectively to exert violence or to exploit a reputation of effective violence.

Links between organized crime and terrorist groups may also be established through the need for services that can be provided by organized crime groups or terrorist groups. Terrorist groups may be dependent on particular services or commodities available only through certain crime groups (for example money laundering or arms). Organized crime groups may be dependent on the protection that can be delivered by terrorist groups.¹¹⁶

It has been argued then that criminal groups and gangs may transform themselves into groups with a political agenda through politicization, internationalization and growing sophistication (in terms of organization and technology).¹¹⁷

¹¹³ See Andrew Silke, 'Drink, Drugs, and Rock'n'Roll: Financing Loyalist Terrorism in Northern Ireland – Part Two', *Studies in Conflict & Terrorism* (2000), vol. 23, no. 2, at p. 111 citing the IRA as an example.

¹¹⁴ Silke, 'Drink, Drugs, and Rock'n'Roll', p. 124.

¹¹⁵ See, for example, Ayla Schbley, 'Torn between God, Family, and Money: The Changing Profile of Lebanon's Religious Terrorists', *Studies in Conflict & Terrorism* (2000), vol. 23, no. 2, pp. 175–96.

¹¹⁶ See John P. Sullivan, 'Gangs, Hooligans, and Anarchists – The Vanguard of Netwar in the Streets', in Arquilla, John and David Ronfeldt (eds), *Networks and Netwars: The Future of Terror, Crime, and Militancy*, Santa Monica 2001, pp. 99–126.

¹¹⁷ *Ibid.*

Both organized crime and major forms of terrorism operate today through networks (and not through hierarchical organizations with physical infrastructures and large investments). Convergence between organized crime and terrorist groups has been claimed to be furthered by networks and networking with the peripheries of networks serving as facilitators of cooperation and interactions. Through the peripheries of criminal and terrorist networks contacts are facilitated and common interests identified.

Balkan-based links between organized crime and terrorism have been documented in a study published in 2002.¹¹⁸ Most of the evidence provided by this study comes from criminal investigations involving organized criminals and arms traffickers active in Croatia and other SEE countries during the second half of the 1990s and their links to political parties. The cases demonstrate a certain role of countries in the SEE in providing arms for terrorist groups (located mainly in Western Europe) and organized crime groups. Arms trade is connected with illicit drugs through 'drugs for arms' arrangements.

There have been allegations that Islamic militants (linked to Al Qaeda) have cooperated with Bosnian criminal organizations in trafficking Afghan heroin to Europe through the Balkans.¹¹⁹

Another nexus between organized crime and terrorist groups has been reported for Kosovo. According to these reports a relationship developed between the Kosovo National Front, the Kosovo Liberation Army and Albanian drug traffickers. Profits from heroin trafficking were forwarded to the Kosovo Liberation Army, which used these funds to buy weapons.¹²⁰

8.3 Potential fields and modalities of research capacity development

There remain several challenges as regards the development of research capacity in the field of organized crime and terrorism.

In general, knowledge on organized crime and terrorism in SEE remains limited. The limitations are manifold. First, data collection is rarely systematic and the bulk of data concerns information from police and intelligence organizations, which tells more of the operations of agencies involved than about the phenomenon. This limitation, however, applies also to international research on organized crime and terrorism. Second, the research

¹¹⁸ Glenn E. Curtis and Tara Karacan, *The Nexus Among Terrorists, Narcotics, Traffickers, Weapons Proliferators, and Organized Crime Networks in Western Europe*, Federal Research Division, Library of Congress, Washington, DC 2002, pp. 10–3.

¹¹⁹ Tamara Makarenko, 'The Crime–Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism', *Global Crime* (2004), vol. 6, no. 1, at p. 132.

¹²⁰ Ibid.

carried out so far has been limited from the viewpoint of theory. The bulk of research remains confined to political frameworks and is not guided by the goal to develop theories of organized crime and terrorism that can be applied successfully to the specific conditions of SEE. But a sound theoretical basis and reliable measures are needed especially in attempts to evaluate anti-organized crime and anti-terrorist policies.

Finally, there is little attention paid to the question of whether data collection methods that can be applied successfully in advanced countries may also be applied under conditions found in Balkan countries. A recent study on small arms possession in Kosovo communities came up with quite interesting methodological results. Two thirds of respondents declined to answer the question of how many households in the community would be in the possession of firearms.¹²¹ This of course does not allow us to compare survey results with data collected in other environments where non-response rates are much lower. The interesting question, both from the viewpoint of method and the viewpoint of explanation and theory concerns why only a small share of respondents chooses to respond to the question of arms possession.

8.4 Conclusion

There is a need to develop research capacity in Balkan countries that can be devoted to the study of organized crime and terrorism. Research on organized crime and terrorism in SEE until now was almost exclusively carried out by actors from outside the region. These actors have in general particular political and scientific agendas that frame research approaches as well as research findings. The diversity of scientific and political interests calls on the one hand for a greater role of independent research and on the other hand for the development of local interdisciplinary research capacities. Research findings on organized crime and terrorism outlined above demonstrate the need to combine historical, anthropological and social science approaches when trying to describe accurately organized crime phenomena and their impact on society.

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¹²¹ Forum for Civic Initiatives and Saferworld, *Through the Cross-Hairs. A Survey of Changing Attitudes Towards Small arms in Kosovo*, November 2008, at p. 6.

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9

Getting Better? A Map of Organized Crime in the Western Balkans

Dejan Anastasijevic

9.1 Introduction

Among many stereotypes associated with the Balkans, perhaps the most persistent one is that organized crime and corruption are somehow endemic to the region. Western diplomats and officials routinely mention these problems as the region's main obstacles on the road towards European integration, even for the countries that have already acquired the coveted membership status. In 2008, Bulgaria's access to EU funds were blocked because of its failure to contain organized crime – making it the only country in the history of the EU to be sanctioned in this way – and Romania narrowly avoided getting the same treatment. According to the European Commission 2008 progress report,¹ all countries of former Yugoslavia, apart from Slovenia, have serious problems tackling organized crime and corruption, including Croatia, the only state in the region with a remote chance of joining the EU in the foreseeable future. Local politicians also like to put fighting organized crime at the top of their priorities, at least in their speeches, although not necessarily in reality.

Apart from being seen as a 'gangsters' paradise' the Balkans are, as of late, also viewed as an area that not only breeds, but also exports criminals to the West. A good example is a recent article in the *London Daily News*,² claiming that ethnic Albanian mafia from Kosovo are taking over the underworld in the UK. 'We can use guns, we control the prostitutes in Soho and we are investing in London heavily. We fear no one and the law cannot do anything to stop us', one 'leading gangster' boasted in the contribution, which also claimed that a 'recent FBI report shows that Albanian mafia

¹ *European Commission 2008 Progress Report*, full report, available online at http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008, last accessed 20 May 2009.

² 'Albanian Hit Men on Hire in London for £ 5,000', *London Daily News* (2 March 2009).

overtook the Russian and Italian mafia in New York, and also in several European cities, including London, Berlin and Prague'. Similar stories, usually based on unnamed sources and rarely backed by facts, also appeared in major German, Swiss, and Austrian newspapers, although the criminals in question are not always Kosovo Albanians: sometimes they are Serbs, Croats, Bosnians, or even Macedonians, and often they are referred to more broadly as 'Yugoslavs'. The fear of the Polish plumber has been replaced, or rather supplemented, by the specter of the Balkan gangster, whose alleged ruthlessness somehow makes him more dangerous than the more benign local breed.

Although it might seem easy to dismiss these claims as simple bias or symptoms of Europe's growing xenophobia, one must not forget that stereotypes usually grow from a grain of truth. There is no doubt that the problem is real: as this author pointed out in an earlier HUMSEC paper,³ countries of the region had simultaneously to deal with both the difficulties inherent in transitions and in post-conflict environments; this makes them vulnerable to organized criminals firmly rooted in the security sector. It does not help that the Western Balkans countries are, due to their geographical position, a major stop for the Afghan heroin traveling towards lucrative Western European markets. And, finally, a large number of ex-Yugoslavs live and work in Western Europe as migrant workers (*Gastarbeiter*), often in tightly-knit communities, which make them an easy target for criminal networks based in their country of origin.

The latest war in the former Yugoslavia ended a decade ago and, by now, most countries in the region have more or less successfully switched to market economies, and all are, according to the 2008 Freedom House report, mostly democratic and free. Furthermore, the prospect of EU membership has encouraged anti-crime legislation and security sector reforms throughout the region, although the implementation record is somewhat mixed. The purpose of this contribution is to provide an overview, based on available statistics and reports, of the extent to which organized crime still affects the Balkans, and of the efforts of the national governments to contain it.

Two other issues deserve clarification: one concerns the boundaries of the Western Balkans. Some countries, such as Croatia and Greece, although geographically in the Balkans, would rather be excluded from the political context of the peninsula. Croatia therefore sees itself as a 'Central-European Mediterranean nation', while Greeks claim that their ancient past and non-Slavic origins dissociate them from their Slavic neighbors. Greece is indeed excluded from this contribution, but so is Bulgaria, not because of

³ Dejan Anastasijevic, *Organized Crime in the Western Balkans*, HUMSEC Working Paper Series (2007), available online at http://www.humsec.eu/cms/fileadmin/user_upload/humsec/Workin_Paper_Series/Working_Paper_Anastasijevic.pdf, last accessed 20 May 2009.

the reasons mentioned, but because both countries are EU members, and thus have instruments of containing organized crime that are inaccessible to their neighbors. For the same reasons, Croatia, which is yet to become a EU member, is included. Albania is not, due to a lack of statistics and the language barrier.

The second issue concerns the definition of organized crime. This contribution will limit its subject to three traditional branches of organized crime: the trafficking of drugs, people, and weapons by hierarchically organized criminal groups. The author is aware that the subject is much more complex, as it could also include extortion, corruption, and the trafficking of other commodities, such as cigarettes, stolen cars, or looted art. The three branches mentioned above are chosen because of their clearly transnational aspect, and because they are by far the most lucrative. According to UN figures, the narcotics trade alone generates more income than legal trade in the region, and thus deserves the bulk of our attention.

Finally, a few words on terrorism. Although all sides in the Yugoslavia wars employed terrorist tactics to various degrees, transnational terrorism failed to gain a foothold in the Balkans. While Al Qaeda and other Islamic militants tried to establish their presence in the Muslim-populated parts of former Yugoslavia, such as Bosnia, Kosovo, and Sandžak, they were rejected by the locals, who mostly see religion as a matter of ethnic identification, not faith. The wars in the former Yugoslavia were aimed at grabbing territory from rival ethnic groups, and not about any particular ideology or religious belief. Thus it is more likely to find Islamic militants, or ultra-right supremacists in London, Hamburg, and Paris, than in Sarajevo, Pristina, or Novi Pazar.

9.2 Macedonia

As the southernmost ex-Yugoslav republic, Macedonia borders Bulgaria, Serbia, Greece, and Kosovo. It has a total area of 25,333 square kilometers, and a population of just over 2,000,000 people, a quarter of whom are ethnic Albanian (the majority are Macedonian Slavs). In 1991, Macedonia peacefully seceded from Yugoslavia, but barely escaped plunging into civil war in 2001, in the aftermath of the Kosovo war. Although the conflict between Macedonian Slavs and ethnic Albanians was largely resolved by the Ohrid Agreement in the same year, ethnic relations remain tense. The country is further destabilized by an ongoing dispute with Greece over its name (Greeks insist that Macedonia change its constitutional name in order to avoid confusing it with the Northern Greek province of the same name). Occasional outbursts of ethnic violence and the dispute with Greece have dramatically slowed down the country's path towards EU membership: although officially a candidate since 2002, Macedonia has yet to start membership talks, and its bid to join NATO is blocked by Greece.

Macedonia also has the highest unemployment rate in the region (apart from Kosovo), with some 37 per cent of the workforce jobless.⁴ This provides a recruiting pool for organized criminals, who are often able to provide a steadier source of income than legal employers.

9.2.1 Narcotics

As far as organized crime is concerned, Macedonia's primary problem is drug trafficking: heroin and synthetic drugs (amphetamines and Ecstasy) enter through Bulgaria, while high-grade cannabis grown in Albania gets into the country from Kosovo. Both are mostly intended for Western markets. The 2008 United Nations Office on Drugs and Crime (UNODC) report estimates that some 80 metric tons of heroin passes through the Western Balkan route every year, and Macedonia is the natural gateway for this flow.

Still, the quantities of drugs seized by Macedonian authorities are miniscule, and tend to be decreasing. According to the 2007 Ministry of Interior report (the latest available), the authorities confiscated the following:

- cocaine: 486 kg (compared to less than 300 grams in 2006);
- heroin: 60 kg (two and a half times less than in 2006);
- marijuana: 208 kg (30 per cent less than in 2006);
- cannabis: 4413 plants seized (a significant increase from the 142 plants seized and destroyed the previous year);
- hashish: 851 grams (compared to only 16 grams in 2006);
- raw opium: one kg (compared to three kg of opium seized in 2006); and
- ecstasy: 1,862 pills (slightly more than the 1,377 seized in 2006).

The cocaine seizure on the top of the list was a result of intercepting one big shipment in January of 2007, which was achieved as part of an international effort headed by the US Drug Enforcement Agency (DEA). Almost half a ton of cocaine was seized in this one operation, but after that, the quantities of hard drugs seizures in Macedonia continued to decrease.

According to Ministry of Interior statistics, in the first ten months of 2007, criminal charges were brought against 326 persons (slightly fewer than in the preceding year), including twelve juveniles and one police officer. Those charges involved 282 actual cases of illicit drug trafficking, amounting to 33 cases more than in 2006. In 2007, police seizures of cocaine and hashish were on average significantly higher than in the previous year. Seizures of other drugs, such as heroin, marijuana, and other psychotropic substances, were slightly lower or the same as during the previous year. Some MOI sources believe trafficking in some synthetic drugs, such as Ecstasy, actually rose in 2007, indicated by lower prices for such narcotics, reflecting an increased supply on the market.

⁴ Estimated by the United Nations Office on Drugs and Crime.

Official Macedonian statistics regarding drug abuse and addiction are unreliable, but the government estimated there were between 7,000 and 8,000 drug users in the country. The most frequently used drug was marijuana, followed by heroin and ecstasy. There were an estimated 1,000 cocaine users in the country in 2007, according to official sources. Treatment and rehabilitation activities are carried out in the one state-run outpatient medical clinic for drug users that dispenses methadone to registered heroin addicts. There are also seven specialized local centres for methadone substitution treatment, which treat 1,550 drug addicts. One of the seven centres is located in the largest prison in the country (with over 60 per cent of the total prison population). Of the 1,500 prisoners in the country's main prison, an estimated 600 were identified as drug addicts. Macedonian health officials acknowledged that rehabilitation centers were overcrowded. The Ministry of Health announced the opening of four more rehabilitation centers in Skopje, and seven in the smaller towns, including along a major internal drug supply route. In-patient treatment in specialized facilities consisted of detoxification accompanied by medicinal/vitamin therapy, as well as limited family therapy, counselling and social work.

9.2.2 Human trafficking

Like other countries in the Western Balkans, Macedonia is simultaneously the source, the transit route, and the destination for the trafficking of human beings, who largely fall in two categories: women, used for sex trafficking, and illegal migrants, heading for Western countries. Women and children are also trafficked internally, mostly from the rural eastern part of the country to urban bars in the Western, predominantly ethnically Albanian part of the country. The majority of victims trafficked into the country were from Serbia, Kosovo, and Albania. Macedonian victims and victims transiting through Macedonia are trafficked to South, Central and Western Europe, including Greece, Bosnia, Serbia, Italy, and Sweden.

The government's National Commission for the Prevention and Suppression of Trafficking in Persons and Illegal Migration was the lead coordinator for anti-trafficking efforts. The Ministry of the Interior is primarily in charge of enforcement efforts, while the Ministry of Labor and Social Policy deals with victim protection. Eight other ministries, the Chief Public Prosecutor's Office and court representatives also participate. In recent years,⁵ the government increased its law enforcement efforts related to trafficking, and its aggressive prosecution efforts resulted in an increased number of arrests and convictions. Authorities discovered most victims of trafficking during police raids on bars and nightclubs. During 2007, police conducted 16 raids on suspicious bars in the Western part of the country

⁵ According to the OSCE Macedonia office report *Efficiency of the Courts When Dealing with Organized Crime Cases Year 2005, 2006, 2007*.

as well as on makeshift apartments in towns near the Southern border and discovered 99 potential trafficking victims. Local NGOs participated in the post-raid interviews and confirmed the police numbers. By the end of the year, 57 trafficking-related cases had been prosecuted and 184 individual suspects had been put on trial for involvement in trafficking.

Macedonia is also the only country in the region that has criminalized the men receiving sex services from trafficked women, provided they were aware of the victims' situation. However, since the introduction of this law in 2007, only one person was charged, and the case was later dropped by the prosecutor.

It is somewhat curious that almost all perpetrators prosecuted for human trafficking in Macedonia in the past several years were ethnic Albanians. On the other hand, almost all persons prosecuted for corruption in the same period were Macedonian Slavs.

No serious cases of arms trafficking were reported in recent years.

9.3 Serbia

With a total area of some 77,000 square kilometers, a population of around 7.5 million, and bordering eight countries (Macedonia, Bulgaria, Romania, Hungary, Croatia, Bosnia-Herzegovina, Montenegro, and Kosovo), Serbia is the largest state in the region. Its problems are proportional to its size: Serbia emerged as a loser from the Yugoslav wars – in Slovenia, Croatia, Bosnia, and in Kosovo – and ten years after the end of the last one it is still confronted with the consequences. Due to the wars and UN-imposed economic sanctions, Serbia lost valuable time and resources, which delayed and complicated its transition to democracy and free market economy.

Slobodan Milošević, who was largely responsible for the bloody breakdown of Yugoslavia, was kicked out of power in 2000 and eventually died during trial at the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague, but his legacy was much harder to remove. During his 13-year-long autocratic reign, Milošević had thoroughly undermined and criminalized Serbia's institutions, and above all the security sector. Apart from being engaged in the war effort, officials of Milošević's military, police, and particularly the State Security (also known as DB), were involved in a wide range of covert illegal activities, from massive smuggling operations to kidnappings and political assassinations, thus effectively becoming the largest criminal organization in the Balkans. On top of that, a substantial number of 'patriotic' criminals were incorporated in the DB in return for their services to Milošević's regime.⁶

⁶ A detailed report on the link between Serbia's security agencies and organized crime by this author can be found at <http://www.esiweb.org/index.php?lang=en&id=310>.

The first post-Milošević government, led by the Democratic Party chief Zoran Djindjić, was too feeble to deal with this poisoned legacy: Djindjić's attempts to purge the security services from criminal elements led to his assassination in 2003. During the state of emergency that followed, thousands of suspected criminals were rounded up in massive raids throughout the country, and although most of them were later released for lack of evidence, organized crime was pushed deep in the underground and its link with the police and the DB were, if not completely severed, seriously damaged. What followed was a series of half-hearted reforms, undertaken under conservative government of Djindjić's successor Vojislav Koštunica (2004–8). The trend continued after the May 2008 elections, which brought the Democrats, now led by President Boris Tadić, back to power. Despite Tadić's vigorously pro-Western rhetoric, the new government's activities have so far produced mixed results. Significant reforms have been implemented in the military, improving civilian control and parliamentary oversight. However, the police remains largely unreformed, suffering from overcentralization and lack of external control – the same applies to the DB (meanwhile renamed BIA (Security and Information Agency)). Although Saša Vukadinović, the agency's current boss, has an impressive record in fighting organized crime, the present laws and regulations do not provide tools for systematic reforms, and leave the BIA out of effective parliamentary and judicial control.

One of the factors slowing Serbia's progress is the present blockade of its candidacy talks with the EU, imposed by the Netherlands, Belgium, and Luxembourg. These three countries insist that Serbia has to arrest and deliver Ratko Mladić and Goran Hadžić, the two remaining fugitives wanted by the ICTY, before any talks about Serbia's candidacy can start. As a result, the EU has lost an important leverage that could otherwise prompt Belgrade to introduce and implement the reforms that would bring Serbia's law-enforcing services and agencies closer to European standards.

Still, some progress has been made. The border control has been improved, and the national anti-drug trafficking strategy has been adopted, although not yet implemented. The judiciary is undergoing reforms aimed at boosting its efficiency and independence, and a set of new laws, including one that allows the government to seize the property of organized criminals, was adopted by Parliament in the first quarter of 2009.

It may be important to note that the anti-drug strategy and the new legislation were the necessary precondition for relaxing the EU visa requirements for Serbian citizens (Serbia is expected to be placed on the so-called white Schengen list by the end of 2009). This clearly illustrates the EU's potential to provide incentives for Serbia's modernization.

9.3.1 Narcotics

As with the other countries in the region, drug trafficking is a serious problem. Serbia's geographic position puts it in the middle of the Balkan route,

connecting Central Europe with the Southeast. Heroin gets in from Bulgaria, Macedonia, and Kosovo, and then exits to Hungary or Croatia. Another route leads over the long and soft border with Bosnia–Herzegovina, and continues westwards to Croatia, Slovenia, Austria, and Italy. Lately, increasing quantities of cocaine find their way to Europe through Eastern Adriatic ports in Albania, Montenegro, Croatia, and Slovenia, and then join the heroin route on their way westwards. Another new trend is increased seizures of Albanian high-potency cannabis intended for Western and Central European markets. Cannabis has been grown in large quantities in Albania since the fall of Communism, but until recently it was mainly sold locally and in the neighboring countries. Now it seems that the growers have mastered the production of skunk, a highly-potent form originating in Holland, attempting to reach the more profitable Western markets. In a recent seizure, on 15 March 2009, 29 kilograms of Albanian skunk were discovered by the Serbian customs on the border with Croatia, hidden in special compartments of a truck and, on the next day, another 33 kilograms were discovered by the police in the city of Nis. The smugglers' ring involved both Serbian and ethnic Albanian members, proving once again that ethnicity is not an issue for organized criminals.

The narcotics seizures have steadily increased over the past several years. However, it remains unclear whether this trend is a result of the increased efficiency of the Serbian customs and police, or of the increased flow of narcotics, or both. According to the latest available data, between July 1, 2007, and July 1, 2008 Serbian customs intercepted the following quantities:

- cocaine: 11.7 kilos;
- heroin: 204.4 kilos;
- cannabis: 278 kilos;
- Ephedrine (precursor for synthetic drugs): 54,760 tablets.

This is almost two times more than the amount confiscated in the previous year, when only 119 kilos of heroin and 138 kilos of cannabis were detected. It may be interesting to note that the largest single shipment of heroin (163 kilos) was discovered in a Turkish truck carrying diplomatic mail to Austria, France, and the Netherlands.

In 2008, Serbian police seized 15 kilograms of cocaine, 207 kilograms of heroin, 1.4 metric tonnes of (mostly locally produced) cannabis, and about 1,000 Ecstasy pills. This is also a decrease compared with the previous year, but it can be safely assumed that only a tiny fraction of the Western-bound narcotics traveling through Serbia ends up in the hands of authorities.

9.3.2 Human trafficking

Serbia is simultaneously a source, a point of transit, and a target country for human trafficking. This involves not just the trafficking of sex slaves from

Moldova, Ukraine, and the Western Balkan countries (Serbia included), but economic migrants from Asia and people seeking refuge from the wars in Afghanistan and Iraq. A recent case⁷ of a young Afghan who strapped himself to the bottom of a bus in Athens, only to be discovered 30 hours later and several thousand kilometers away in Poland (he was aiming for Italy, but picked a wrong truck) shows the measure of despair of those trying to reach better life in Western Europe. Traffickers feed on this desperation to harvest their victims' life savings.

Another recent case⁸ illuminates how a trafficking ring works. Chinese immigrants were flown into Belgrade, entering the country on a business visa (these were legally issued by the Belgrade airport police). A Chinese citizen with a registered business in Belgrade would pick them up and refer them to the Serbs running the trafficking ring. The immigrants were shipped in small groups to safe houses in southern Serbia, illegally transferred to Macedonia, and then on to Greece, their final destination. Police arrested nine members, six of them Serbs, one Chinese, and two ethnic Albanians. The immigrants were paying between 100 and 1,700 Euros per passenger for the Serbian stretch of the journey, depending on their age and the size of 'the cargo', according to the police. The ring was broken by joint efforts of Serbian, Macedonian, and Greek police coordinated by SECI (South East Europe Cooperative Initiative, a Bucharest-based regional crime-fighting body).

The above case points out a couple of things. One is how easily organized criminals overcome vast ethnic, or even geographical barriers. The second is that they can be thwarted only by an intense regional cooperation. And the third is that without the promise of the eventual EU membership, Serbian authorities have little incentive to develop laws that can effectively contain organized crime, and even less to implement them. This more or less applies to all the countries in the region.

Apart for improved legislation and good regional cooperation, another factor aids Serbia's efforts to keep trafficking under control: the integration of Bulgaria and Romania into the EU practically eliminated illegal emigration from these countries, since their citizens can now travel and work legally in many Western countries.

9.3.3 Arms trafficking

After the big scandal in 2003, when it was discovered that Serbia had been illegally selling weapons to Saddam Hussein for years, the United States exerted serious pressure on Serbia to get its arms exports industry in order. As a result, SDPR Jugoimport, Serbia's main arms procurement agency, was restructured, and a triple-layered system of control was imposed to prevent weapons from reaching the wrong hands.

⁷ As reported by *Beta News Agency* (7 April 2009).

⁸ As reported by *Politika Daily* (3 April 2009).

The system was recently tested when the Serbian Foreign ministry successfully blocked a 500 million dollar shipment of Serbian-made AK-47s and other small arms to Libya, which is under a UN-imposed arms embargo. The dealer was one Slobodan Tesić, who was also involved in earlier breach of sanctions against Libya, Liberia, and Iraq. According to documents presented by Tesić, the destination was another North African country, but his involvement in previous breaches prompted the BIA investigation, which revealed Libya as the final recipient, and resulted in the annulment of Zastava's (Serbia's main arms manufacturer) contract with Tesić's company Temex. This, again, happened only because the US government warned Belgrade that Zastava's arranged exports of handguns and hunting rifles to the US manufacturer Remington would be canceled if the deal with Tesić went through.⁹

Apart from large-scale trafficking, several cases of small Serbian-made arms (including assault rifles and rocket-propelled grenade launchers) intended for illegal markets in Western Europe were recorded in recent years. One such was discovered by Italian police in Treviso in 2006, when they arrested four Serbs and an Italian with a large cache consisting of handguns, AK-47s, and even heavy machine guns, intended for local criminal gangs. The trickle of small caches, which can be easily hidden in a truck or a car, is very difficult to stop, given the large quantity of the weapons left over from the war years.

9.4 Kosovo

Kosovo is a strange country. Presently, it has no fewer than four different administrations: the first is the national government, which only recently took over responsibilities for foreign policy, security, and defense; the second is UNMIK (United Nations Mission in Kosovo), which had wide powers over policing, judiciary and foreign affairs, and the economy, but was drastically downsized after Kosovo's declaration of independence in February 2007, yet it still plays a role in these subject matters, especially in the Serb-populated north; the third is EULEX (European Rule of Law Mission in Kosovo) consisting of almost 2,000 international police service members, customs officers, and lawyers whose aim it is to help build a functional justice system in the country; finally, there is KFOR, NATO's peacekeeping force, which monitors and trains Kosovo's newly founded defence force (army), but still retains control over all military matters. These four administrations serve different masters: the government is accountable to the parliament in Priština, UNMIK to the UN Secretary General in New York, EULEX to the European Council in Brussels, and KFOR responds to NATO HQ. On top of that, the government in Belgrade still controls some aspects of the life in the three northern municipalities (Mitrovica, Zvečan, and Lipljan) by keeping the medical staff, the teachers, and some undercover policemen on its payroll.

⁹ As reported by *TV B92* (12 March 2009).

Despite these entangled webs of foreign and local bureaucrats, policemen, and soldiers (or maybe because of it) Kosovo is one of the worst administered countries in Europe. Ten years after the end of the war, the electric grid is only partially restored, unemployment is officially 40 per cent (some say the real figure is closer to 70), and there is a general atmosphere of impunity due to the lack of a functional justice system.¹⁰

Kosovo's reputation as 'a black hole in the center of the Balkans'¹¹ is further marred by news reports blaming much of prostitution, drug peddling, and other crimes plaguing Eastern Europe on Kosovo Albanian crime rings. According to these reports, and mostly anonymous police sources, Switzerland, Italy, Czech Republic, and United Kingdom are just some of the countries where ethnic Albanian gangs have taken over the underworld.

But can these claims really be believed? It is hard to deny that Kosovo has a serious problem with organized crime, and that Kosovo Albanian gangsters are rough, but can a single ethnic group from a small landlocked country in Europe's backyard take over such a large chunk of multinational illegal business worth tens of billions of dollars, and all that in just a few years? Available facts are scarce, but they do not seem to corroborate the claim.

First, there is little doubt that Kosovo is a major redistribution center for narcotics entering Europe via Balkan route. There are several factors contributing to this: Kosovo is conveniently situated close to a major highway linking Greece with the rest of the EU; it has porous borders with all of its neighbors (Serbia, Macedonia, Montenegro, and Albania). Internally, the pervasive corruption¹² and the atmosphere of impunity hamper the efforts of law enforcement agencies to combat crime. Externally, ethnic Albanian diasporas in Turkey and several Western European countries provide natural recruitment pool for smugglers, whether they traffic people or illegal drugs. And, finally, the ethnic Albanian traditional social structure based on large, closely-knit families, and the language, which is completely incomprehensible for outsiders, make Albanians both highly visible in the eyes of the host countries, as well as impenetrable for law enforcement agencies.

But how can the impact and the relative strength of Kosovan crime gangs be adequately measured against their Turkish, Kurdish, Sicilian, Serbian, British, French, and other counterparts? Many Kosovo Albanians carry Serbian, Macedonian, and Albanian passports, and many of those living in the West have acquired citizenships of their adopted countries, so statistics can be tricky.

¹⁰ Human Rights Watch, Open Letter on Key Priorities for Justice System Reform in Kosovo (16 December 2008).

¹¹ Michael Radu, 'Kosovo: The Revenge of CNN and the Politics of Emotion', *Foreign Policy Research Institute* (2007), available online at <http://www.fpri.org/enotes/200804.radu.kosovopoliticsemotion.html>, last accessed 20 May 2009.

¹² See the European Commission's 2008 Progress Report.

Braving these obstacles, UNODC conducted thorough research, published in March of 2007. According to this report, an estimated 5 per cent of those arrested for heroin trafficking in 15 countries of Western Europe in 2004 were ethnic Albanians (the figure includes Albanians from Albania, Macedonia, and Serbia proper). In Germany, only 21 Albanian heroin dealers were detected in 2006, compared to over one hundred in the year 2000. The report concludes that¹³

Citizens of Albania do continue to provide Italy with a large share of its heroin: about half the heroin seized by the Italian authorities in 2006 was taken from Albanian nationals. But both the number of Albanians arrested and the amount of heroin taken from them have declined in the last few years [...] This 5% is responsible for a disproportionately large share of the heroin seized, however, largely due to the role Albanians play as importers to Italy: perhaps 10% to 20% of the heroin supply to Western Europe. This figure is considerably less than some previous estimates, suggesting a declining role for ethnic Albanian heroin traffickers in Europe, a decline supported by the downward trend in both ethnic Albanian arrests and seizure totals in many key heroin markets. In short, the single most notorious Balkan organized crime phenomenon – the role played by ethnic Albanian traffickers in West European heroin markets – appears to be in decline. Similar trends are seen in the other major organized crime markets involving the region.

It should also be noted that the Kosovo Police service, aided by international colleagues, has managed to break several drug and prostitution running rings, and that EULEX, the most ambitious institution-building mission in the EU's history, only became fully operational in March of 2009, by the time this contribution was almost finished. How this mission – its primary role being monitoring and advising the government's law enforcing agencies, but whose members are armed and empowered to make arrests – will affect the situation in Kosovo, will become clearer in the near future.

9.5 Montenegro

Montenegro is tiny. With a population of just over 620,000 and a total area of below 14,000 square kilometers, it is the smallest country in the Balkans, and, in May 2006, became the last one to secede from former Yugoslavia. But there is some continuity. Although ostensibly a democracy, Montenegro has been run for the past 17 years by the same man, Milo Djukanović, who alternates between the positions of President and Prime Minister in a

¹³ UNODC, *Crime and its Impact on the Balkans and Affected Countries*, available online at http://www.unodc.org/documents/data-and-analysis/Balkan_study.pdf, last accessed 20 May 2009.

somewhat Putinesque manner. For most of its history, Montenegro was a staunch ally of Serbia; Djukanović brought this to an end by turning against Milošević in 1997, calling up a referendum for independence in 2006, and recognizing the independence of Kosovo in 2008. Since then, the relations between Serbia and Macedonia have been somewhat uneasy, but not outright hostile, due to the common ancestry, religion, and culture.

Much like Kosovo, Montenegro has an image problem. Its reputation as a smugglers' paradise was earned in the 90s, when Serbia and Montenegro were both under a UN economic embargo. During much of the decade, Djukanović was engaged in a massive cigarette smuggling scheme, first in alliance with Milošević, and later on his own. The cigarettes, allegedly intended for export to third countries were flown in from tax free havens such as Rotterdam, or from illegal factories in Bulgaria and Ukraine; they were then repacked and illegally exported across the Adriatic to Italy via speedboats, where they were distributed by Sacra Corona Unita, a branch of the mafia that operates in the region of Puglia in southern Italy, and the profits were shared between the operators in both countries. The scheme enabled Djukanović to preserve social peace during the difficult years, but also to accumulate considerable personal wealth for himself and his cronies. It also brought him to the attention of Italian prosecutors in Bari, who issued a warrant for his arrest in 2004 (it was suspended due to Djukanović's immunity).

Eyebrows were raised again in the early 2000s when Russian businessmen started heavily investing in Montenegrin Adriatic resorts, boosting real estate prices and triggering suspicions that Montenegro had become a giant hub for laundering Russian dirty money. Around the same time, Russian oligarch Oleg Deripaska bought the aluminum mill in Podgorica (also known as KAP), the country's largest industrial enterprise.

But most of this is ancient history. The cigarette smuggling abated after the sanctions were lifted, and after the Italian police, in a sustained effort, mopped up most of Djukanović's business partners. The tide of Russian money has also receded lately, partly because of the global financial crisis, and partly because the government, undoubtedly heeding some friendly advice from the West, became less receptive to that sort of business. Montenegro today is staunchly pro-Western, aiming for membership in both the EU and NATO. Lately, Djukanović has taken a series of steps to clean up his image and that of his country, preparing to file for candidacy status before the end of 2011. However, his credibility was lately undermined after a gigantic seizure of cocaine near the coast of Venezuela in 2010 was linked to Dusko Saric, a Montenegrin businessman with multiple links to Djukanović's government. Saric is currently on the run, evading an international arrest warrant.

One of these steps is the government's *Action Plan for Combating Corruption and Organized Crime*, adopted in 2006, which included a set of new laws and structural reforms of law enforcement agencies. But, three years later, the

plan has only been partly implemented, and the European Commission's 2008 report claims that 'despite some progress, corruption and organized crime remain a particular challenge, and that administrative capacity to implement laws needs to be further strengthened'. It does not come as a surprise that Transparency International placed Montenegro on the 85th place of its Corruption Perception Index, on a par with Serbia and Albania, but well below Bulgaria.¹⁴

Despite Montenegro's reputation, and smuggling-friendly geographic position (apart from a maritime border with Italy, it shares mostly porous borders with Albania, Kosovo, Serbia, and Bosnia–Herzegovina), the quantities of drugs seized by local police and customs are minimal. According to Ministry of the Interior annual reports, less than 15 kg of heroin were confiscated in 2006 and 2007, and barely half a kilo of cocaine¹⁵. As for human trafficking, police arrested two men for trafficking four women in the same period. There is little doubt that these figures are not an accurate indicator of the narcotics and human trafficking problems in Montenegro, but it is also hard to argue that some improvement has not been made in recent years, and that the country remains on the right track.

9.6 Bosnia–Herzegovina

Unlike Kosovo, Bosnia is universally recognized and a member of the UN. But much like Kosovo, its sovereignty is limited by foreign bureaucrats. In Bosnia, these operate under the auspices of Office of the High Representative, whose sweeping powers stem from the 1995 Dayton Peace Agreement that ended the Bosnian war. Another powerful foreign body consists of the representatives of some 55 countries and agencies, and its executive arm includes Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, the United States, the Presidency of the European Union, the European Commission, and the Organization of the Islamic Conference (OIC), which is represented by Turkey.

If this seems complicated, one should look at the internal structure of Bosnia. According to the constitution forged in Dayton, the country retained a rotating presidency, a weak central government and a parliament, and was divided into two semi-independent units (usually referred to as 'entities'), the Serbian Republic, and the Muslim–Croat Federation (there is also a District of Brčko, a disputed northern town with a separate administration). The Federation consists of ten cantons, each with a full set of ministries, excluding defence and foreign affairs, but including the

¹⁴ For the full list, see http://www.transparency.org/policy_research/surveys_indices/cpi/2008.

¹⁵ *Izveštaj o radu Uprave policije i stanju bezbjednosti u 2007.godini*, MUP CG (2008), <http://media.transparency.org/imaps/cpi2009/>

cantonal police. All in all, Bosnia has eighteen police services, only one of which (the Border Police) can operate throughout the country. There is also the State Investigation and Protection Agency (SIPA), which is a Bosnian version of the US Federal Bureau of Investigation. But, unlike the FBI, SIPA is chronically understaffed and constantly obstructed by Bosnia's ruling elites.

No wonder Bosnia is a mess, so much so, as the locals like to joke, that even organized crime doesn't work. The accuracy of this claim is hard to evaluate, as the judicial and police records are as scattered and sketchy as the country itself. Vincenzo Coppola,¹⁶ the chief of the EU Police Mission in Bosnia, recently stated that Bosnia has no working strategy to fight organized crime, and that prosecutors and police hardly cooperate at all. Bosnia borders only three countries – Serbia, Croatia, and Montenegro – but since the borders cut straight through closely-knit ethnic communities, it is often hard to exercise strict control. Drugs flow in through Serbia or Montenegro and transit into Croatia before they reach Slovenia, Italy, and Austria.

Another problem is that Bosnian Serbs and Croats have easy access to Serbian and Croatian citizenships, respectively. Since both Serbia and Croatia have constitutional barriers that prevent them from extraditing their citizens to foreign courts, many criminals were able to evade justice by simply crossing over to the neighbouring 'motherland'. Those who manage to present themselves as victims of political or ethnic persecution have a good chance of staying free. Attempts to overcome these problems by signing a three-way extradition agreement between Bosnia, Serbia, and Croatia has failed to produce results so far.

And even when cases reach the court, it often takes years before they are completed. Entities have different judicial systems and different Criminal Codes, so different sentences are passed for the same offences. Corruption is rampant: Transparency International puts Bosnia on the 92nd place of its CPI list, together with Algeria and Sri Lanka, and well below any other former Yugoslav republic.

The far reach of corruption and the pervasive atmosphere of impunity is clearly revealed in two recent high-profile cases. Dragan Čović, the head of the Croatian Democratic Alliance (the main Bosnian Croat Party, also known by its local acronym of HDZ BiH), was charged in March 2005 for plotting to help a local oligarch evade some 20 million Euros in taxes (Čović was a member of Bosnia's collective Presidency at the time). He was removed from office and eventually sentenced to five years in prison, but the verdict was overturned by a higher court. In 2006, he was charged again, this time for bribing the high court judges (the case is still pending). He has never spent a day in custody, and he still chairs his party.

¹⁶ In an interview to ATV (11 April 2009).

Or take Milorad Dodik, the powerful Prime Minister of the Serbian Republic. In February of 2009, after a lengthy SIPA investigation, Dodik was charged with massive embezzlement. He answered by walking out from talks about Bosnia's constitutional reforms and issued threats about seceding his entity from Bosnia. The indictment is still pending, but many believe that the charges will be dropped in order to preserve Bosnia's fragile stability.

This being said, Bosnia has a relatively low crime rate, and despite a lack of information, there is no reason to believe that organized crime (as opposed to corruption) is a bigger problem than in the surrounding countries. Also, the Border Police, in coordination with SECI, successfully broke several rings of human trafficking in the past two years. But it is a country on the verge of collapse, which can only be avoided by making drastic changes to the present dysfunctional system. If the system falls into chaos and disorder, organized crime will be the least of Bosnia's problems.

9.7 Croatia

Croatia is in better shape than the other former Yugoslav republics, excluding Slovenia. Already a NATO member, Croatia is expected to join the EU by 2012, although the process is currently blocked due to a border dispute with Slovenia. Croatia's economy is in better shape¹⁷ than that of other countries in the region. Prime Minister Ivo Sanader, who rose to power after the death of autocratic president Franjo Tudjman in the year 2000, transformed the ruling nationalist Croatian Democratic Alliance (HDZ) into a modern center-right party and, together with President Stjepan Mesić, instigated reforms that set Croatia firmly on track to Brussels.

But, like Milošević, Tudjman has left a poisoned legacy. During his reign, parts of the security services, and especially the military, were thoroughly criminalized and subverted to serve Tudjman and his cronies; some career criminals became generals. Due to the UN-imposed arms embargo in the nineties, Croatia acquired desperately needed weaponry on the black market. This created a lucrative playing field for all sorts of 'patriotic' operators, some of whom were also involved in drug trafficking and terrorism. Several Real IRA arms caches discovered in Northern Ireland in the early 2000s were eventually linked to General Ivan Andabek, one of Tudjman's cronies.¹⁸ There were also a number of cases of cocaine trafficking in which the military was involved.¹⁹ Much of these shady profits were successfully laundered during Croatia's corruption-ridden privatization, creating a class of unscrupulous, but well-connected oligarchs.

¹⁷ Croatia's estimated 2008 per capita GDP is almost twice as big as Serbia's.

¹⁸ 'Croatian War Criminal Led Real IRA Gun-Running', *The Sunday Herald* (17 September 2000).

¹⁹ Anastasiyevic, *Organized Crime in the Western Balkans*.

Sanader and Mesić's approach to this problem was soft-handed. Their preferred method of removing the worst elements of the Croatian new class was using gentle tweaks and compromises, rather than purges and arrests, which, they feared, could drag Croatia into political and social turmoil. As a result, much of Tudjman's legacy was quietly swept under the carpet; those who had already whitewashed their money and biographies were happy to adapt to the new, politically correct order.

Some of these skeletons came to light in October of 2008, when a prominent journalist and publisher, Ivo Pukanić, a man with close links to both the underworld and the political elite, was blown up in his car in downtown Zagreb.²⁰ The assassination (in which one of Pukanić's associates also died) prompted Sanader to 'declare war on organized crime'. The investigation eventually led to a motley crew of Serbian, Bosnian, and Croatian gangsters, some of whom were arrested. The investigators are convinced that Pukanić's murder was a contract hit, but the person or persons behind it remain unknown. Unfortunately, promises of drastic and systematic measures against organized crime ceased as the scandal faded in the memory of Croatia's largely compliant press.

However, the affair did reveal embarrassing links between Mesić and Sanader (both of whom were personal friends of Pukanić), and some of Croatia's most notorious figures, such as oligarch Franjo Petrac (currently serving time for kidnapping and extortion), and retired General Ante Zagorac (pending trial for massive embezzlement). Pukanić emerges as a middle man who brokered various deals between them, and somehow overplayed his hand. The spectacular assassination (along with a string of less well publicized crimes) prompted the European Commission to paint a less than favourable picture of Croatia in its 2008 progress report, reprimanding the country for its failure to tackle corruption and organized crime.²¹ Still, the EC acknowledged that 'some progress' had been made, specifically in the areas of legislation and regional cooperation.

The progress is clearly visible in the area of drug trafficking: the street price for heroin in Croatia is almost double the price in Bosnia and Serbia, which speaks volumes about the drug's availability. This is the result of a national anti-drug strategy, which was adopted as early as 2002 and was implemented quite successfully. The police and customs are also quite efficient in intercepting shipments of narcotics, and work closely with Serbian and Bosnian police. Human trafficking is also contained, thanks to well-established regional cooperation between prosecutors.

Croatia's weakest point seems to be its clogged and outdated justice system: courts have more than one million pending cases, some dating back

²⁰ See 'Croatia Cursed by Crime and Corruption', *BBC World Service* (15 April 2009).

²¹ *Croatia 2008 Progress Report*, available online at http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/croatia_progress_report_en.pdf.

to independence in 1991 according to Justice Minister Ivan Šimonović.²² The minister announced an action plan to reduce the delays, involving regular progress checks and sacking underperformers, but neither the plans, nor results, are yet visible. A similar action plan, forged in 2006, went largely unimplemented.

9.8 Conclusions and recommendations

Organized crime is still a problem in the Western Balkans, but it no longer presents a serious threat to stability, which was the case during the Yugoslav wars and their aftermath. As noted in the 2008 UNODC report:

The Balkans is departing from an era when demagogues, secret police, and thugs profited from sanctions busting, and the smuggling of people, arms, cigarettes and drugs. While South Eastern Europe is still a major transit route for heroin, and some countries of the region remain affected by organized crime and corruption, the stereotype of the Balkans as a gangsters' paradise no longer applies.²³

This is the result of several factors: reforms in judicial and security sectors, better cooperation between countries, and, above all, an overwhelming craving in Western Balkan nations for stability and decent life, which was clearly demonstrated at the polls over several years. The fact that all countries of the region have democratically elected governments, committed (at least in words) to bringing their constituency into the EU, is the result of this desire.

But none of this progress would be possible without the EU's engagement in the region, particularly in inciting reforms and promoting regional cooperation. And this, again, would not be possible without the promise of EU membership. Regrettably, the progress is also reversible, and it could quickly fade away if Germany and France fulfill their threats of suspending the EU enlargement process 'until Europe consolidates' (to most people this translates as 'forever'). The inclusion of Hungary, Bulgaria, and Romania in the EU had clear beneficial effects on reducing some types of criminal activities in the whole region, and the process should be continued.

Another point is that progress mostly applies to classic forms of organized crime (trafficking in drugs, humans, and weapons), but that corruption doesn't seem to be waning. One of the things that all Western Balkan countries have in common is a low ranking on the Transparency

²² Press statement (22 December 2008).

²³ UNODC, *Crime and its Impact on the Western Balkans*, available online at http://www.unodc.org/documents/data-and-analysis/Balkan_study.pdf, last accessed 20 May 2009.

International Index. That most highly-placed public officials go unpunished, even after they have been exposed taking bribes, undermines the people's basic belief in democracy and justice. Clogged, corrupted, and politically-influenced judiciaries is another common factor.

Finally, we still have no clear perception of how the global economic crisis will affect the Western Balkans. Albania is still recovering from the total institutional collapse caused by financial speculators more than ten years ago: a similar meltdown in any of the Balkan countries could have a long-lasting and devastating effect on the whole region. The economic predictions are gloomy, and the fact that there is no regional rescue plan contributes to the overall uncertainty.

In order to ensure the continuation of positive trends and help the Western Balkans reach stability, the EU, UN, OSCE, and other relevant international organization should do the following:

- continue to keep the Western Balkan countries engaged through the EU enlargement process;
- continue to promote regional cooperation, specifically in tackling transnational organized crime;
- put more emphasis on anti-corruption measures and judiciary reforms;
- ensure the basic economic stability of the region in the face of global economic crisis.

For the past two decades, the Balkans mostly confirmed Winston Churchill's famous diagnosis: they produced more history than they could consume. Now there is a window of opportunity for importing stability that should not be allowed to close.

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10

The Longest Siege: Humanitarians and Profiteers in the Battle for Sarajevo

Peter Andreas

10.1 Introduction

Bosnia has a special place in the post-Cold War landscape of armed conflict and international intervention. The 1992–5 war in the former Yugoslav republic became the poster child of ‘ethnic conflict’ – indeed, the term ‘ethnic cleansing’ was popularized during the Bosnia experience (although the practice is certainly not new). Bosnia and the other conflicts related to the bloody break-up of Yugoslavia represented the first outbreak of war in Europe since the end of World War II and erased the widespread assumption that war on the continent was unthinkable.¹ Bosnia was also the first drawn out humanitarian crisis of the decade, prompting a far more expansive and ambitious interventionist role for the United Nations – and the humbling experience significantly undermined the early enthusiasm for its conflict prevention and resolution capacity. No other war is as closely associated with humanitarian assistance as is the Bosnia conflict. More than 100,000 foreigners, at least a dozen UN agencies, and over 200 non-governmental organizations (NGOs) were part of the humanitarian relief operation in Bosnia.² By the middle of 1995, two-thirds of all UN blue-helmeted peacekeepers in the world were deployed in the region, with the number of troops in Bosnia peaking at about 22,500.³

This chapter is adapted from Peter Andreas, *Blue Helmets and Black Markets: The Business of Survival in the Siege of Sarajevo*, Cornell University Press, Ithaca, NY 2008.

¹ For a general introduction, see Laura Silber and Alan Little, *Yugoslavia: Death of a Nation*, Penguin, New York, 1997. On the conduct of the war, see Branka Magaš and Ivo Zanić (eds), *The War in Croatia and Bosnia-Herzegovina 1991–1995*, Frank Cass, London 2001.

² Estimate by John Fawcett, former director of the International Rescue Committee (Bosnia/Sarajevo office). Author’s correspondence.

³ William J. Durch and James A. Schear, ‘Faultlines: UN Operations in the Former Yugoslavia’, in William J. Durch (ed.), *UN Peacekeeping, American Politics, and the Uncivil Wars of the 1990s*, St. Martin’s, New York 1996, pp. 193, 238. The authors note that ‘Bosnia in particular taxed command, control, communications, and tactical intelligence more than any previous UN field operation’, p. 223.

The Bosnian war and the other conflicts in the Western Balkans that were part of the break-up of Yugoslavia were largely carried out through a series of large and small sieges by nationalist Serb forces. This included the destruction of Vukovar and the shelling of Dubrovnik during the war in neighbouring Croatia, the early sacking of towns in Eastern Bosnia such as Zvornik, and the fall of Srebrenica and execution of thousands of Muslim men and boys late in the war. Given the siege-style warfare that defined much of the conflict, frontlines tended to run around urban centres and the road networks that linked them.

Sarajevo, the capital and largest city in Bosnia (with a pre-war population of some 350,000), was the site of the biggest and most prominent siege of the war. The fate of Sarajevo was critical: if the city had fallen or been divided, the duration and outcome of the conflict would have been radically altered. On 6 April 1992, Serb forces began shelling the city from hillside positions and quickly occupied neighbourhoods such as Grbavica and Ilidža. With the city surrounded and poorly defended, few could have imagined that the siege would last for some three-and-a-half years.

This chapter is about the long siege of Sarajevo and the international response. The story of the siege sheds analytical light on much larger issues related to the political economy of contemporary conflict, humanitarian intervention, and its aftermath. The siege provides a laboratory of sorts to study the interaction between local and international actors, playing both formal and informal roles, in creating and sustaining the material conditions for conflict.

Case studies are particularly illuminating when they have puzzling characteristics and defy conventional expectations.⁴ In the case of Sarajevo, the siege was not supposed to happen: siege warfare in Europe was assumed to be a relic of the past, yet a modern European city that had hosted the 1984 Winter Olympics was being shelled less than a decade later. It was not supposed to last: given the extreme military power imbalance, many (including the besiegers) thought it would be over quickly and that the Sarajevo government would be forced to capitulate. Alternatively, many expected (and hoped) that international pressure would force a quick lifting of the siege. Yet the Sarajevo siege not only persisted but set a siege longevity record. A siege formally characterized by intense ethnic-based animosities is not expected to involve cross-ethnic collaboration, yet in the Sarajevo case

⁴ See Dietrich Rueschemeyer, 'Can One or a Few Cases Yield Theoretical Gains?', in James Mahoney and Dietrich Rueschemeyer (eds) *Comparative Historical Analysis in the Social Sciences*, Cambridge University Press, Cambridge 2003. On case study research in general, see Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* MIT Press, Cambridge, MA 2004; and John Gerring, *Case Study Research: Principles and Practices*, Cambridge University Press, Cambridge 2006.

there was substantial informal economic exchange across the frontlines.⁵ A siege is defined as a military encirclement, but while Sarajevo was surrounded by vastly superior forces and its population terrorized, the siege was also semi-porous and globally connected. Indeed, paradoxically, Sarajevo became a peculiar type of 'global city' precisely because it was under siege.⁶ A military siege by its nature should be a particularly inaccessible and dangerous place for international actors such as UN monitors and negotiators, aid workers, and journalists. Sarajevo was certainly violent and dangerous, as one would expect in a city under siege, but it was also the most accessible war zone and viable working environment for international actors in Bosnia – which also helped to turn Sarajevo into a global media spectacle.

10.2 Sarajevo on centrestage

During the course of the siege, Sarajevo became the centrepiece and most important test case of an expanded UN commitment to humanitarian intervention, reflected in an ambitious UN-led relief aid effort for the city that included the longest airlift ever attempted. The siege took place under international supervision and televised to a global audience, with the UN taking on the role of referee and mediator. The global political and media spotlight was so intense that journalist David Rieff called the besieged city 'the most famous place in the world'.⁷ The siege was formally internationalized through UN monitoring and aid provision, diplomatic initiatives, sanctions and embargoes, an influx of humanitarian workers, and continuous global media coverage. And it was informally internationalized through smuggling networks and mechanisms used to clandestinely supply and finance the opposing sides and evade UN sanctions and embargoes. These formal and informal dimensions were very much interdependent, representing the front stage and backstage action in the long siege drama.

The use of theatrical metaphors to characterize the siege dynamics is not meant to belittle the conflict or understate its seriousness. The death toll and physical damage make clear that it was brutally serious.⁸ Inspired

⁵ The practice of 'trading with the enemy' is an old one, yet is often overlooked by security scholars. See Jack S. Levy and Katherine Barbieri, 'Trading with the Enemy During Wartime', *Security Studies* (2004), vol. 13, no. 3, pp. 1–47.

⁶ The substantial literature on 'global cities' rarely examines urban spaces during wartime. See Saskia Sassen, *The Global City*, 2nd edn, Princeton, NJ 2001; and Neil Brenner (ed.), *The Global Cities Reader*, Routledge, London 2006.

⁷ David Rieff, 'Midnight in Sarajevo', *The Atlantic Monthly* (2000), vol. 285, no. 4, pp. 99–104, at p. 104.

⁸ It is widely estimated that there were over 10,000 war-related deaths in Sarajevo. See the recent calculations provided by the Research and Documentation Center, Sarajevo, *About Us*, available online at <http://www.idc.org.ba/aboutus.html>. Accessed on 25 February 2010.

by the work of the sociologist Erving Goffman, the point here is not to belittle or dismiss the siege as 'mere theatre', but rather to draw attention to discrepancies between the formal scripts and the more informal behaviour behind the scenes, the multiple roles that actors can simultaneously play, and the relationship between the visible, audience-directed official 'face work' on the front-stage and the less visible, unofficial action backstage.⁹

There were many reasons why Sarajevo was on centre stage: it was in Europe, it was a capital city, it was relatively accessible, and it had the basic infrastructure needed for international media coverage.¹⁰ This included access to the city via the UN-controlled airport and airlift, availability of food and lodging for the foreign press corps in the dilapidated but functional Holiday Inn hotel, and a bunker-like television and radio building with modern broadcast equipment and facilities.

Sarajevo's high visibility and accessibility contrasted sharply, for example, with Mostar, some 130 kilometres from the capital, where the intense close-in fighting and devastation was far less noticed by the outside world. Mostar was simply too dangerous and inaccessible to sustain much of a humanitarian or media presence. As Nik Gowing, an editor for Britain's Channel Four News, comments,

'[B]ecause of the logistics nightmare, coverage of Mostar was minimal and the city's predicament never grabbed world attention like Sarajevo. Conditions were too dangerous for TV crews to work. Broadcasters could not risk deploying their satellite dishes.'

As a result, 'there was never the same drip feed of emotive real-time siege stories to catch international sympathy, as happened with Sarajevo'.¹¹

On a rare visit to the besieged town, one reporter observed:

Conditions here may make those in Sarajevo look like easy living ... The Croat siege of Eastern Mostar has made the Serb siege of Sarajevo seem positively porous. Here, there is no street market to buy even a loaf of

⁹ See Erving Goffman, *The Presentation of Self in Everyday Life*, Anchor, New York 1959. On the 'dramaturgical' perspective in sociological theory, which Goffman pioneered, see Dennis Brissett and Charles Edgley (eds), *Life as Theater: A Dramaturgical Sourcebook*, Adine de Gruyter, New York 1990.

¹⁰ More generally, on the importance of access and infrastructure in shaping global reporting of violence, see Howard Ramos, James Ron, and Oscar Thoms, 'Shaping the Northern Media's Human Rights Coverage, 1986–2000', *Journal of Peace Research* (2007), vol. 44, no. 4, pp. 385–406; and James Ron, Howard Ramos and Kathleen Rodgers, 'Transnational Information Politics: NGO Human Rights Reporting, 1986–2000', *International Studies Quarterly* (2005), vol. 49, no. 3, pp. 557–87.

¹¹ Nik Gowing, 'The One-Eyed King of Real-Time News Coverage', *New Perspectives Quarterly* (1994), vol. 11, no. 4, pp. 45–54.

bread or cigarettes. Nor is there the kind of Serb-fed black market that flourishes in Sarajevo and helps keep people alive there, albeit at high prices in German marks.¹²

Sarajevo was besieged yet accessible, and as such it profoundly shaped international engagement with (and perceptions of) the war. As the historian Robert Donia observes in his biography of Sarajevo:

The daily violence was conducted under the scrutiny of international civil servants, aid workers, 'peacekeepers', journalists, and scholars (including this author) who could travel with relative ease on conveyances not available to the local population. Sarajevo was the lens through which most outsiders viewed the conflict; the agony of Sarajevo became the embodiment of the Bosnian war's savagery and senselessness. At most times, the army of privileged observers could get into and out of the city, stay in relative comfort at the Holiday Inn (the sole hotel that functioned throughout the war), ride in armoured vehicles along the city's most dangerous routes, and send dispatches to the outside world using the latest communications technology.¹³

The Sarajevo story is thus a particularly extreme illustration of what the political scientist Stathis Kalyvas labels 'urban bias' in the study of internal wars. He argues that internal wars 'tend to be viewed through a heavily urban lens by both scholars and practitioners' and that 'most observers cluster in cities'. He points to the war in Bosnia as an illustration of this, noting that it was 'mostly covered from Sarajevo'.¹⁴ The former US military strategist Ralph Peters bluntly acknowledges the strategic prioritization of urban areas in the post-Cold War era: 'But who cares about Upper Egypt if Cairo is calm? We do not deal with Indonesia – we deal with Jakarta. In our recent evacuation of foreigners from Sierra Leone, Freetown was all that mattered'.¹⁵

Kalyvas warns scholars of the pitfalls of such urban bias, which he equates with a top-down, macro-level approach.¹⁶ Yet, as I stress in the case of Sarajevo, urban bias can also be an integral part of the micro-dynamics of war and not only a problem that limits and distorts the analysis of war.

¹² David B. Ottaway, 'Mostar's Muslims "Living Like Rats"', *Washington Post* (21 February 1994), p. A1.

¹³ Robert Donia, *Sarajevo: A Biography*, Hurst, London 2006, p. 287.

¹⁴ Stathis Kalyvas, *The Logic of Violence in Civil Wars*, Cambridge University Press, Cambridge 2006, pp. 39, 41.

¹⁵ Ralph Peters, 'The Future of Armored Warfare', *Parameters* (1997), vol. 27, no. 3, pp. 50–9, p. 55.

¹⁶ Stathis Kalyvas, 'The Urban Bias in Research on Civil Wars', *Security Studies* (2004), vol. 13, no. 3, pp. 160–90.

Far from simply reflecting a top-down approach, urban bias in the case of Sarajevo has important ‘bottom-up’ consequences – profoundly influencing the strategies and interactions of key actors on the ground. Here, urban bias not only shaped the interpretation of the conflict by outside observers but also the conduct of key participants in the conflict. Thus, rather than simply avoiding urban bias in research and looking elsewhere to understand the logic of organized violence, as Kalyvas advises, the Sarajevo case instead points to the explanatory utility of embracing it, unpacking it, and making it a core part of the study of war dynamics and international responses. While Kalyvas largely brackets and takes for granted international actors and contexts in his own recent work on civil wars,¹⁷ bringing outside influences and players more centrally into the story necessarily requires a more urban lens – after all, urban areas are typically the hubs and nodes that link internal conflicts to the external world. And nowhere is this more powerfully illustrated than in the case of Bosnia’s besieged capital city of Sarajevo.

10.3 The cast of characters

The siege of Sarajevo involved a diverse cast of characters playing multiple roles among the besiegers, besieged, and international interveners. The key actors among the besieging Serb forces included the nationalist political leadership of the Serbian Democratic Party (SDS), led by Radovan Karadžić and headquartered in the nearby mountain town of Pale; the Army of the Bosnian Serb Republic (VRS) and its Sarajevo Corps; and an assortment of paramilitary units and other irregulars (including ‘weekend warriors’ from Belgrade and elsewhere). The besiegers enjoyed geographic advantage and overwhelmingly superior firepower (especially in heavy weapons, such as tanks, mortars, artillery, rocket launchers, inherited from the well-stocked Yugoslav army). Backed by neighbouring Serbia, their political objective was the ethnic partition of the ethnically mixed newly independent state. The siege of Sarajevo was a central component of achieving this objective. The initial military goal was to bisect the city and force the Sarajevo government to capitulate, but when this failed the goal shifted to simply bottling the city up and using it as a hostage and political negotiating card.

Key actors within besieged Sarajevo included the head of the Presidency, Alija Izetbegović, and his inner political circle of Party of Democratic Action (SDA) loyalists; the newly formed Army of Bosnia–Herzegovina (ARBiH) and its Sarajevo Corps, with responsibility for defending the siege lines divided among various ragtag brigades and their unit commanders (some of whom were leaders from the Sarajevo underworld); and a variety of police units. A small part of the siege line was initially manned by Croatian Defence Council (HVO) militia forces until relations with the Sarajevo government

¹⁷ See in particular Stathis Kalyvas, *The Logic of Violence in Civil Wars*.

deteriorated and eventually collapsed as Bosnian Croats (backed by Zagreb), pushed their own nationalist ethnic partition agenda in the central and western part of the country. The main political objective of the Muslim-led Sarajevo government was territorial integrity, since Bosnia was internationally recognized as an independent sovereign state and would be heavily disadvantaged by Serb and Croat partition plans. The city's defenders had a manpower advantage over the besieging Serbs, but lacked weapons or even an organized army when the war broke out (and were further handicapped by an international arms embargo, which made it particularly difficult to access heavy weapons). The besieged Sarajevo government therefore repeatedly called for international military intervention and a lifting of the UN arms embargo.

However, the international interveners – the so-called international community¹⁸ – primarily provided humanitarian aid and diplomatic initiatives rather than military support. Their basic objective was to contain the crisis, feed the civilian population, and achieve a negotiated settlement. Backed by major western powers, the United Nations played the lead role on the ground: the UN High Commission for Refugees (UNHCR) was designated the lead agency coordinating humanitarian relief operations, including the Sarajevo airlift. The massive aid effort provided the beleaguered agency an opportunity to substantially expand its mandate, increase funding, and enhance its global prestige and profile – turning it into the world's largest relief agency.¹⁹ The United Nations Protection Force (UNPROFOR), composed of 'Blue Helmet' soldiers from various nations, was charged with protecting and facilitating the delivery of humanitarian aid.²⁰ The UN force in Sarajevo reached nearly 5,000 personnel by early 1995. About two-thirds were French, and the rest were Ukrainian, Egyptian, and Russian (with the Russians based in Serb-held territory).²¹ An assortment of other UN officials and agency representatives were sent to monitor, mediate, and negotiate. Whether visiting the city for a few days or only a few hours, some international actors made high-visibility cameo appearances (such as French President Francois Mitterrand and UN Secretary General Boutros Boutros-Gali). In the air, NATO enforced a no-fly

¹⁸ This common label masks substantial discord, disunity, and diversity. See Beatrice Pouligny, *Peace Operations Seen from Below: UN Missions and Local People*, Koumarian Press, Bloomfield, CT 2006, pp. 128–31.

¹⁹ Gil Loescher, *The UNHCR and World Politics: A Perilous Path*, Oxford University Press, Oxford 2001, pp. 290–96. For a critical evaluation of international organizations more generally, including UN agencies such as the UNHCR, see Michael Barnett and Martha Finnemore, *Rules for the World: International Organizations in Global Politics*, Cornell University Press, Ithaca, NY 2004.

²⁰ This humanitarian role was articulated in UN *Resolution 752* of 15 May 1992 – the first of over 150 Bosnia-focused Security Council resolutions and statements.

²¹ Tim Ripley, *Operation Deliberate Force*, Centre for Defence and International Security Studies, Lancaster 1999, p. 54.

zone (and in moments of crisis was called on to threaten – and on a few occasions carry out – air strikes against the besiegers). Contributing to the relief effort were hundreds of international non-governmental aid agencies, religious charities, and other organizations (though only a handful had substantial staffing), all loosely working under the umbrella of the UNHCR. The foreign press corps, which both reported on and shaped the siege and the international response, ranged from major print and broadcast media outlets with a regular staff to dozens of stringers and free-lance journalists.

The critical supporting cast for this large and diverse international presence was the small army of Sarajevans hired as translators, assistants, drivers, cooks, photographers, secretaries, guides, and so on. This local support staff (typically English-speaking) not only played a key mediating role between the international interveners and the local environment,²² but many of them also enjoyed some of the privileges of the internationals, such as access to hard currency, imported food and other basic supplies, and transportation across the frontlines (including foreign travel). These privileges, in turn, helped to support local extended families.

10.4 Front stage and backstage: Formal and informal roles

International and local actors played both formal and informal roles during the course of the siege. While their front-stage behaviour was often carefully staged and choreographed for various audiences, sticking closely to the official script and engaging in what Goffman calls the 'art of impression management', backstage there was greater room for improvisation and deviation. Thus, for example, while the Bosnian Serb leadership played the front-stage role of orchestrating the siege of the city under the official banner of ethnic grievance and animosity, on the backstage they profited from the siege through clandestine business dealings that included cross-ethnic economic exchange across the frontlines. Similarly, some of the city's key defenders played the formal role of repelling Serb military incursions while also engaging in illicit trading with their counterparts. While on the front stage they protected Sarajevo, on the backstage they engaged in theft and looting (a 'siege within the siege'). This was particularly true of Sarajevo's combatants with criminal backgrounds and their charismatic leaders who became overnight heroes during the city's initial defence. Some of them sought the limelight, basking in their new celebrity status, while others hid from it. Many of these local actors on both sides of the frontlines can

²²The importance of local intermediaries for international actors is evident in conflict zones across the globe. In the case of UN operations, see the discussion in Pouligny, *Peace Operations Seen from Below: UN Missions and Local People*, p. 87–95.

be characterized as ‘violence entrepreneurs’ fighting for turf and turning the siege into a profitable protection racket.²³

The international interveners also played multiple roles. For instance, in their formal roles, UNPROFOR soldiers secured the Sarajevo airport for the delivery of humanitarian aid and became siege gatekeepers by not allowing Sarajevans to enter or leave the city across the airport grounds. But some UN soldiers also informally helped turn the airport into a conduit for smuggling – at times simply taking bribes to look the other way and at other times becoming more active participants by moving black market goods into the city and smuggling people out. UNHCR personnel ran the Sarajevo airlift, but in order to officially move the goods into the city they also unofficially bribed Serb checkpoint guards (preferring to think of such bribes as ‘gifts’). And the favoured items used for bribes – such as whisky and cigarettes – had to be quietly smuggled in via the airlift (never appearing on cargo manifests, which were checked by Serb authorities).

Members of the press corps also performed both front-stage and backstage roles. They formally covered the siege, keeping the global media spotlight on the city and participating in the public ritual of the daily UN press briefings. But informally they were also important contributors to the siege economy – ranging from buying black market fuel discretely supplied by the Ukrainian contingent of UNPROFOR (syphoned off from their Armoured Personnel Carriers) to smuggling in money-filled letters for local residents (sent from friends and relatives abroad), who in turn would use the desperately needed cash to purchase food and other items on the black market.

Finally, the locals working for the internationals were actively engaged on both the front stage and the backstage: formally, they provided a major part of the support structure for both the UN-directed humanitarian relief effort and global media reporting. At the same time many of them informally took advantage of their privileged position and access to smuggle goods and money into the city, and their wages in hard currency also helped their extended families to purchase essential black market supplies. Understandably, some eventually used their position to permanently exit the city – joining the growing Bosnian diaspora abroad, which itself became a source of external support for the city’s population and defence effort.²⁴

Some might object to this characterization of the roles of the various siege actors, arguing that their informal backstage behaviour was a sideshow

²³ ‘Violent entrepreneurship is a means of increasing private income of wielders of force through ongoing relations of exchange with other groups that own other resources’. See Vadim Volkov, *Violent Entrepreneurs: The Use of Force in the Making of Russian Capitalism*, Cornell University Press, Ithaca, NY 2002, p. 28.

²⁴ On the role of remittances in conflict and post-conflict zones, see Kevin Savage and Paul Harvey (eds), *HPG Report 25: Remittances During Crises: Implications for Humanitarian Response*, Overseas Development Institute, London 2007.

compared to the formal front-stage action. However, focusing on the front stage – which is the standard, conventional approach – overlooks too much and explains too little. On its own, the front-stage action cannot fully account for how the city survived and defended itself for such a remarkably long period of time. For instance, humanitarian aid supplied through formal channels was essential, but was woefully inadequate. Black market supplies – albeit at highly inflated prices – provided a crucial supplement. It was not only the humanitarian effort that sustained the city, but also the opportunities that the UN aid and presence created for black marketeering and the maintenance of a criminalized war economy. Officially, humanitarian aid helped feed Sarajevo's civilian population; unofficially, it also fed soldiers on both sides of the line through skimming and diversion. While UNHCR officials publicly denounced or denied the use of aid to feed combatants, privately they awkwardly acknowledged that this was unavoidable – part of the price paid to access the city.

Moreover, in the context of an international arms embargo and anaemic local military production, only by taking into account informal backstage behaviour can we explain how the Sarajevo government managed to generate and sustain a covert trickle of weapons and ammunition into the city – sometimes with the behind-the-scenes complicity of international actors formally committed to upholding the UN weapons ban.

Meanwhile, even as the front-stage activities of the foreign press corps kept the media spotlight on Sarajevo, backstage activities were essential in keeping the show going – ranging from feeding the foreign journalists with smuggled food and drinks at the Holiday Inn to powering their satellite dishes and laptops with generators running on black market fuel. So while the siege of Sarajevo played out on centre stage in the glare of the global media spotlight, some of the most important action took place backstage, away from the cameras. And much of this backstage activity sustained the action on the front-stage.

10.5 Conflict narratives

The storyline of the siege of Sarajevo and the broader conflict in Bosnia can take various forms, directing attention to some actors and activities and not to others. The dominant conflict narratives draw attention to the front-stage action. Paying closer attention to backstage dynamics, I stress, provides a necessary corrective. These dominant narratives – evident in distinct scripts favoured by different local and international actors – defined much of the play on the front stage. For example, the narrative of ethnic animosity was strategically promoted by the besieging Serbs, and was perpetuated in media accounts and resonated in many western policy circles. It provided a seductively simple narrative of the conflict and conveniently offered a ready-made script for those who argued against more forceful external intervention to

stop the carnage. In the most extreme variant, the conflict was depicted as a reflection of irrational Balkan barbarism and 'ancient ethnic hatreds' beyond external control.²⁵ Bosnia was even characterized as a fault-line war in a planetary cultural 'clash of civilizations'.²⁶

Although ethnicity certainly mattered, the popularity of the ethnic hatreds storyline masked far more complex and ambiguous realities on the ground. The focus on ethnic grievances explained too little and obscured too much, particularly the material conditions that enabled and sustained the conflict. It also conveniently overlooked the fact that, while inter-ethnic relations were historically often uneasy and far from harmonious, they were largely peaceful and involved increasing levels of intermarriage (especially in urban areas such as Sarajevo). A singular focus on primordial ethnic animosities also ignored and could not explain the substantial amount of wartime inter-ethnic economic cooperation in the form of clandestine trading. Indeed, dense inter-ethnic social ties in pre-war Sarajevo provided the social capital to facilitate wartime black-marketeering and smuggling across ethnically divided frontlines.²⁷ And in the post-war period, the ability to transcend ethnic divisions was nowhere more advanced than in the expansive smuggling economy. A narrow focus on ethnic-based hatreds misses and cannot account for such high levels of clandestine cross-ethnic collusion.

For the Sarajevo government and many sympathetic international observers, the favoured public script was a narrative of victimization, which contained some important truths. The Bosnian Serb leadership and their Belgrade sponsors were the main aggressors, bearing disproportionate responsibility for the war, and Sarajevans were indisputably victims – given that they were on the receiving end of regular shelling and sniper fire. Indeed, the high visibility of this victimization was a crucial weapon for the Sarajevo government in cultivating international support – and was a stated reason for why it imposed tough restrictions on Sarajevo citizens wishing to leave the city.²⁸ The main problem with the victim narrative, however, is that it privileges outrage and condemnation over explanation

²⁵ Particularly influential was Robert Kaplan, *Balkan Ghosts*, St. Martin's Press, New York 1993. On Western representations of the Balkans, see Maria Todorova, *Imagining the Balkans*, Oxford University Press, New York/Oxford 1997. For a forceful critique of the ethnic animosity thesis, see Valere P. Gagnon, *The Myth of Ethnic War*, Cornell University Press, Ithaca, NY 2004.

²⁶ Samuel P. Huntington, 'The Clash of Civilizations?', *Foreign Affairs* (1993), vol. 72, no. 3, pp. 22–49.

²⁷ The substantial literature on social capital has largely overlooked its various functions in conflict zones. See Nan Lin, *Social Capital: A Theory of Social Structure and Action*, Cambridge University Press, Cambridge 2001.

²⁸ Tim Ripley, *Operation Deliberate Force*, Centre for Defence and International Security Studies, Lancaster University, Lancaster, UK 1999, p. 32.

and understanding.²⁹ The victim narrative is particularly prevalent in media reporting, which 'encourages the production of short, unambiguous, neatly scripted stories, replete with villains and heroes'.³⁰ Nowhere was this more evident than in Sarajevo, where foreign camera crews were concentrated and could count on capturing graphic, close-up images of the victims of sniper fire and shelling.³¹ Yet as Kalyvas argues, 'Repetitive descriptions of violence stressing its most grotesque aspects substitute emotion for coherent political analysis.'³² The common tendency to simply denounce such violence as 'senseless', whether in Sarajevo or elsewhere, inhibits efforts to actually make sense of it.

Moreover, the murkier reality on the ground in Sarajevo included a less visible internal siege (made possible by the external siege conditions) – ranging from theft and looting by criminals-turned-combatants within the city, to profiteering by unit commanders on the frontline, to the political power grab by the SDA leadership in sacking competent officials and replacing them with party loyalists. The victim narrative, however accurate, discouraged critical scrutiny of the siege within. As one American journalist candidly acknowledges:

Those of us [among the foreign press corps in Sarajevo] who were convinced of the rightness of the Bosnian cause tended to underplay the corruption of Bosnian political elites, who, throughout the war, even in Sarajevo, were making fortunes off the conflict, doing private deals with the Serbs, and placing family members, friends, and mistresses in cushy jobs abroad. We also wrote less than we should have about the relation between war and crime on the front line, where the black market flourished even in the worst moments of the fighting.³³

²⁹ It should be stressed, as Browning puts it, that 'Explaining is not excusing; understanding is not forgiving.' Christopher R. Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland*, HarperCollins, New York 1998, at p. xx.

³⁰ Kalyvas, 'The Logic of Violence in Civil Wars', p. 36. Also see John C. Hammock and Joel R. Charny, 'Emergency Response as Morality Play: The Media, the Relief Agencies, and the Need for Capacity Building', in Robert I. Rotberg, and Thomas G. Weiss (eds) *From Massacres to Genocide: The Media, Public Policy, and Humanitarian Crises*, Brookings, Washington, DC 1996.

³¹ The most dramatic events were the mortar shells that exploded in Sarajevo's crowded Markale marketplace in February 1994 and August 1995. Although these bombings 'probably killed, between them, fewer people than ethnic cleansing killed on an average day near the start of the war, the visibility of the victims and their familiarity to Western eyes prompted a collective response that the razing of villages and killing peasants (of whatever faith) failed to evoke'. See Durch and Schear, 'Faultlines: UN Operations in the Former Yugoslavia', in William J. Durch (ed.), *UN Peacekeeping, American Politics, and the Uncivil Wars of the 1990s*, at p. 251.

³² Kalyvas, 'The Logic of Violence in Civil Wars', at p. 33.

³³ David Rieff, 'Murder in the Neighborhood', *Dissent* (2002), vol. 49, no. 1, pp. 39–48, at p. 47.

The UN interveners and their Western government backers, meanwhile, read from the official humanitarian script – drawing attention to the flurry of formal diplomatic initiatives and an unprecedented relief effort as an indicator of international concern and determination. This narrative highlighted the delivery of food and other supplies to besieged populations, projected an apolitical image of humanitarianism and a commitment to impartiality,³⁴ and pushed for a negotiated peace between the ‘warring factions’ through diplomatic pressure and engagement.³⁵

The massive UN-directed aid operation in Bosnia was indeed impressive – with the Sarajevo airlift the much-celebrated centrepiece – signaling that the West was ‘doing something’. But the insistence on sticking to the humanitarian script, as critics have rightly pointed out, conveniently substituted for more direct and forceful action by the Western governments underwriting the relief operation. As one senior UNHCR official commented, ‘[E]very time the question of settling the conflict came up, the donors responded by saying that they were going to give more money to the humanitarian effort.’³⁶ The particular form of humanitarianism in Bosnia served the strategic objective of avoiding more direct and risky military engagement, with profound political repercussions on the ground.³⁷ In Sarajevo, it made the siege manageable and thus internationally tolerable – even as it was ritualistically condemned.

The official humanitarian script also obscured the ways in which the relief effort itself was unofficially helping to sustain the war economy, both feeding soldiers and enriching black marketeers. Most importantly, it overlooked the fact that, on its own, humanitarian aid was far from sufficient to sustain the city’s population. According to one estimate, the UN-directed relief operation supplied only an average of 159 grams (about 0.35 pounds) of food per person per day in Sarajevo during the siege.³⁸ In early 1993, the weekly humanitarian ration was reportedly merely 870 grams per person,

³⁴ The UNHCR, for example, went to great lengths to define itself as non-political, which was a crucial to its public persona and legitimacy even if this did not always match reality. See Mark Cutts, ‘Politics and Humanitarianism’, *Refugee Survey Quarterly* (1998), vol. 17, no. 1, pp. 1–15.

³⁵ For a critical review of humanitarianism in general, see Robert Belloni, ‘The Trouble with Humanitarianism’, *Review of International Studies* (2007), vol. 33, no. 3, pp. 451–74.

³⁶ Quoted in Lowell Martin, *Working in a War Zone: A Review of UNHCR’s Operations in Former Yugoslavia*, UNHCR Evaluation Reports, Geneva 1994.

³⁷ Realists would expect states to use humanitarian aid to achieve strategic objectives. However, they have difficulty explaining the humanitarian imperative in the first place. On realism, see John Mearsheimer, *The Tragedy of Great Power Politics*, Norton, New York 2003. On the growing role of humanitarianism in international intervention, see Martha Finnemore, *The Purpose of Intervention*, Cornell University Press, Ithaca, NY 2003.

³⁸ Vildana Selimbegović, ‘Abeceda Opsade’ [The Siege Alphabet], *Dani*, (5 April 2002), pp. 20–24.

which is sufficient for only a day and a half of basic sustenance.³⁹ During the 20-month period between November 1993 and the end of August 1995, the UNHCR calculated that it was only able to fully meet its monthly food aid target/need for Sarajevo six times.⁴⁰ Clandestine commercial flows into the city thus played an essential role in keeping the population supplied,⁴¹ indicating that we should pay much greater attention to the siege's backstage dynamics, including its criminalized component.

10.6 Criminalized conflict narratives

I develop an alternative narrative of the siege that draws greater attention to the backstage action (and its relation to the front-stage play), including the local and international mechanisms that created and sustained a criminalized war economy. Smuggling networks and quasi-private criminal actors are essential in helping to explain key aspects of the siege. This includes the unexpected ability of the Sarajevo government to defend itself with the help of criminals-turned-combatants and underground supply networks; the role of black market food and fuel in enabling journalists to cover the siege (and thus keeping Sarajevo in the global media spotlight); and the eventual shift in the military balance on the ground facilitated by clandestine evasion of the arms embargo, which helped to establish the conditions for a diplomatic settlement.

Although there is a massive literature on the war in Bosnia, much of which contains valuable information on clandestine trading, criminal combatants, and the manipulation and diversion of humanitarian aid, these tend not to be the central analytical focus and are not generally highlighted as part of a causal argument. Many observers have commented that the UN-led humanitarian approach contributed to the prolongation of the siege and wider war, yet the on-the-ground micro-mechanisms that made this particular international response both viable and sustainable over such an extended period of time have not been sufficiently explained and traced in detail. Equally important, most accounts focus largely on the formal, front-stage side of the conflict and its internationalization, paying far too little attention to the informal, backstage side and the interaction between the two.

Rather than providing a comprehensive examination of the siege and the wider war, the more focused and limited purpose here is to show the analytical mileage that can be gained by a detailed tracing of the interaction between

³⁹ 'Nikad Manje Hrane' [Never Less Food], *Oslobođenje*, (5 May 1993), p. 5.

⁴⁰ Information compiled from UNHCR, *Information Notes on former Yugoslavia*, November 1993–September 1995.

⁴¹ Other food supplies included a modest amount of produce generated from small urban gardens and rare and erratic delivery of care packages from friends and relatives abroad via various charity organizations.

the formal and informal dimensions of the siege, particularly between humanitarian assistance and a criminalized war economy. In developing this narrative, I build on and bring together emerging interdisciplinary literatures on war economies⁴² and the political repercussions of humanitarian action.⁴³ Although scholars have increasingly focused on the role of international intervention in shaping internal wars, less attention has been devoted to examining how such intervention can (often unintentionally) become part of the war economy with long-lasting consequences. In concentrated form, the Sarajevo siege provides a stark illustration of this dynamic.

All types of wars – large and small, past and present – have some sort of criminalized dimension. But it is particularly evident in internal conflicts that take place in a context of anaemic state capacity, limited production, and reliance on external funding and supplies. Such conflicts are partly made possible by ‘taxing’ and diverting humanitarian aid, informal diaspora funding,⁴⁴ illicit trading across frontlines, and other forms of smuggling and black market sale of looted goods. They may use irregular combatants who operate in the absence of, alongside, and sometimes within formal military units, and are especially prevalent when at least one side does not have a regular army and is not a full-fledged state.

The importance of the criminalized war economy becomes especially apparent in the context of evading international economic sanctions and arms embargoes. In this respect, external intervention contributes to the criminalization of conflict, creating an economic opportunity structure for clandestine commerce and making the competing sides more reliant on

⁴² See, for instance, David Keen, *The Economic Functions of Violence*, Adelphi Papers, Oxford 1998; Mats Berdal and David Malone (eds), *Greed and Grievance: Economic Agendas in Civil Wars*, Lynn Rienner, Boulder, CO 2000; Karen Ballentine and Jake Sherman (eds) *The Political Economy of Armed Conflict: Beyond Greed and Grievance*, Lynn Rienner, Boulder, CO 2003; Cynthia Arnson and I. William Zartman (eds), *Rethinking the Economics of War*, Woodrow Wilson Center Press, Washington, DC 2005; Michael Pugh and Neil Cooper, *War Economies in a Regional Context*, Lynn Rienner, Boulder, CO 2004; Dietrich Jung (ed.), *Shadow Globalization, Ethnic Conflicts, and New Wars*, Routledge, London 2002; and Carolyn Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-first Century*, University of California Press, Berkeley, CA 2004.

⁴³ Recent works include Sarah Kenyon Lischer, *Dangerous Sanctuaries: Refugee Camps, Civil War, and the Dilemmas of Humanitarian Aid*, Cornell University Press, Ithaca, NY 2005; Alexander Cooley and James Ron, ‘The NGO Scramble: Organizational Insecurity and the Political Economy of Transnational Action’, *International Security* (2002), vol. 27, no. 1, pp. 5–39; Fiona Terry, *Condemned to Repeat? The Paradox of Humanitarian Action*, Cornell University Press, Ithaca, NY 2002; and S. Neil MacFarlane, ‘Humanitarian Action: The Conflict Connection’, Watson Institute for International Studies, Occasional Paper #43, Providence, RI 2001.

⁴⁴ In the case of the Balkans, see especially Paul Hockenos, *Homeland Calling: Exile Patriotism and the Balkan Wars*, Cornell University Press, Ithaca, NY 2003.

smuggling channels. Under these conditions, war can be a continuation of business by clandestine means: military success on the battlefield can hinge on entrepreneurial success in the murky underworld of smuggling. Moreover, the black market networks and embargo-busting infrastructure built up during wartime can persist into the post-war reconstruction period.⁴⁵

The criminalized dimensions of conflict are too often either neglected or treated too narrowly and one-dimensionally. For example, while security scholars have increasingly taken into account the external aspects of internal wars,⁴⁶ the emphasis tends to be on how these conflicts are formally internationalized (through UN interventions, diplomatic mediation efforts, the provision of aid, peacekeeping, human rights monitoring and media reporting, and so on), paying far less attention to how they are also informally internationalized (through sanctions evasions, clandestine arms shipments, and other smuggling practices). This reflects a more general tendency for international relations scholars to shy away from scrutinizing the 'covert world' and the illicit dimensions of the global economy.⁴⁷ Smugglers, arms traffickers, and criminals-turned-combatants are typically not treated as central players – strikingly apparent by the virtual absence of these actors from the pages of the leading journals in the field.⁴⁸ As evident in wartime Sarajevo, these actors do not merely profit from and feed off of military conflict but can be decisive in its conduct, longevity, and outcome. They are not simply the by-products of war but can be integral to the very practice of war. Moreover, as the Sarajevo case illustrates, many of these actors emerge from the devastation of war as part of a new elite with close ties to political leaders and the security apparatus, often impeding reforms and complicating post-conflict reconstruction efforts.

The potential danger of focusing on these types of actors and activities is to present an over-criminalized narrative of the conflict. John Mueller, for instance, suggests that the violence in Bosnia was largely provoked and perpetuated by relatively small groups of marauding thugs and common criminals, leading him to conclude that such organized violence resembles crime more than warfare. Mueller's provocative argument is a valuable

⁴⁵ Peter Andreas, 'Criminalizing Consequences of Sanctions: Embargo Busting and its Legacy', *International Studies Quarterly* (2005), vol. 49, no. 2, pp. 335–60; and R. T. Naylor, *Patriots and Profiteers: On Economic Warfare, Embargo Busting and State-Sponsored Crime*, McLelland and Stewart, Toronto 1999.

⁴⁶ Michael Brown (ed.), *The International Dimensions of Internal Conflict*, MIT Press, Cambridge, MA 1996.

⁴⁷ Robert Cox, *The Covert World: A Site for Political Analysis*, Toronto 1998, unpublished paper; and Peter Andreas, 'Illicit International Political Economy: The Clandestine Side of Globalization', *Review of International Political Economy* (2004), vol. 11, no. 3, pp. 641–52.

⁴⁸ This is evident, for instance, by reviewing the table of contents of leading journals in international relations during the past decade, such as *World Politics* and *International Organization*.

antidote to popular accounts of ethnicity-driven mass violence. But it goes too far in reducing conflict narrowly to the actions of apolitical bands of opportunistic loot-seekers. What is needed is a more nuanced and complex understanding of the criminalized dimensions of conflict. For example, contrary to Mueller's assertion that 'criminal armies simply do not have the ability, or more accurately the will, to stand and fight, and they will fade away', not all criminal combatants are necessarily cowardly – and indeed, as evident early on in the siege of Sarajevo, can sometimes show impressive resolve, stand their ground, and even be heroic in dire circumstances.⁴⁹

A broader analysis also needs to go beyond the role of criminal combatants to include the much more diverse set of local and international actors, including arms dealers, embargo busters, and local black market entrepreneurs that make up the criminalized side of warfare. Equally important, this should not mean taking politics out and simply reducing all behaviour to criminality and personal material gain. A differentiation between what is political and what is criminal is too easily overstated and indeed presents a false dichotomy. Some economic approaches to conflict, for example, have framed the analysis around a separation between greed and grievance motives, when in fact the distinction can substantially blur in practice.⁵⁰ As evident in the story of the siege of Sarajevo and the wider war in Bosnia, criminality and private predation do not simply trump politics in wartime but rather interact with it in complex ways. Some aspects of the criminalized side of conflict are state-sponsored and directly serve political interests, such as when political leaders subcontract key tasks to criminals and smugglers, because they either cannot or prefer not to perform these tasks themselves. This has long been recognized by American military strategists. For instance, a US Army field manual on urban operations observes that

[C]riminal elements or organizations may not always work against Army commanders. They can be co-opted or influenced to serve friendly objectives. For example, during World War II the US Navy worked covertly with the Mafia in New York City to secure the New York harbour from German U-boats believed to be torpedoing ships there. The Mafia controlled most dock activities [in] New York harbour and was perfectly positioned to monitor other subversive waterfront activity. This capability provided needed information to the Navy for its counterintelligence and security tasks. New York civil authorities therefore agreed to permit a Navy-Mafia alliance to operate at the port for the greater good of the country.⁵¹

⁴⁹ John Mueller, *The Remnants of War*, Cornell University Press, Ithaca, NY 2004, p. 22.

⁵⁰ This dichotomy is evident in some of the World Bank sponsored research on the economics of civil wars: <http://www.worldbank.org/research/conflict/index.htm>.

⁵¹ See US Department of the Army, *Field Manual No. 3-06: Urban Operations*, Washington, DC 2003, at p. 3–17. The United States also has a long history of

Political sponsorship of criminal actors and smuggling practices can provide a license for robbery and war profiteering – while at the same time contributing to strategic war objectives and state-building projects. There can also be much variation in political motives for collusion with the criminal underworld beyond self-enrichment. In the Bosnian war, for example, early Serb use of criminal combatants in irregular paramilitary units (mostly away from the Sarajevo area) helped to obscure the complicity of the Belgrade government⁵² and compensate for desertions and recruitment difficulties in the regular army.⁵³ For the Sarajevo government, in contrast, the initial military dependence on criminals-turned-combatants was more of a survival strategy, providing a desperately needed substitute for a regular military force before a formal army with an operational command structure was fully in place. In some respects, this is reminiscent of the old practice of using mercenaries and privateers in early European state-building.⁵⁴ Thus, while the Bosnian conflict is characterized as the archetypal example of a so-called ‘new’ type of warfare,⁵⁵ it also partly reflects a throwback to a much older form of organized violence – but in a radically different global setting.

The Sarajevo experience also indicates that all aspects of criminalized conflict are not uniformly negative and in fact can be essential for daily survival. Indeed, Bosnia as a state would probably not exist (or certainly not in its present form) without the assistance of criminal combatants, black market traders, and arms embargo-busters. In this regard, the Sarajevo story represents a case of criminally-enabled state-making – a modern-day variant of Charles Tilly’s famous characterization of war making and state making as organized crime.⁵⁶

The criminalized side of conflict can have a double-edged and contradictory character. As the defence of Sarajevo illustrates, criminal gangs can perform important military functions while also robbing and abusing those they are supposed to be defending. The criminalized dimensions of conflict

tolerating and turning a blind eye to drug traffickers considered valuable security assets, such as in Southeast Asia during the Vietnam war, in Afghanistan and Central America during conflicts in the 1980s, and again more recently in its counterinsurgency efforts in Afghanistan. See Alfred McCoy, *The Politics of Heroin: CIA Complicity in the Global Drug Trade*, rev. edn, Lawrence Hill Books, Chicago 2003.

⁵² James Ron, ‘Territoriality and Plausible Deniability’, in Bruce Campbell and Arthur Brenner (eds) *Death Squads in Global Perspective*, St. Martin’s Press, New York 2000.

⁵³ John Mueller, ‘The Banality of Ethnic Conflict’, *International Security* (2000), vol. 25, no. 1, pp. 42–70.

⁵⁴ Janice Thomson, *Mercenaries, Pirates, and Sovereigns*, Princeton University Press, Princeton, NJ 1994.

⁵⁵ Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era*, Stanford University Press, Stanford, CA 1999, p. 31.

⁵⁶ See Charles Tilly, ‘War Making and State Making as Organized Crime’, in Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol (eds) *Bringing the State Back In*, Cambridge University Press, Cambridge 1985.

can contribute to the stubborn persistence of war but also to its ending, by, for example, tilting the military balance through clandestine weapons procurement. Smuggling is certainly about profits and greed, but at the same time can be essential for daily sustenance. Smuggling is thus not just about illicit enrichment but about coping and survival under desperate circumstances. In the case of wartime Sarajevo, black marketeers were often depicted as opportunistic vultures, feeding on the city's misery. Many certainly fit this description. Yet the sheer diversity of actors and activities involved in the smuggling economy suggests there were many shades of grey, blurring distinctions between patriots and profiteers.

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11

Unholy Alliances: Evidence on Linkages between Trans-State Terrorism and Crime Networks: The Case of Bosnia

Lyubov G. Mincheva and Ted Robert Gurr

11.1 Introduction

International terrorist movements and criminal networks are usually analysed as distinct phenomena. In theory their objectives differ: political motives inspire terrorist activities; material gains drive criminal action. In practice, however, terrorists need resources for arms, logistics, and sustenance and shelter for militants. Consequently, terrorist movements frequently rely on robbery, kidnapping for ransom, extortion, and trafficking in drugs and humans to finance their activities. Terrorists may establish criminal networks themselves. Alternatively, they may decide to cooperate with pre-existing ones. Other criminals, on the other hand, may find it useful to align with militant transnational movements. Driven by interests in profit maximization and risk reduction, transnational illicit businesses seek expansion of commercial opportunities. A new rebellion provides plenty of them, all the more so if it spills across international borders.

11.2 Summary of the theoretical argument

The theoretical argument on linkages between political and criminal has been developed in earlier publications.¹ Perspectives from social movement

¹ Lyubov G. Mincheva and Ted R. Gurr, 'Unholy Alliances? How Trans-State Terrorism and International Crime Make Common Cause', in Rafael Reuveny and William R. Thompson (eds), *Coping with Contemporary Terrorism: Origins, Escalation, Counter Strategies, and Responses*, State University of New York Press, Albany, NY, forthcoming, available online at http://www.cidcm.umd.edu/publications/papers/unholy_alliances.pdf. See also Lyubov G. Mincheva and Ted R. Gurr, 'Unholy Alliances III: Communal Militants and Criminal Networks in the Middle East, with a Case Study of the Kurdistan Workers Party (PKK)', *Annual Meeting of the International Studies Association*, San Francisco 2008.

theory, conflict analysis and criminology underpin our theoretical framework explaining the interaction of the two types of 'global bads'. Three major factors condition close interactions between terrorists and other criminals. A strongly disposing condition is the existence of trans-state nationalist, ethnic, and religious movements. Their transborder identity networks – based on shared values and mutual trust – provide settings conducive to collaboration between terrorists and criminals. A second condition is the occurrence of armed trans-border conflict. Armed conflicts spawn criminal groups and provide incentives and opportunities for interdependence between the political and the criminal. Third is the interaction of market opportunities and constraints. Drawing on criminology and organization theory we look at criminal enterprise as a 'profit-driven illegal collective behaviour', shaped by the interaction of the criminal market's opportunities and constraints, and performed by fluid criminal networks.² Constraints encourage political-criminal 'marriages of convenience'. Cooperative relations reduce constraints on criminal markets. Terrorists and criminals establish alliances to remove obstacles and expand the possibilities of both power- and profit-seeking. Alternatively, factors that discourage cooperation are market opportunities available to terrorists. They present contemporary terrorists with the need increasingly to think as businessmen to whom profits will be available if they are pragmatic but lost if they remain doctrinaire.

Figure 11.1 illustrates this theoretical argument. It presents criminal enterprise as collective action and identifies the factors conditioning the interaction between terrorists and criminal networks. It also characterizes the motivations driving criminal enterprise and terrorist activities. More specifically, terrorists' motivations for undertaking illicit business activities vary. They may reflect ideological objectives. This was the case with the Irish Republican Army (IRA), whose militants and sympathizers engaged in illicit business activities aiming primarily at funding their political program. Alternatively, terrorists may be pragmatically driven. This evidently was the case with the Revolutionary Armed Forces of Colombia (FARC). The FARC terrorists forged alliances of convenience with drug dealers, thereby not only providing funds for their insurgency, but also turning it into a long-term business activity. In pursuit of material gain terrorists can lose focus on politics and evolve into 'fighters turn felons'. Algerian Islamists turned into 'social bandits' and their connection with crime has been characterized

² Peter Klerks, 'The Network Paradigm Applied to Criminal Organizations: Theoretical Nitpicking or a Relevant Doctrine for Investigators? Recent Developments in the Netherlands', in Adam Edwards and Peter Gill (eds), *Transnational Organized Crime: Perspectives on Global Security*, Routledge, London/New York, 2003, pp. 100–2. Mincheva and Gurr, 'Unholy Alliances?', p. 9. For relevant documentation see M. Bozinovic, 'The New Islamic Mafia', available online at <http://www.serbianna.com/columns/mb/028.html>, accessed 10 September 2004; and Misha Glenny, *McMafia: A Journey through the Criminal Underworld*, Alfred A. Knopf, New York 2008.

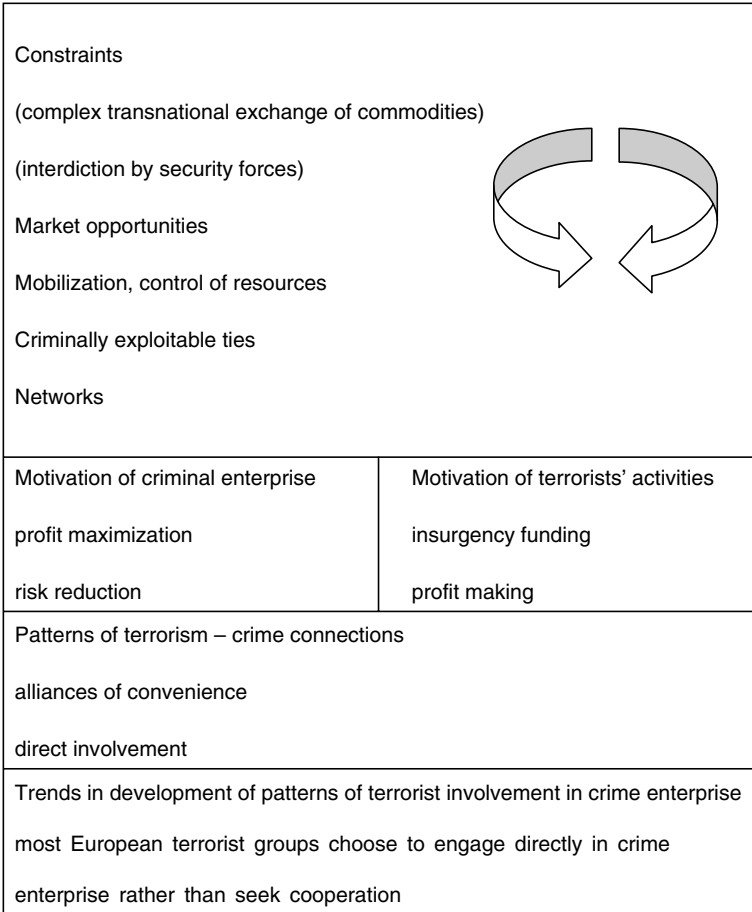


Figure 11.1 Criminal enterprise as collective action

as predation. Not least, militants can be simultaneously terrorists and criminals, as is the case with some ethnic Albanian factions. This is a pattern of opportunistic interdependence, one that we have analysed as a political-criminal hybrid.

Our study of the Albanian political criminal syndicates in the 1990s showed how the interaction of transborder identity networks, ongoing armed conflict and illegal market opportunities gave birth to criminalized rebel organizations.

The Kurdistan Workers' Party (PKK) political-criminal syndicates provide even stronger evidence. The PKK's violent conflict with Turkey has mobilized

support across the trans-border Kurdish identity network stretching from Anatolia to Germany. The PKK and its affiliates have extracted revenues from licit and illegal businesses thereby turning itself into a criminalized rebel group.³

This essay looks at Bosnia as a contrasting Balkan example where terrorism and illicit financial networks joined hands in pursuit of ideological objectives. All three factors cited above conditioned this marriage of convenience. In wartime Bosnia it was the militarized conflict and market constraints that opened the way for a political-criminal alliance. The scarcity of weaponry at the height of the Bosnian war, and the arms embargo imposed on Former Yugoslavia, forced Bosnian Muslim President Alija Izetbegović to turn to Islamic countries and charities for material assistance. Holy warriors worked closely with Islamic charities to import money and to establish trans-state Islamic advocacy networks. In Bosnia after the Dayton Peace Accords of 1996, the major factors conditioning the interaction of the political and the criminal are the constraints of illegal markets and trans-border identity networks, which were essentially the trans-state Islamic advocacy networks transplanted to Bosnian soil. The market constraints subsequently imposed by the Bosnian authorities in compliance with the international requirements of the war on terrorism have led to closer cooperation between Bosnian branches of radical Islamic charities and jihadist cells.

11.3 The case of Bosnia: Alliances of convenience in pursuit of ideological sectarianism

11.3.1 War, arms embargo and the expansion of the Islamic transborder identity network in Bosnia

On 7 April 1992 the EC recognized Bosnia–Herzegovina as an independent state. The new state consisted of three ethnic groups and was to be administered by a Muslim-dominated government. On 20 May 1992 the UN General Assembly admitted the new sovereign state to membership. But the future of the state was in doubt because two constituent ethnic groups – the Serbs and the Croats – were not interested in preserving Bosnia's territorial integrity and openly sought secession. The war in Bosnia was inevitable.

A second challenge facing the new state was the arms embargo imposed on Yugoslavia in 1991, which ensured that the Bosnian Serbs had weapons superiority because they were supported by Serbs of the former Yugoslav Army. Because of their military weakness Bosnian Muslims became the victimized group, subject to ethnic cleansing and genocide. The Bosnian Muslim government in Sarajevo had no choice but to seek assistance from

³ Mincheva and Gurr, *Unholy Alliances III*, pp. 13–20.

the Islamic world to secure the Bosniaks' physical survival.⁴ Closer ties with the Arab world also were justified by the indifference of the West and perhaps more importantly with the continuing UN arms embargo. This marked the beginning of Bosnia's journey into the world of terrorism and illicit business activities.

The process evolved slowly. In the war's initial stages Islamic governments were officially committed to the US arms embargo. Yet leaflets calling for arms to help Bosnian Muslims were distributed by militant Islamic groups in the Gulf and North Africa and put governments under domestic pressure to support their co-religionists. Religious groups then stepped up to take over the fund raising and illicit arms purchases for the Bosnian Muslims. Major Arab relief organizations and Middle Eastern arms dealers were said to have been at work on behalf of the outgunned Bosnian forces.⁵

Muslim suppliers were said to have provided less than 25 per cent of the overall weapons flow to Bosnia. Among the most active were Iran, Turkey, and Malaysia, along with several Persian Gulf countries. Iran alone provided at least 1,500 tons of ammunition that reached Bosnia through Croatia. The major arms suppliers were in East Europe, in particular Croatia, Poland, the former East Germany, and Russia. A Kuwaiti who sympathized with the Bosnian Muslims was quoted as saying: 'People say they want to buy guns for Bosnia. I tell them to go to Croatia'.⁶ Croatia reportedly provided the Bosnian government army with anti-tank weapons and ammunitions for mortars, cannons, and machine guns, and was the main conduit for the flood of weapons reaching Bosnia from elsewhere.⁷

The most significant Middle East contribution to the Bosnian war was not weapons but money and human resources. The long-term impact of military, financial, and manpower was the expansion of the Islamic transborder identity network and its incorporation into Bosnian society. The principal actors in this process were the radical Islamic fighters – the mujahideen, who first arrived in Bosnia in 1992. In August 1993 they formed the El Midzahid battalion, which

⁴ Out of 97,890 people killed in Bosnia, 64,767 or 66 per cent were persons of 'Bosniak' nationality. Serbs made up 26 per cent of casualties whereas Croats 8 per cent. Research and Documentation Center, Sarajevo, available online at <http://www.idc.org.ba>, January 2007, summarized in Edin Jahic, 'Development of Events in Bosnia and Herzegovina Following the 11 September 2001', paper presented at the *First Conference on Human Security, Terrorism and Organized Crime*, Ljubljana November 2006, p. 7, available online at http://www.humsec.eu/cms/fileadmin/user_upload/humsec/Workin_Paper_Series/Working_Paper_Jahic.pdf. January 2007.

⁵ States too joined the process. Saudi Arabia alone provided at least US \$200 million to the Bosnian Muslims for weapons procurement. The Persian Gulf nations donated up to a half billion dollars.

⁶ *Christian Science Monitor* (28 January 1993), Lexus-Nexis Academic Universe electronic subscription.

⁷ *New York Times* (5 November 1994), Lexus-Nexis Academic Universe electronic subscription.

was to serve under the Third Corp of the Bosnian Army. It consisted of nearly 3,000 Islamic fighters led by Abu Abdelazziz. The mujahideen included Algerians, Lebanese Suni, Moroccans, Afghans, Turks, Pakistanis, Sudanese, Saudis, and Syrians. There were also members of Hezbollah and others from Tawhid, the Islamic Unification movement of Lebanon. Some were career soldiers who trained government forces; others were individuals who came to fight for the establishment of an Islamic state. 'They were very organized', said British peacekeeper Lance-Corporal Mark Waple.

They come from the Middle East and Africa, are very well armed and act with determination and energy quite alien to the local forces (...) They were chanting 'Allahu Akbar'. It was quite deafening if you've got 40 guys doing it.⁸

The recruits' impact on the initial stages of the war was limited. Their major objective was to spread militant Islamic ideologies among their co-religionists. To do so they sought to attract young Bosnian followers. In 1994 the mujahideen became more aggressive, staging suicide attacks and harassing UN aid workers. They even attempted to form a Holy Brigade independent from the Bosnian army. Local Bosnians complained that the mujahideen were doing more harm than good because they were fighting for Islam, not for Bosnia. Yusuf Abderahman, an *Al Anbaa* journalist and Yugoslavian observer, says:

The West, after the failure of communism, is looking to Islam as the new enemy. The West was tough about the Iraq-Kuwait conflict [...] But in Bosnia [...] nothing. [...] if there is a war and we see a Muslim with a problem we must fight. Yes, it is a jihad.⁹

The Bosnian Muslim government nonetheless tolerated the mujahideen until the war ended, for motives that were clearly economic. Bosnian President Izetbegović repeatedly said that Bosnia needed arms, not fighters. And Foreign Minister Haris Silajdzic for his part asked Islamic countries to channel their help through the UN Security Council. Nonetheless the mujahideen remained with the Bosnian fighters while the Bosnian government made no serious effort to expel them. The outsiders were supported by a dozen Islamic countries as well as by the Muslim Diasporas in Europe, and as such brought money with them to Bosnia that would have dried up had the mujahideen units been disbanded and expelled.

Mujahideens' participation in the Bosnian war has had a significant long-term impact on the development of Bosnian society and politics.

⁸ *Independent* (14 July 1993), Lexus-Nexis Academic Universe electronic subscription.

⁹ *Christian Science Monitor* (28 January 1993), Lexus-Nexis Academic Universe electronic subscription.

Most importantly, it has extended the transborder Islamic network to Bosnia and radicalized it to the extent that the network could be mobilized by jihadis.

The establishment of the transnational Islamic network in Bosnia is attributable in part to the global revival of Islam and the spread of Islamic advocacy networks everywhere Muslim communities exist. These processes also have been at work in other Balkan countries – Albania, Macedonia, Greece, and Bulgaria. Throughout the region, Islamic religious institutions, NGOs, and charities flourished during the 1990s. What was unique to Bosnia was the formation of a Bosniak national identity whose core element was Islam.

Islam was mainly used in Bosnia within a nationalist context. Islam was the sole marker of identity that distinguished the Bosnian Muslims from the ethno-national Serbs and Croats. Thus the Bosnian Muslim identity cannot be fully understood with reference to Islam only. It has to be viewed from the perspective of Bosnia's religious heterogeneity. Until the late 1960s a separate Bosnian identity was not encouraged. In 1971 a national census first offered them the opportunity to declare themselves 'Muslim in the national sense'. Since then Islam denotes nationality in Bosnia.

Until 1992 the Bosnian Muslims were the only Yugoslav people who did not have a distinct national territory. From 1992 onward the Bosnian national movement used religion as a mobilizing factor. Bosnian president Izetbegovic´ claimed that the Bosniaks never intended to create an Islamic state in the heart of Europe. But this claim seems to have been misunderstood. The Bosnian national movement was used by the transnational Islamic movement to gain a foothold in the Balkans. This was facilitated by the politics of ethnic cleansing pursued by the ethnic Serbs toward the Bosnian Muslims, which outraged the world Muslim community. Dr. Muhammad al-Sharhan, Director of the Kuwaiti Red Crescent, said: 'In any place where Muslims are being tortured and humiliated jihad should rise to liberate them, whether in Bosnia or in Kashmir'.¹⁰ Thus the war that Bosniaks saw as nationalist was regarded as a holy war by Muslims elsewhere. And by sending volunteers into Bosnia the jihadi movement planted the seeds of Islamic fundamentalism in the heart of Europe.

Initially there was little reason to believe that the arrival of the Arab fighters might change Bosnia's sense of identity. Regional analysts questioned the capacities of the Arab fighters to convert significant numbers of locals to the fundamentalist way of thinking. Bosnians were known as secular and closer to the European liberal-democratic tradition rather than that of the Middle East. However, identity changed as a result of the nationalist conflict and the local Islamic community's interaction with transnational Islam. For example, a census held in 1985 indicated that only 17 per cent

¹⁰ *Christian Science Monitor* (28 January 1993), Lexus-Nexis Academic Universe electronic subscription.

of the Bosniaks considered themselves religious believers. In 2004 this had increased to 78 per cent.

Local as well as transnational institutions were responsible for the change in Bosniaks' self identity. A key role in this process was played by the ruling Party of Democratic Action (Stranka Demokratske Akcie, or SDA). Balancing between the religious and the secular, Izetbegović and his party had advocated the formula of a secular state for a non-secular society. The use of religion in support of national consolidation, and the political isolation of Bosnia, pushed the country into closer cooperation with Islamic states. Their help opened Bosnia's doors to transnational Islamic advocacy networks which established themselves at all social and political levels. The upper levels were taken by the mujahideen and mosques, the lower levels by relief organizations. Analysts argue that these political processes, initiated and directed by SDA, account for Islamic revivalism. However the partial penetration of society by fundamentalist Islamic culture seemed to have only occurred in post-Dayton Bosnia.¹¹

To recapitulate, the Bosnian war and the arms embargo imposed on Yugoslavia created conditions for the establishment of alliances of convenience between the political and the criminal. Islamic charities running illicit business and financial activities funded militant Islamic warriors who fought in Bosnia on the side of the Bosnian Muslims. The linkage between the political and the criminal was strengthened after 1996 with the settlement of former mujahideen in the country and the establishment of branches of Islamic charities, some of them allegedly linked to the Al Qaeda network.

11.4 The Islamic transborder identity network and anti-terrorist policies in post-Dayton Bosnia

11.4.1 The fusion of global and local Islamic networks

Although Bosnia is considered a secular society, religion plays an important role – because of the use of Islam for national consolidation. The governing Party of Democratic Action has mobilized support by using religion as ideology. And the indigenous religious institution that supports this political effort is the Islamic Community (Islamska Zaednica), which comprises the community of indigenous Muslims and their respective institutions. The processes of interest for this study are those whereby Islamska Zaednica has established cooperative relations with trans-state advocacy Islamic networks and has evolved into a local agency advocating foreign, though not alien interests.

¹¹ Velko Attanassoff, 'Bosnia and Herzegovina – Islamic Revival, International Advocacy Networks and Islamic Terrorism', *Strategic Insight* (2005), vol. 4, no. 5, available online at <http://www.ccc.nps.navy.mil/si/2005/May/attanassoffMay05.asp>. January 2007.

Islamic religious institutions – local as well as global – proliferated in the 1990s. Many local and Middle Eastern religious institutions – mosques, relief foundations, charities, and NGOs – emerged in this period. In Bosnia alone there were 250 religious humanitarian organizations in this period, all of them offspring of Middle Eastern or European entities. Attanassoff says the end of the Bosnian war did not slow down the expansion of religious institutions, though there was a temporary decline in their activities after September 11.¹²

The interaction between the Islamic Community and transnational Islamic advocacy networks occurs over a number of issues. There is tension, however, between moderate and conservative doctrines. The indigenous religious institutions practice Sufism. Sufis accommodate easily to local customs and religious practices. The transnational advocacy networks have introduced Salafism, a much more conservative and restrictive interpretation of Islam also known as Wahhabism. The interaction between the two prompted many Sufis to engage in jihad during the Bosnian war.

The Islamic Community and the transnational Islamic advocacy network easily cooperate on financial and organizational issues. The advocacy network provides funds that are administered through the Islamic Community, for example to reconstruct mosques destroyed during wartime. The trans-state Islamic advocacy network also provides opportunities for Bosnian students to receive their education abroad. Reportedly 100 Bosnian students of Islam recently were studying in Saudi Arabia; 60 in Syria; 40 in Egypt; 35 in Jordan; 30 in Iran; ten in Pakistan; ten in Turkey; and 20 in Malaysia. Salafism is adopted by some of them but not all. The Islamic Community on its part employs graduates from Islamic and secular faculties who have received their education at home or abroad. Home educational institutions include the Faculty of Islamic Studies in Sarajevo; three academies for teacher training; six madrassas, or Islamic high schools; and 1,405 maktabas, or elementary informal schools. The trans-state Islamic advocacy network also imports a broad spectrum of Islamic literature. And Islamic newspapers are published regularly.¹³

Despite foreign aid the Islamic Community retains its relative independence from the trans-state Islamic advocacy network. Attanassoff contends that the proliferating advocacy networks have not yet penetrated Bosnian social networks.¹⁴ A plausible explanation is the lack of indigenous contention between Bosnian Muslims and Bosnian Muslim authorities. Another is that the Bosnian Muslim authorities have used external funding in pursuit of their own nationalistic agenda. The process of re-Islamization has only led to a transformation of the Islamic Community's collective identity

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

and not to corresponding modifications in the individual behaviour of its members.¹⁵ Indigenous Islamic social movement did not emerge. So while the re-Islamization of national identity has been a substantial process, the converse one – the nationalization of Islam – has not occurred.¹⁶

Yet there is a danger that indigenous religious institutions will be penetrated by the trans-state Islamic network. Dynamics on the ground should therefore be tracked closely, especially the recently reported internal frictions within the Islamic Community. Rivalries within it led to the establishment of independent Islamic cultural centres, such as Active Islamic Youth (AIY) and the Furqan, which acknowledge the authority of the Islamic Community but act independently. Such autonomous agencies can easily fall under foreign influence. Most endangered is reportedly the Salafi-dominated area of Central Bosnia, where newly built mosques, relief organizations and other agencies of unknown origin provide alternative opportunities for Islamic mobilization.

Danger also is inherent in the establishment of local offices of Islamic charities in Bosnia that promote Salafist doctrines, values and lifestyles. Prominent examples are the al Haramain Foundation; the Society for the Revival of Islamic Heritage; and the High Saudi Committee. Their local Bosnian counterparts include organizations such as the Active Islamic Youth (AIY), Furqan, Balkan Center u Zenici, and the Centre for the Affirmation of Islamic Science. These charities reportedly interact intensively with local population.

Another threat is the establishment of local offices of Islamic charities that allegedly maintain links with terrorists. The activities of the al Haraman Islamic Foundation; the Benevolence International Foundation; the Human Appeal International; International Islamic Relief; the Society for the Revival of the Islamic Heritage; the Organization Igsa; and the High Saudi Committee for Help to Bosnia have been strictly controlled after September 11 and some have been closed down.

Last but not least is the threat posed by former mujahideen who remained in Bosnia after the war. Under the Dayton Peace Accords all foreign forces had to be withdrawn from Bosnia. President Izetbegović personally pledged to send the mujahideen home. And while 2,000 Islamic fighters from Iran and the Middle Eastern countries left, still present are 60 to 100 militants who received Bosnian citizenship by marrying local women or bribing local officials. Some observers believe that this group poses no threat to Bosnian society. Others claim that the militants, reportedly concentrated in central

¹⁵ Xavier Bougarel, 'Islam and Politics in the Post-Communist Balkans, 1990–2000', in Dimitris Keridis and Charles M. Perry (eds), *New Approaches to Balkan Studies*, Brassey's, Dulles, VA, 2003, pp. 345–62. Cited after Attanassoff, 'Bosnia and Herzegovina – Islamic Revival'.

¹⁶ Attanassoff, 'Bosnia and Herzegovina – Islamic Revival'.

Bosnia, act as a paramilitary guard for Izetbegović's Party of Democratic Action.¹⁷ Still others argue that these militants are the local cell of global terrorism. They populate villages in Central Bosnia and form small societies closed to visitors.¹⁸ They are thought to be active in recently established radical Islamic groups in Bosnia such as the Muslim Brotherhood – an off-spring of the Egyptian Muslim Brotherhood – which was established in 2002 in Sarajevo and targets the families of the Muslim returnees.¹⁹

The process of radicalization of Islam thus has been at work in Bosnia at least since the September 11 attacks in the US. Militant Islamist networks of followers of Wahhabism have been reported around Bihac and Maglaj. Charitable organizations operating in Bosnia are suspected of financing terrorist activities outside the country. And foreign intelligence services have warned that a number of individuals of North African and Middle Eastern descent known to maintain tight connections with Al Qaeda are present in Bosnia. Yossef Bodansky, Director of the Task Force on Terrorism of the US Congress has alleged that there is a terrorist network in Bosnia composed of several well trained groups that are directly responsible to bin Laden. The cells use Bosnia as training ground and a gateway to send militants to west European countries or to shelter them on their way east.²⁰ The cells reportedly operate secretly in remote mountainous areas in the Zenica region.

And Jasmin Merdan, a former Wahhabi, who abandoned radical teaching of Islam, told the BBC in 2006 that

After the war in Bosnia and Herzegovina, authority and leadership have been transferred from the Arabs to the local people and the number of the Wahhabis is growing slowly but surely. Unfortunately the Wahhabis are very active; they have good financial support, extremely strong publishing, and a strong sales network in Bosnia and abroad. On the other hand, the Islamic Community underestimates the Wahhabis and their strength.²¹

¹⁷ The unit was said to be established to compensate for Bosnia's loss of confidence in the Western allies, distrusted by Bosnians during the war for allegedly having abandoned the Bosnian Muslims.

¹⁸ Jahic, 'Development of Events in Bosnia and Herzegovina', p. 10.

¹⁹ Many acts of violence have been reported since 1995. Perpetrators were reportedly the Wahhabis in Bosnia and Herzegovina. Local Bosnians, and especially younger people and girls, were attacked for being improperly dressed or for behaving improperly. There is speculation that the Wahhabis established a Shari'ah police in the major towns of Bosnia with the aim of policing the favorite hangouts of young people at night and chasing young couples away. Murders of people in the name of religion have been also reported.

²⁰ *Agence France Presse* (16 February 2006), Lexus-Nexis Academic Universe electronic subscription.

²¹ BBC (22 August 2006), Lexus-Nexis Academic Universe electronic subscription.

11.4.2 Legal and market constraints imposed by post-Dayton Bosnian authorities

Since September 2001 the Bosnian government has significantly raised its legal and institutional capabilities to combat terrorism and organized crime. The most important step has been to centralize key agencies now responsible for operations on the entire territory of Bosnia–Herzegovina. These include the newly established State Court of Bosnia and Herzegovina and the Prosecutor's Office. Also new is the Intelligence and Security Agency of BiH, formed out of civilian intelligence institutions once operating in the Federation of Bosnia and Herzegovina and in the Republika Srpska. The State Agency for Protection and Investigation (SIPA) was the police unit responsible for cracking down on organized crime and war crimes, terrorism and human trafficking. SIPA has also a financial intelligence unit (FIU). State-level ministries of defence and security were also established. The Ministry of Security established a commission responsible for reviewing the Bosnian citizenship of 668 naturalized foreign nationals. And the State Border Service of BiH was made responsible for establishing control along all Bosnian borders.²² Given the continuous tension between the federal government and its Serb and Croat constituencies, more information is needed about the effectiveness of these central institutions.

The Council of Ministers of Bosnia has created working groups to address terrorism by legal measures. The criminal Code of Bosnia and Herzegovina has criminalized terrorism and terrorism funding. Bosnia also adopted a law establishing procedures for detecting, preventing, and investigating money laundering and terrorism funding activities. It prescribes measures and identifies responsibilities for international cooperation. Here again we do not know how effectively these procedures are being implemented.

Probably the most important step in instituting effective counter-terrorism policies is the centralization of key state institutions and agencies, some of them adopted under foreign pressure. Thus the establishment of a single Bosnian army is now underway. The defence reform initiative comes from NATO and aims at merging rival ethnic armies into a single Bosnian force. The expected establishment of a single Bosnian army under one chain of command and financed from a unified budget would constitute a radical departure from the terms of the 1995 Dayton Peace Accord which gave each ethnic community the right to its own military.²³ A unified Bosnian army would strengthen the Bosnian state and bring Bosnia closer to NATO membership. In a similar vein, a recently accepted EU proposed police reform package would reorganize Bosnia's police and its administrative

²² *Ibid.*

²³ For relevant documentation see 'NATO Aims to Merge Rival Armies into a Single Bosnian Force', in *Radio Free Europe/Radio Liberty Balkan report* (26 August 2005), vol. 9, no. 24.

boundaries along non-ethnic lines. The new Bosnian police and army forces are expected to institute more efficient counter-terrorism policies and to impose tighter control over criminal activities.

In general, anti-terrorism and anti-crime measures undertaken so far seem to have strengthened Bosnia by centralizing its state institutions. Yet there is still much to do in this respect. Local analyst Edin Jahic points out that Bosnia–Herzegovina is still a weak state with multiple semi-autonomous centres of power, which presents an attractive environment for those seeking to launch terrorist activities.²⁴

11.4.3 Evidence on linkages between trans-state terrorism and criminal networks

There are concrete instances of anti-terrorist and anti-criminal measures undertaken by Bosnian and international authorities since September 11 that demonstrate both the potential for terror-crime linkages in Bosnia and the capacity of authorities to act against them.

On 17 October 2001 the Embassies of the United States and the United Kingdom in Sarajevo were closed down under threat of terrorist attacks. The Supreme Court of Bosnia–Herzegovina issued an arrest warrant for those suspected of planning bomb attacks on the two embassies and five suspects of North African origin were arrested. Four were Algerians with Bosnian citizenship. One, Bensayah Belcaceem, was identified as a high-ranking figure in Al Qaeda and as having personal connections to Osama bin Laden. At the same time the Ministry of Interior revoked the citizenship of the four naturalized Algerians. On 17 January 2002 the Supreme Court released them from custody. In fact, however, they were handed over to the NATO Stabilization Force, then transferred to the US military detention facility in Guantanamo Bay. Charges against the Algerians were subsequently dropped. The radical local Islamic group, the Active Islamic Youth, mounted several demonstrations in Sarajevo against the deportation of the six North Africans.²⁵ This case is indicative of the extent of radicalization of local Islamic groups and possible fusion between local Islamic agencies and global terrorist networks.²⁶

The Bosnian government also cracked down on local officials for providing aid to foreign militants when, in 2004, fifteen former Bosnian officials

²⁴ Jahic, 'Development of Events in Bosnia and Herzegovina', pp. 5–6.

²⁵ *Ibid.*

²⁶ Our evidence is the arrest of Bensayah Belcaceem. However a connection might be suspected between the arrested Algerians and the Algerian terrorist network in Europe, the Salafist Group for Preaching and Combat (GSPC). While GSPC continues to engage in terrorism operations in Algeria, the group also emphasizes 'out of Algeria' operations through its European network of cells. It is known as the largest, most cohesive and dangerous terrorist organization in the Al Qaeda orbit.

were charged for illegally helping 700 former Islamic fighters to gain Bosnian citizenship.

Measures against illegal business activities have been adopted as well, directed against activists of foreign Islamic charities said to be funding terrorist activities outside Bosnia. One was the al Haramain Islamic Foundation, an organization with branches in 55 countries and annual expenditure of US \$57 million. Measures against its overseas branches were undertaken by the US and Saudi Arabia. Its objectives include provision of food and clothing to Muslim refugees and orphans; building of mosques and Islamic centres; training imams; distributing Muslim literature; and establishing correct Islamic doctrines. The Bosnian branch of this organization is reportedly tied to al-Gama'at Islamiya, an Egyptian group that works closely with bin Laden.²⁷ A Bosnian raid on a local branch of the al Haramain Islamic Foundation uncovered tapes calling for attacks on peacekeepers in Bosnia.

Several Bosnia-based Islamic associations are on the US anti-terrorist blacklist for allegedly financing terrorist activities. The Bosnian Finance Police and the Bosnian Interior Ministry have been asked by Kuwait to provide information on the Revival of Islamic Heritage Society, a charity with possible links to terrorists. The charity was banned in Pakistan and Afghanistan for having provided financial support for the Taliban regime and al Qaeda.

The Bosnian police in 2002 also raided the Bosnian offices of the Benevolence International Foundation (BIF), finding weapons, military manuals, a fraudulent passport, and photos of bin Laden.²⁸ A raid on the Sarajevo office of the Saudi High Commission for Relief netted anti-Semitic and anti-American materials, as well as photos of US military installations.²⁹ Officials observe that Islamic networks establish new agencies soon after a branch is shut down. Thus Vazir – the Haramain successor organization – was shut down and the Global Relief Fund was closed down as well.

To sum up, this evidence shows that branches of Al Qaeda's transnational financial network, or more generally the financial networks of militant Islam, have been established in Bosnia. This evidence suggests that Al Qaeda – connected terrorist cells also are present in Bosnia. The planting and funding of militant Islam in a European country is by its nature both a criminal and potentially terrorist enterprise.

²⁷ US officials have tracked al Haramain's connections to other Balkan countries. The CIA has worked in Albania with local security officials to track and arrest Egyptian al Haramain leaders wanted on criminal charges.

²⁸ BIF leader Enaam Arnaout was charged in US courts with concealing his relationship to Al Qaeda. He received an 11-year sentence, albeit not for terrorism charges but for fraud.

²⁹ Steven Woehrel, 'Islamic Terrorism and the Balkans', available online at http://www.history.navy.mil/library/online/islamic_terrorism.htm. December 2006.

11.5 Conclusion

In an earlier contribution (2006) we examined evidence on conditions that led to linkages between trans-state terrorism and crime networks among ethnic Albanians in the late 1990s, centred on the conflict in Kosovo.³⁰ Another paper on the PKK of Turkey provides additional evidence on existing linkages between trans-state terrorism and crime networks.³¹ The Bosnian case examined here shows both parallels and contrasts with the Albanian and Kurdish cases.

The major factors conditioning terrorism-crime interaction were present in Bosnia. First, Bosnia has experienced violent armed conflict. Second, opportunities for illicit business activities, including arms trafficking and money transfers to parties in conflict, emerged early in the civil war. Third, a trans-state identity network has taken root among Bosnian Muslims.

The circumstances are different from those among Albanians and Kurds, however, for whom ethno-national identification has long been an active agent for trans-state cooperation. The Bosnian conflict attracted material support and mujahideen fighters from the Islamic world, which led to a fusion between the transnational Islamic advocacy network and the indigenous network, that of the Bosnian Islamic Community. In post-Dayton Bosnia this trans-state network now includes mosques, madrassas, political organizations, and publication programs that advocate Salafist (or Wahhabist) Islamic doctrine. It also includes some former mujahadeen fighters and is potentially conducive to trans-state mobilization by jihadist groups.

There also is evidence of trans-state Islamic advocacy networks engaged in illicit business activities. These networks reportedly provide funds and use Bosnia as a 'gateway' for trans-state militants moving between Europe and the Middle East. The volume of illegal business is far less than in the Albanian and the Kurdish networks; however, it seems to be carried out in support of the Islamist political program. So the political-criminal linkage among Bosnian Islamists is exclusively ideologically driven, in contrast with the Albanian and the Kurdish cases, which we have characterized as political-criminal hybrids.

Two observations drawn from the three case studies inform our future research on trans-state political-criminal alliances. One is the potential for contemporary ethno-national movements in predominantly Muslim countries to collaborate with radical trans-state Islamic movements. Nationalist movements may host terrorist cells within their networks, provide sanctuary to individual terrorists, and provide recruits for trans-state terrorist activities. The second lesson is that ethno-national movements nonetheless

³⁰ Mincheva and Gurr, 'Unholy Alliances? How Trans-state Terrorism and International Crime Make Common Cause'.

³¹ Mincheva and Gurr, *Unholy Alliances III*.

tend not to compromise their initial nationalist objectives or to replace them with religious ones. The Bosnian Muslims initially sought cooperation with Arab states and militants for military and economic reasons – they sought to defend the Bosnian government against Serb aggression. After the Dayton Accords ended the civil war, the Bosnian government sought to deport mujahideen and establish state control over terrorist and criminal networks. The Kosovo Albanians have reportedly received weapons from Iran, as well as transporting drugs from Afghanistan. However the sources of illicit funding for their ethno nationalist project have not yet led the Kosovars to adopt militant Islamist goals. The PKK has trained with several Palestinian groups while based in the Bekaa Valley in Lebanon and Syria and also received funds from Iran after September 11. However the Marxist-Leninist PKK has collaborated with Middle Eastern fighters primarily for material support for their nationalist war with Turkey, and not because of shared Islamist objectives.

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12

The Small Arms and Light Weapons Problem in the Western Balkans

Iztok Prezelj

12.1 Introduction to the SALW problem

An estimated 640 million Small Arms and Light Weapons (SALW) are currently in circulation around the globe. Most human casualties in wars and also most violent criminal acts in peace are committed by the use of SALW. The Western Balkans is a region where SALW were used for defensive and offensive purposes in a series of wars and where they continue to be a problem in the post-conflict time. The current SALW problem in the region refers mainly to the illegal possession, use and proliferation of weapons. Smuggling and illicit trafficking of SALW has become a profitable business, which is conducted by criminal networks along the Balkan smuggling route. Some European terrorist groups also used the Balkan channel to obtain SALW. Also an inseparable part of state-building in the region was actually related to the clandestine smuggling of SALW. The situation has improved by the end of 2008, yet a more comprehensive analytical reflection on the past and present issues in the field of SALW is missing. It is not clear what kind of problem and threat SALW represent in a time of decreasing conventional and probably also organized crime. The aim of this essay is to show the complexity of the SALW problem in the Western Balkans by identifying key lessons to be learnt from the past. My goal is also to identify and elaborate key present challenges. The latter encompass a broad spectrum of problems and dilemmas, which are persistent, complex and cannot be solved over night. These goals can be achieved only if put into a proper introductory context.

There is no universally accepted definition of SALW, yet most competent institutions use the definition by the UN Group of Governmental Experts from 1997.¹ By this definition, the small arms are revolvers, self-loading pistols, rifles, carbines, sub-machine guns, assault rifles and light machine guns.

¹ OSCE, *OSCE Document on Small Arms and Light Weapons*, Vienna 2000, available online at <http://www.osce.int>, at p. 3.

Light weapons are broadly categorized as those weapons intended for use by several people serving as a crew. They include heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of calibres less than 100 mm. Also ammunition and explosive devices, such as cartridges, shells and missiles for light weapons, anti-personnel and anti-tank grenades, explosives, landmines and mobile containers with shells or missiles for anti-aircraft and anti-tank systems, are counted as SALW. Simplistically, SALW are all arms that can be used by one person or a small group of people and carried by a person, pack animal or light vehicle. SALW must be distinguished from the major and complex weapon systems because they are portable, easy to use, cheaper, more widely produced and available, relatively easy to conceal and require relatively little maintenance, logistical support and training.

SALW actually represent weapons of choice for people waging wars, criminals and terrorists. They are the main tool used to kill, wound, destroy and threaten. The use of SALW is of course symptomatic of deeper societal ills and problems that produce insecurity driving the demand for weapons.

The link between the accessibility of weapons and levels of violence is not absolute. Research however shows, however, that, in general, high rates of gun ownership are related to increases of the incidents of arms-related violence.² Even a small build-up in SALW can lead to disproportionately large increases in armed violence or sometimes even vice versa. In any case, the statistical analyses show that SALW are responsible for around half a million violent deaths around the world each year. The majority of people killed in wars and other armed conflicts (an estimated 60 to 90 per cent of around 300,000 each year³) are killed by the use of SALW. Most of them are civilians and many of them children. Because of these statistics, some experts argue that SALW are actually the real weapons of mass destruction.⁴ They have killed many more people in the past than what we actually call weapons of mass destruction (chemical, nuclear and biological weapons).

SALW kill an additional 200,000 people in 'peaceful' countries each year in homicides, suicides, unintentional shootings and shootings by security services. Criminal groups use SALW for the perpetration of the

² Barbara Frey, 'Small Arms and Light Weapons: The Tools Used to Violate Human Rights', *Disarmament Forum – Human Rights, Human Security and Disarmament* (2004), no. 3, at p. 41.

³ Small Arms Working Group, *Consequences of the Proliferation and Misuse of Small Arms and Light Weapons*, Belgrade 2006, at p. 14.

⁴ This is the position of IANSA – International Action Network on Small Arms.

worst criminal acts (murders, robberies, extortions and so on). Also, terrorist groups mostly cannot achieve their goals without the use of armed violence with SALW.⁵ Targeted assassinations, kidnappings and hijackings, suicide attacks and bomb attacks have mostly been committed by the use of SALW. Gunaratna, an internationally recognized expert in the field of terrorism, identified a trend of increasing use of stronger SALW by terrorists, such as rocket-propelled grenade launchers, light anti-tank weapons, mortars and surface-to-air missiles. Due to the proliferation of knowledge on arms production, it has become quite easy to make improvised explosive devices for terrorist purposes.⁶

The illegal, and to some extent also legal, proliferation of SALW is mainly considered as a security concern due to the above elaborated link to violence. The professional dogma states: 'the more weapons available, the more likely they will be used'. Some 640 million SALW around the world change owners through legal or illegal markets. According to the Small Arms Working Group and the UN Special Rapporteur on the Prevention of Human Rights Violations Committed with SALW, the value of the legal small arms market is estimated at four billion dollars and the illegal market close to one billion dollars per year. In addition at least one million SALW are stolen or 'lost' annually worldwide.⁷

In summing up all the direct consequences of the existence, use and proliferation of SALW, one can see that actually SALW facilitates human rights abuses in times of war and peace. Individuals and groups of people are deprived of their rights to life and security, which are guaranteed by the Universal Declaration of Human Rights, the European Convention of

⁵ SAGRANOSO explicitly stated in 2001 that SALW have fed the local criminal underworld as well as European terrorist groups, such as the Real IRA, thus contributing to the undermining of West European public safety. The two main users of SALW in the EU are terrorist organizations, especially those struggling for secession from a state, and criminal groups involved in profitable illegal activities, such as drug-trafficking, prostitution, smuggling of illegal immigrants and extortion. Criminal groups carry weapons to conduct and protect their business interests. However, they do not require vast arsenals. This explains the small amount of illegal weapons in circulation in the EU, despite the substantial increase in criminal activities over the past decade. Three separatist organisations in the EU remained heavily armed: the Northern Ireland paramilitary groups, the Spanish ETA group and the Corsican nationalist movements. Although most of their attacks were conducted with explosives and handguns, they possessed vast arsenals that might eventually end up in the hands of criminals if not properly decommissioned. Dornitilla SAGRANOSO, *The Proliferation of Illegal Small Arms and Light Weapons in and around the European Union: Instability, Organised Crime and Terrorist Groups*, London 2000, at p. 6.

⁶ Rohan Gunaratna, 'Terrorism and Small Arms and Light Weapons', paper presented at the symposium on *Terrorism and Disarmament*, New York, 25 October 2001, at p. 2.

⁷ Small Arms Working Group, *Consequences of the Proliferation and Misuse of Small Arms and Light Weapons*, p. 5. Frey, 'Small Arms and Light Weapons', at p. 37.

Human Rights, international humanitarian law, national constitutions and other relevant documents. What lessons from the Western Balkans can we observe in the field of SALW use and proliferation?

12.2 Lessons from the Western Balkans

SALW were and remain a serious regional problem in terms of proliferation, use and control. Wars in former Yugoslavia contributed to greater illegal and legal availability of SALW in the region and in the wider Europe. One could buy almost any SALW on the black market for any kind of use. According to the *Jane's Terrorism and Security Monitor*, it was possible to buy handguns, assault rifles, explosives, heavy machine guns and anti-tank weapons. AK 47s were sold at around US \$100, which is low compared with prices in other parts of the world, with the exception of some parts of Africa.

In the Western Balkans, such availability of weapons created possibilities for increased violence and crime in solving pressing political problems. Regional security conditions leading to the use of SALW have been rather bad. In the environment of high unemployment, wild privatization, fast democratization, weak governments, corruption, unsolved war-related issues, painful memories, freely moving war criminals and internally displaced people and refugees who do not want to or cannot return, the availability of SALW created some alternative windows of opportunity for solving problems by violence. Every war in the region was accompanied by a flood of legally and illegally available weapons. Civil disorder in Albania even increased such availability. Large amounts of SALW given to civilians by their governments during wartime were not returned after its end. They were in fact brought home as war souvenirs. It took the international community and governments a lot of effort to legalize or confiscate such weapons, yet a lot is still to be done.

My analysis of relevant national security documents of Croatia, Bosnia, Serbia, Montenegro and Macedonia shows that all authorities are at a declarative level very well aware of the SALW problem. Many documents indicated illegal trade with conventional weapons as a security threat. Also their common assessment on regional security challenges proved their awareness of the dangers involved. The regional common threat assessment finalized in 2001⁸ identified the threat from illicit weapon trafficking in relation to illegal armed groups that could become operational and start threatening security and stability in countries or among them. The situation in the region in the past eight years continues to be worrying. In the following sections, I will shortly show how the SALW issue has been reflected in these countries.

⁸ See NATO, *Declaration on the South East Europe Common Assessment Paper on Regional Security Challenges and Opportunities – SEECAP*, Budapest 2001, available online at http://www.nato.int/cps/en/natolive/official_texts_18885.htm?selectedLocale=en, accessed 24 July 2007.

The Muslim community in Bosnia and Herzegovina was strategically completely unprepared for beginning of the war in the nineties.⁹ During the war time this community got human resource, financial and technical help from many foreign state and non-state actors. A humanitarian agency, Third World Relief Agency, was also responsible for a large part of SALW smuggling to Bosnia. This agency operated with the knowledge and support of the Bosniak government (under Izetbegović) and many foreign countries. Also Osama bin Laden was supplying SALW to Bosnia through this agency. Today, we can identify the existence of a criminal network dealing with SALW illegal sales. For example in August 2006, the Bosnian police uncovered a large marijuana production facility near Banja Luka. The uncovered criminal group was in close contact with a Dutch criminal group that was offering and exchanging technology and equipment for drug production in exchange for weapons and ammunition.¹⁰ It is also obvious that this network uses and stimulates corruption of some political and even security circles in the state.

Serbia has been deeply penetrated by the criminal networks that gained momentum during and after the end of war in Bosnia. These groups were responsible for arming paramilitary Serbian groups in Bosnia. Prime Minister Zoran Djindjić tried to deal with the Serbian underground and its corruptive connection with the security forces which led to his assassination. In a comprehensive police action and related weapons collection programme around 48,000 pieces of SALW and over 2 million pieces of ammunition were found.¹¹

The Liberation Army of Presevo, Medveda and Bujanovac was a separatist¹² and terrorist organization that operated in the south of Serbia with the aim of exploiting the success in Kosovo. The army started operating after the NATO intervention in Kosovo and when some 300 to 500 KLA fighters came from Kosovo. This organization has been officially disbanded since 2001, but there are some doubts about it. In any case, they smuggled SALW into the country for achieving their goals. According to Jane's Sentinel Assessment, they possessed automatic rifles, sniper rifles, mortars, anti-tank hand rocket weapons and so on. Deserted Serbian military officer, Miroslav

⁹ Members of this community believed in the idea of socialist Yugoslavia and its unity until they got shot at.

¹⁰ Jane's Sentinel Security Assessment, *Bosnia and Herzegovina – A Country Profile*, 2007, available online for subscribed users at <http://www.janes.com>, accessed 1 October 2007.

¹¹ Ministry of the Interior, *Informacija o stanju bezbednosti na teritoriji Republike Srbije i ostvarenim rezultatima rada Ministarstva unutrašnjih poslova Republike Srbije u periodu od 1. januara do 30. juna 2003. godine*, Belgrade 2003, available online at <http://www.mup.sr.gov.yu>, accessed 28 March 2007.

¹² Their aim was to secede from Serbia and to join Kosovo. It is almost clear that they were following the idea of Greater Albania.

Petrovic, disclosed publicly that also the Army of Serbia and Montenegro was involved in the illegal arms trade to Albanians from the south of Serbia and Kosovo.¹³

Since 1999, there have been many violent incidents committed by the use of SALW in Kosovo. The aim of perpetrators was to create an unfavourable environment for international organizations, such as UNMIK, OSCE and NATO. Most serious incidents were actually bomb explosions without claims of responsibility.¹⁴ The Kosovo Liberation Army (KLA) has been officially disbanded, but some indicators point to its sleeping status.¹⁵ Organized Albanian criminal groups were also intensively smuggling weapons, which was actually a major logistical endeavour of the KLA. Despite strong denials by the KLA, many foreign intelligence, police and media sources reported that drug money has financed the army's activities as well.¹⁶ In 1999, newspaper articles reported the existence of an illegal flow of weapons into the UK originating in Kosovo. According to journalists, arms dealers in the UK were being offered Russian RPG-7 anti-tank rocket launchers, AKM and AK 47 sub-machine guns, M2HB Browning heavy machine guns, Claymore anti-personnel mines and over 140 tonnes of TNT explosives at relatively cheap prices. All these weapons apparently belonged to the Kosovo Liberation Army, which was trying to resell part of its arsenal after the conflict ended.¹⁷ The Albanian National Army (ANA), the KLA offspring, is arguably a very well armed terrorist/liberation group aiming at unification of all Albanians in one state. ANA has been involved in criminal activities, including smuggling of weapons. Especially worrying are the uncovered shipments of MANPADS.¹⁸

The borders between Serbia and Macedonia are still quite porous in terms of drugs, weapons and people smuggling. In fact, Kosovo has become a regional centre for all types of smuggling. In times of high tension in Kosovo at the end of 2007, ANA demonstrated its force publicly to Serbs in Kosovo and the international community. Their vehicles with armed people were patrolling the Serbian-Kosovar border area and public statements on their preparedness to fight until the end were given. Kosovo is additionally known for high quantities of illegal weapons in the possession of local people. The growth of the Albanian organized crime just before,

¹³ Jane's Sentinel Security Assessment, *Serbia – A Country Profile*, 2007, available online for subscribed users at <http://www.janes.com>, accessed 1 October 2007.

¹⁴ Interestingly, most of such incidents were not labelled as terrorism by the UNMIK. This is, in my opinion, very problematic and deserves a closer look.

¹⁵ I refer especially to the recently uncovered huge weapons depot in Drenica.

¹⁶ See Alessandro Politi, 'The Threat of Organized Crime in the Balkans', *Southeast European and Black Sea Studies* (2001), vol. 1, no. 2, at p. 55.

¹⁷ Sgranosio, *The Proliferation of Illegal Small Arms and Light Weapons in and around the European Union*, at p. 16.

¹⁸ MANPADS stands for Man-Portable Air-Defence Systems.

during and after the war in Kosovo has been so high as to lead some authors to claim that the real winner of the war in Kosovo was the Albanian mafia. Albanian criminal gangs known as fares profited from war and grew in breadth, depth, size and influence.¹⁹

Also, people in Macedonia tend to be disproportionately highly armed as a consequence of the uncertain political situation. Indeed, the country is facing a difficult future with the prospect of Albanian secession in the air. According to some estimations, there are more than 100,000 pieces of illegal weapons in the country. Two major weapons collection operations after 2001 collected more than 10,000 pieces of SALW. Macedonia is facing quite extensive illegal use of SALW for political purposes. After the armed rebellion in the Albanian part of Macedonia and in part of broader Skopje, several armed attacks occurred in the country (for example, shelling the building of the government, armed violence among political parties during the election campaigns). One very alarming situation happened in November 2007 when a known criminal Jakupi and his colleagues illegally entered the state from Kosovo and established a 30- to 50-strong gang of men, which terrorized people. The group was aiming to destabilize the political situation in Macedonia and it was armed with automatic rifles, cannons, portable rocket launchers, air defence rocket launchers, bombs, explosives and so on. The Macedonian border with Kosovo is still porous, and is exploited by the local criminal gangs, who are smuggling what they think is profitable, including weapons. In 2006 a shipment of weapons was uncovered that, allegedly, involved also some employees of the ministry of defence.

The new state of Montenegro has not been immune to the problems related to SALW. According to some assessments, there is a weapon in each household, demonstrating the specific attitude to the social order. Consequently, there are many violent criminal acts in the country. Smuggling of weapons was a huge problem at the time of the Kosovo crisis. A very alarming situation occurred in 2006 when the police arrested 20 ethnic Albanians aiming to carry out terrorism, other violent criminal acts and a rebellion with the aim of succession. KFOR has found on the other side of the border in Kosovo huge numbers of weapons buried in the ground. Arguably, the arrested group of people wanted to use these weapons to achieve their goals.²⁰

Croatia also faces a high amount of illegal weapons as a legacy of the protracted war. According to estimations by BICC, there are around 600,000 pieces of weapons in illegal possession by Croat citizens. According to the Ministry of the Interior, the number of violent criminal acts in which SALW

¹⁹ Frank Ciluffo and George Salmoiraghi, 'And the Real Winner is the Albanian Mafia', *The Washington Quarterly* (1999), vol. 22, no. 4, p. 21–2.

²⁰ Jane's Sentinel Security Assessment, *Montenegro – A Country Profile*, 2007, available online for subscribed users at <http://www.janes.com>, accessed 1 October 2007.

were used has been increasing. In 2006, the country was looking at what to do with the surplus of weapons as a result of downsizing of its armed forces.²¹

The partial collapse of the Albanian state in 1997 also fuelled the smuggling of weapons in the area. According to the UN, about 650,000 weapons have been taken from more than 280 government depots,²² and about 30 per cent of this number have made their way to the other parts of the former Yugoslavia, where the Albanians sought solutions to their ethnic problems (Kosovo, Macedonia and South Serbia). According to some other sources some 700,000 to 850,000 pieces of SALW were stolen from depots. Beside this, some 2,500 rockets, 800 artillery pieces and 3.5 million mines were stolen.²³

We could continue with showing and elaborating examples from the countries in the region. However, it would be more useful to identify general lessons from the region. These lessons represent a clear context for further discussion on the major challenges in the region.

Wars and crises in the Western Balkans increased demand for weapons in pre-crisis and crisis periods. Demand was met by increasing smuggling and illicit trafficking by criminal groups that sometimes acted in cooperation with state security institutions and even politicians.

An existing high demand for SALW contributed to forming and developing persistent criminal networks that deeply penetrated the social and state fabric. Corruption has been a key means for the cohabitation of many actors in a joint venture.

High SALW availability presented an additional means for solving pressing political problems in the region. The curve of violence in the region has gone up with the increase of availability and down with its decrease.

The wars have ended in the region, yet unpredictability remains in the air, especially regarding some political problems, like true independence for Kosovo, the security of the Serbian minority in Kosovo, Albanian–Macedonian relations in Macedonia, Albanian–Serbian relations in South Serbia, the cohabitation of Serbs, Croats and Bosniaks in Bosnia and so on. The problem is that many people have in the post-conflict period retained the weapons acquired during the wartime. Thus many SALW remain stored in households and secret depots.

The state collapse that happened in Albania could have been prevented. Yet the international community was politically not prepared to intervene at the right time with the right resources. The increase of SALW availability

²¹ Krešimir Zabec, 'MORH i MUP ne znaju što bi sa 250.000 komada oruzja', *Jutarnji list* (2006), available online at <http://www.jutarnji.hr>, accessed 1 February 2008.

²² UN Office on Drugs and Crime, *Crime and its Impact on the Balkans*, Vienna March 2008, at p. 53.

²³ Ferenc Gazdag, Lazlo Poti, Judit Takacs and Peter Talas, 'Assessment of the Security in the Western Balkans and a Comparative Analysis of the Threat Perception in the Countries of the Region', *Regional Threat Analysis*, Geneva 2007.

was not even predicted by anyone until it started to happen. The lesson extracted from this example should be a warning sign for the international community. The repetition of something similar should not be allowed by the international community. Ungoverned territories and related security vacuums simply open space for organized crime and the increase of SALW proliferation and use.

Humanitarian help was misused to smuggle SALW into the region. This means that international humanitarian law has been frequently breached, sometimes even with the knowledge of some major international players. National interests prevailed over international law. The legitimacy of actions was more important than their legality.

The Balkan smuggling route has actually functioned as a complex network of networks. Transfers of SALW into, within and out of the region have been 'balanced' by transfers of money and drugs in the opposite directions. The same channels and groups have been used for illegal transfers in both major directions.

Regional SALW smuggling was motivated not only by typical criminal profit-seeking, but also by political motives. Two types of political motives can be observed: terrorist motives and state-building motives. Sometimes they were inseparably connected and sometimes not.

The major logistical endeavour of the KLA was the actual smuggling of weapons to Kosovo. At later stages these weapons were smuggled to Macedonia and South Serbia. Interestingly, the KLA was firstly designated as a very dangerous terrorist group by the US, but later it was withdrawn from the list of terrorist groups and strongly supported. This shows that actually the mentioned logistical endeavour was at least tolerated if nothing else. The extracted lesson tells us that the political interpretation of SALW proliferation actually depends on the moral and emotional views of political entities. It depends also on the state's rational calculation of its national interest involved.

Another example of terrorist motives behind SALW proliferation refers to the Real IRA and its arsenal. The organization exploited the Yugoslav crisis to increase its weapons arsenal heavily. The provisional IRA did not take advantage of the wide availability of the Yugoslav weapons on the market. Instead it has continued to rely on traditional sources of weapons from the United States. Sagramoso reported that the Real IRA has as a result of illegal trades managed to create a relatively substantial arsenal, including ten Yugoslav-made rocket launchers, 20mm anti-aircraft machine guns, an estimated 100 AK 47 rifles, as well as sub-machine guns, handguns and Semtex explosives. The cessation of clandestine arms shipments from traditional suppliers actually compelled the Real IRA to seek new suppliers from the Western Balkans. For example, in July 2000, the Croatian police uncovered an arsenal of AK 47 sub-machine guns, RPG-18 anti-tank rocket-launchers, twenty packets of Cortex explosive, detonating fuses and ammunition

heading for the Real IRA. The weapons, which apparently originated in Bosnia, were hidden in warehouses in the town of Dobranje, near the Croatian town of Split. The Real IRA seemed to have used the proceeds of an international cigarette smuggling operation to fund the arms shipment. Similar weapons from the Western Balkans, including forty electric detonators, an AK-47 rifle and Russian rocket launchers, were discovered in the Irish Republic in October 1999. It is not entirely clear how in both cases weapons reached the Irish Republic.²⁴

Perhaps major state-building examples of SALW smuggling include smuggling to Slovenia, Croatia and Bosnia before and during the conflicts in these countries. It is obvious that the official authorities of all countries were directly or indirectly involved.²⁵ The main motivation for smuggling in these cases was a patriotic wish for independence, defence and help. The lesson is that the smuggling process, in which the main players are states, can actually not be stopped. With a decreasing level of friendship among the states the prospect for successful smuggling also drops.²⁶

²⁴ SAGRANOSO, *The Proliferation of Illegal Small Arms and Light Weapons in and around the European Union*, pp. 33–5.

²⁵ This is a very contentious issue in all mentioned countries. It is more or less a public secret.

²⁶ The political scandal about the Maribor case demonstrates the dynamics of the smuggling process in the region. The case reflects many of the above specified lessons. In July 1993, a large shipment of weapons (120 tons of small arms) was uncovered at the Maribor airport in Slovenia. Officially, many containers of humanitarian aid were thought to have been at the airport for several months, waiting to be transported to Bosnia and Herzegovina. In fact, it was a weapons shipment that came from Khartoum in Sudan through Vienna to the Maribor airport in Slovenia, and was to be sent to Tuzla and Zenica in Bosnia. The shipment was officially discovered in an inspection by the Director of the Customs Administration and the Minister of Defence, which was very unusual. Actually, the minister was informed about this shipment, and sent a detachment of special forces, which first quarantined part of the airfield and then turned the case over to the civilian authorities. The weapons were distributed under the guise of humanitarian aid through an agency based in Vienna, the Third World Relief Agency (TWRA). Elfaith Hasanein and his brother Sukarno founded the TWRA in 1987. Its key missions were to stimulate the proliferation of Islam in Eastern Europe and the Soviet Union and to provide financial and humanitarian aid to Muslims in the region. In an article in the *Washington Post* from 22 September 1996, John Pomfret wrote that it is not altogether clear whether the organization was formally backed by Sudan, but informants said that it was Hasanein who was responsible for the creation of front organizations to pursue Sudanese Islamist policy in Bosnia, Afghanistan, and Pakistan. In 1992, he opened TWRA offices in Sarajevo, Budapest, Moscow, and Istanbul, that is, in critical locations for weapons trafficking. According to Austrian investigators, US \$350 million was funnelled to Bosnia alone. The sources of this money were Muslim governments and extremist Islamic movements. The article cites Sudan, Saudi Arabia, Pakistan, Turkey, Brunei and Malaysia, and specifically mentions the financial assistance of the wealthy Osama bin Laden, who at the time lived in Sudan. Hasanein knew the territory of the former Yugoslavia rather well. According

A complete identification and specification of the smuggling methods and techniques used in the Western Balkans would take too much space for this essay. The key lesson extracted from one such study²⁷ refers to the extreme variability of methods and techniques. The constant direct and indirect interaction between smuggling methods and protection measures can be observed. Stronger and smarter border controls have forced smugglers to use more thoughtful methods. Disclosures of some criminal groups along the Balkan smuggling route have been only short term success stories because new groups emerged in a short time.

12.3 Challenges in the fight against proliferation and use of small arms and light weapons

As surprisingly found out in the UN report *Crime and its Impact on the Balkans* from 2008, conventional and organized crime levels are decreasing in the region. The stabilization of the region has led to a decline in

to Western informants, he studied medicine in Belgrade, where in 1970 he met Alija Izetbegović, who later became President of Bosnia. In March 1992, Hasanein became Sudan's cultural attaché in Austria. In the opinion of the informants this position was very useful to him, because he could carry large quantities of money across borders without being challenged by the police. In September 1992, an airplane from Russia landed in Maribor, Slovenia, ostensibly carrying containers of humanitarian aid. After the shipment was discovered, an investigation showed that this shipment was supposed to be transferred to Bosnia by MI-26 helicopters chartered by an enterprise called Eco-Trends. However, the shipment did not leave the airport, for two reasons. The first reason was that the Austrian middleman, identified here only as D. H., was arrested in December 1992 in Austria. The second reason was that Croatia sealed the smuggling route through its territory in September 1992 due to its political dispute with Muslims in Bosnia. It was simply too risky to transfer these weapons across Croatian territory. The tracks led to H. C., a one-time Muslim imam in Zagreb, who was responsible for the illegal import of weapons to the Bosnian Muslim community. H. C. was a member of the managing board of TWRA and a close collaborator of Alija Izetbegović. He had a diplomatic passport, and visited Slovenia several times. In Slovenia a political dispute erupted that shook the nation's political scene to its foundations. It was obvious that some people from Slovenia's governmental structure were involved in this shipment. At that time, Slovenia unofficially supported the arming of the Muslim community in Bosnia, as they were literally unarmed in comparison with the Serbian-dominated Federal Yugoslav Army. The ultimate fate of the Bosnian Muslims was an open question if they did not somehow get weapons in order to protect themselves. Changing national and international political circumstances altered this policy. The rest of the 1990s were marked by the investigative work of two parliamentary commissions with not much substantial results.

²⁷ See Iztok Prezelj and Gaber, Marija, *Smuggling as a Threat to National and International Security: Slovenia and the Balkan Route*, Partnership for Peace Consortium of Defense Academies and Security Studies Institutes Garmisch-Partenkirchen December 2005, at p. 53.

smuggling and the use of SALW. Estimates of the number of registered and unregistered weapons held by civilians in the region suggest that South East Europe has fewer small arms per capita than many countries in West Europe. Looking at the illegal firearms estimations by the SEESAC, we can see that there are 22 illicit weapons per 100 citizens in Macedonia, 16 in Kosovo, 15 in Montenegro, 13 in Croatia and Bosnia, 11 in Serbia and eight in Albania. The UN also states that a large share of murders in the region is committed by means other than firearms. Despite some improvements, the region still faces numerous challenges, especially *vis-à-vis* corruption, judicial reliability and the smuggling of heroin and people.²⁸

This author suggests that many challenges remain also in the field of SALW despite the above-mentioned positive trend. These challenges have remained because they are rather complex. It will take time to solve them. In continuation of this text, I will identify some of them, aiming to contribute to the better awareness of the remaining problems.

Partially accurate threat and risk assessment. Threat and risk assessment regarding the use and proliferation of SALW is an objective and subjective process based on quantitative and qualitative indicators. A cure to the problem always depends on the diagnosis, which in our case is a threat and risk assessment. Mistakes in this early phase are transferred directly to the response phase. The UN based its conclusions in the above mentioned report predominantly on the official data from the states concerned, corrected by some data from more independent sources (South Eastern and Eastern Europe Clearinghouse (SEESAC), for example). Police statistics are strongly dependent on the police proactive work, cooperation with citizens and levels of reporting crimes. The Western Balkans is known for a high level of corruption, which extends to political and security circles, an ineffective and corrupted judiciary, deep political penetration in the police and security work, and so on. The level of crime reporting is not high. In such an environment, the biggest and most serious cases do not get prosecuted. If they do, nothing happens at the end. Let us just take a look at Croatia, one of the most developed countries in the Western Balkans. The newly appointed chief of Croatian police, Vladimir Faber, publicly stated in November 2008 that the police is inefficient, weakened and extremely politicized. One half of the managers in the police was appointed due to their political and interest connections. Previous police work was only an extended arm of politics. The Croatian public blindly thought that it lived in a safe country because the existence of the mafia and serious organized crime was denied. 'A very stinking output was wrapped up in cellophane; the true situation is very different.'²⁹ If this is true for Croatia, what can we expect from other

²⁸ UN Office on Drugs and Crime, *Crime and its Impact on the Balkans*, at p. 84.

²⁹ Kajzer Rok, 'Direktorja policije poslali na cestu', *Delo* (18 November 2008).

countries in the region? This statement proves that we should only partially trust the official sources from the region.

In such a situation, it is logical to turn to more independent sources, such as SEESAC. This was established in 2002 in Belgrade at the initiative of UNDP and the Stability Pact. It aims to minimize the illegal proliferation of SALW in the Western Balkans. SEESAC has discovered that the region still contains huge numbers of SALW³⁰ and that comprehensive national and international strategies need to be shaped to fight this threat.³¹ It has identified a broad spectrum of negative influences by SALW in the region, such as threatening the rule of law and peace-building capacities, increasing crime and instability, increasing tensions in communities, negating confidence and security building measures, hampering development, stimulating violent solutions of conflicts, contributing to violations of human rights, decreasing foreign investments and tourism, attracting resources for security purposes instead of investing them in development, contributing to the gun culture, increasing the risk of terrorism, subverting the legal arms trade, exposing local population to the risk of accidents by unstable ammunition, and so on.³² Despite the efficiency of SEESAC in its work of assessing the problems and proposing the solutions, it is eventually only guessing how many illegal SALW are present in the region. This fact and the already mentioned unreliability of the official data suggest that our estimations regarding the threats and risks by SALW in the Western Balkans are actually based on inaccurate data or, at least, best guesses.

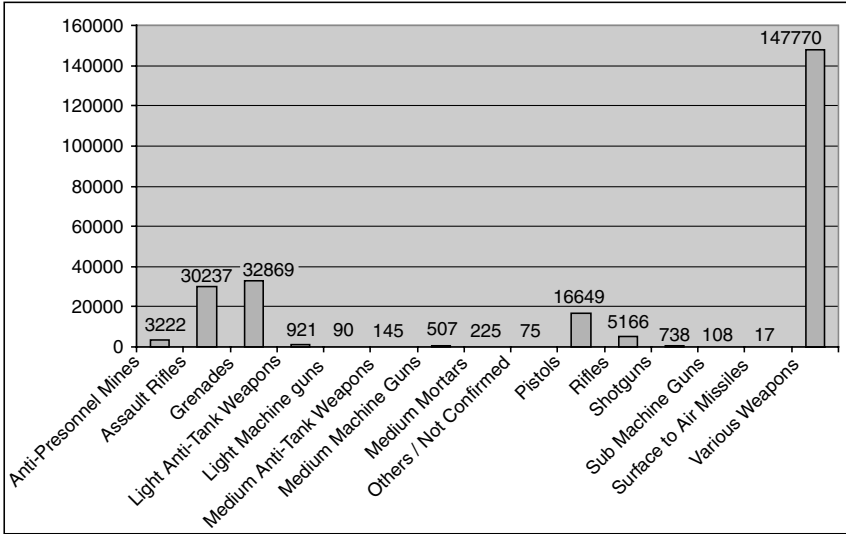
No clear benchmarking about the success of weapon collection programmes. It is difficult to have a clear and indicative benchmarking in relation to the success of weapon collection programmes. Many such programmes were carried out in the Western Balkans. We have total numbers of collected weapons (see Table 12.1), but the above specified problem of not having a reliable estimate for the actual quantities of available illegal SALW remains. Consequently, we cannot assess the relative success of weapons collection programmes and of the whole anti-SALW policy. For example, finding a hundred pieces of SALW in one particular weapon collection operation might or might not be interpreted as a success. Given the fact that those who collect weapons also manage public information, it is clear that it will always be

³⁰ According to SEESAC, there are around 968,000 legal or illegal pieces of SALW in Croatia, some 2,047,300 pieces in Serbia, 200,000 pieces in Albania, 175,000 in Montenegro, some 353,000 pieces in Bosnia and 140,000 pieces in Macedonia. It is hard to say how many pieces are in illegal possession throughout the region. SEESAC found out that 19.6 million civilians from the region possess 4,280,000 pieces of legal weapons.

³¹ SEESAC, *EU Western Balkans SALW Control Support Plan – 2006 Report*, Belgrade 2006, available online at <http://www.sesac.org>, accessed 27 January 2008.

³² SEESAC, *SEESAC Brief*, Belgrade 2006, available online at <http://www.seesac.org>, accessed 27 January 2008.

Table 12.1 SALW collected in the period from January 2000 to July 2008 by generic type³³



interpreted as a success. Additionally, weapon collection programmes have been only relatively successful as under most voluntary programmes mostly old and unusable weapons have been collected. People obviously got rid of weapons that could not be used. This is especially true for places with uncertain security futures, such as Bosnia and Kosovo. Also amnesty incentives and financial stimulations in weapons collection programmes have been only partially effective in circumstances of uncertain security conditions.

Disarming is actually trust management. Disarmament programmes in the Western Balkans have shown that without trust in local and national political leadership, the SALW collection and reduction programmes cannot be successful. Generally, the governmental sponsorship increases participation in such programmes, but not necessarily for every ethnic group. Mistrust and the political situation can therefore be major factors of influence. Typical cases from the region have occurred in Bosnia and Kosovo. In the first case, Bosnian Serbs did not trust the whole process of disarmament since it came through a mistrusted national government. Similar mistrust has been present in the case of Kosovo by the Serbs as disarmament would mean the increase of relative strength of the Kosovar security institutions.

The case of Kosovo reveals another important lesson. Readily available public information is not a guarantee of success or even improvement in disarmament programmes. No public campaign will reach everyone.

³³ Database available on <http://www.seesac.org>

There will always be people who do not have access to or deliberately ignore the information. Even when UNDP programme organizers launched a three month public awareness campaign prior to the September 2003 amnesty, there was little improvement in collection rates. This indicates that media and awareness alone, especially in post-conflict societies like Kosovo, where mistrust and hatred abound, is not the only factor in achieving success in any disarmament programme.

Fight against use and proliferation of SALW is a more complex process than expected. The problem of SALW in the region is rather complex, as indicated in the chapter on lessons. This is why the national and international approach in the fight against the use and proliferation of SALW must be complex and comprehensive. We can observe that the international community is approaching this problem in a quite comprehensive manner in the Western Balkans. A broad spectrum of national and regional measures has been implemented. This spectrum extends from criminalizing the illegal possession, proliferation and use of SALW to controlling the production and supply, curbing demand, preventing misuse, removing existing supplies, removing SALW from circulation, implementing weapons collection programmes, informing the public about the SALW problem, implementing international disarmament standards into national legislation, strengthening border controls, implementing modern standards for stockpile management and so on. The fight against the misuse of SALW has also become a part of the agendas of many regional cooperative processes, such as SEECP, SEEC, SEESAC, RACVIAC, the Stability Pact and the newly established Regional Cooperation Centre, CEI, US-Adriatic Charter and SECI Centre. SEECP and RCC are creating a political framework and will for fighting the problems of SALW. SEEC is discussing the creation of regional database on the ammunition in the region. RACVIAC is organizing training seminars in the field of arms control in the region and executing arms control monitoring. The US-Adriatic Charter forced member countries (candidates to join NATO – Macedonia, Albania and Croatia) to adopt international arms control standards. SECI Centre has been responsible for uncovering international illegal shipments of weapons in the region. As we see, the list of activities and bodies is long. However, there are at least two coordination problems in implementing such a wide spectrum of activities.

The first problem relates to the coordination among various international initiatives and programmes in the region. SEESAC–RACVIAC relations are not entirely clear in this respect. The second problem refers to internal inter-agency cooperation and coordination among various competent bodies in the Western Balkan countries. These countries have quite serious problems with regard to their interagency cooperation in many policy fields. SALW policy is not an exception. This was especially obvious in Bosnia where it was very difficult to coordinate with Republika Srpska. A completely comprehensive approach to this problem is, due to the mentioned

coordination problems, unattainable. Anti-SALW policies can also not address the problem of motivation for obtaining SALW. 'Motivation management' is simply out of the scope of responsible state actors. It is a broad societal and political issue. Consequently, the disarmament process needs to be fully integrated into other national, regional and international policies.

Fight against SALW and the culture of violence. The culture of violence is a legacy of protracted armed conflicts. It refers to a habit of solving conflicts by violence. Perry found out that responsible bodies must increasingly consider what gun ownership means in a local context and the legacy of the past conflicts.³⁴ Gun ownership might be a source of cultural pride. Some people in Kosovo and Montenegro think that they need to possess a weapon because all their forefathers did. Especially problematic can be the cult of hunting, which has been deeply rooted in some Western Balkan societies. A huge challenge in Kosovo remains as to how to reconcile a local affinity of all ethnic groups for hunting with the macro goal of the disarmament programme. In other even less developed societies, the challenge is even more difficult as gun ownership is equal to having a status or a purpose in life. Weapon possession can also be a reminder of being a victim of violence. Faced with an uncertain future and constant wondering about whether the conflict would ensue again, people may want to keep weapons to provide protection and security. Additionally, SEESAC³⁵ found out that the omnipresent 'cult of weapons' in the region is related to the still prevailing patriarchal concept of manhood and men as a defender of their families. Most owners of SALW in the Western Balkans are men, who are also mostly threatened by its use as they represent most of victims. They cause 99 per cent of all criminal acts by using firearms and in 85 per cent they are victims, while women are victims in 15 per cent of cases. However, the damage that women suffer from SALW in conflict and non-conflict situations is disproportionate to their role as owners and users of these weapons. It is a proven fact that women are much more likely to be shot by someone they know well, using a legally held weapon, than by an anonymous person.³⁶ According to all said, a challenge in the fight against SALW is also how to address the cult of violence, the cult of hunting and patterns of extreme patriarchy. These are all deeply rooted social phenomena that require more than just a short-term and low-budget policy approach.

³⁴ Jennifer Perry, *Small Arms and Light Weapons Disarmament Programs: Challenges, Utility, and Lessons Learned*, Defense Threat Reduction Agency, Department of Defense, US Government, Washington, DC 2004, at pp. 24–5.

³⁵ SEESAC, *Posjedovanje vatrenog oruzja i nasilje u obitelji na Zapadnom balkanu* (2007), p. 3, available online at <http://www.seesac.org>, accessed 27 January 2008.

³⁶ Small Arms Working Group, *Consequences of the Proliferation and Misuse of Small Arms and Light Weapons*, at p. 18.

Can partners be completely trusted? In certain situations it is somehow paradoxical that states, as actors who are most responsible for curbing illegal proliferation and the use of SALW, are sometimes directly or indirectly involved in illegal weapons proliferation and their distribution to factions or governments under arms embargo. The role of private military companies, which are sometimes paid by governments, is also quite problematic in this regard. Some studies have shown that the presence of these companies is correlated with the proliferation and use of SALW. Such companies stimulated the use of SALW by training activities, directly dealt with arms brokering and transport, violated UN embargoes and human rights. The question is how to overcome the multilayered national policies and achieve better coordination with anti-SALW policy within the states and at the international level. It is nothing unusual to see a state paying for curbing the SALW problem and supplying the weapons at the same time in the same geographic area.

Are we clear about the goal of the fight against SALW? The above-specified problem of trust has influenced the clarity of anti-SALW goals in the region. What is the main goal of anti-SALW policy and what are the sub-goals? It is easy to write that the goal is to eliminate the proliferation and use of SALW. However, in reality, nobody can eliminate this, as the SALW problem will always exist in wartime and to a certain extent also in peacetime. There will unfortunately always be some people, criminals, who will want weapons to solve their problems, criminals who will be ready to deliver them, and also officials who would be interested in participating in this business. Borders cannot be hermetically closed, as indicated by some cases (for example the Berlin Wall, Schengen border and so on.). So, the real goal must be to minimize the SALW problem. But to what extent and how many resources to invest? At the present time, there is no clear international definition on what the goal of an anti-SALW policy would be.

There is a problem of the safety of weapon depots. The surplus of SALW cannot be stored properly and this is increasing the risk of a major accident in depots. The Balkan experience in this regard is negative as in a couple of years two major explosions in Albania and one in Serbia occurred. Downsizing the military budgets has influenced the standard of safety in military depots. Improperly guarded surpluses of SALW can also be exposed to theft. The Slovenian case of major theft from a military barracks in Postojna is illustrative in this regard. Unknown individuals, probably supported by someone inside, entered a military depot by night, loaded several trucks with selected SALW and disappeared. The police investigation showed no tangible results.

12.4 Conclusion

The security situation has definitely improved in the Western Balkans in the past ten years. The region is tired from violence. The proportion of the SALW problem has decreased, yet some serious challenges remain.

The legacy of wars is still present in the form of organized crime, corruption, weak democratic control over security services, politicizing the security services, painful memories and so on. The processes of democratization and the shaping of a market economy are increasing the social differences in societies. Networks of some rich businessmen, who took advantage of the war situation and post-war confusion, some untrustworthy politicians and some parts of security services obviously manage a substantial part of national politics and economies. Additionally, the idea of 'Great Albania' is implicitly present in the air, though it is denied by the Albanian officials and politicians. It is the Albanian dream that cannot become a reality right now, but it might be possible in the future. This would directly put in danger the integrity of neighbouring Macedonia, South Serbia and part of Montenegro. Indirectly, it could influence the integrity of Bosnia and Herzegovina, as Serbs would compensate such a loss (Kosovo and South Serbia) by integrating part of Bosnia. The lessons identified in this essay should teach us that once such a process starts to run, the SALW issue will explode again. The Balkan smuggling route exists and is actually ready to increase the availability of SALW if necessary. At the present time, it is operating as a supplier of weapons to the EU market. All countries in the region have less moderate nationalists, who are gaining enough public support to remain in national parliaments. They are waiting for their opportunity. The role of foreign intelligence services is ambivalent in the region. Not all of them act for the benefit of regional peace and stability. According to the US National Intelligence Council, it is possible that one or more governments in Eastern or Central Europe could fall prey to the domination of criminal groups.³⁷

Part of preventing the present trend is also anti-SALW policy. We can observe many projects, programmes and initiatives that are active in preventing the proliferation and use of SALW. However, the existing complex challenges of coordination, benchmarking, trust management, mistrust and others show us that anti-SALW policy is not functioning at its optimum. It is likely that it would not be effective in case of deep deterioration of security situation in the region. The states that are key anti-SALW actors would be also key security players.

The anti-SALW policy should increasingly stress the human security aspect of the SALW problem. SALW-related violence has caused most victims in wars and peace in the Western Balkans. People were forced to flee their homes because of the threat of these weapons and related fear. SALW and their use have also slowed economic development in the region. The Socialist Federal Republic of Yugoslavia was once upon a time the most developed state in the Balkans. Today, Romania and Bulgaria have entered the EU while the rest of the Balkan states are still struggling with post-war effects. The key victims are actually individuals in the region. This is why

³⁷ National Intelligence Council, *Global Trends 2025*, Washington, DC 2008.

the human security aspects should be explicitly stressed when dealing with the SALW problem. It is the formula that might deserve much more attention than any other approaches.

Regional experiences also show a good practice of integrating weapons collection programmes into the EU association processes. The EU is conditioning its enlargement process with complete compliance with the international standards in the SALW field. Failures in this regard can easily increase the window of opportunity for those who would favour an unstable security situation in the region in the future. However, the problem to transfer good practices to varying local conditions remains. Every state has a slightly different war or conflict heritage and is in slightly different position *vis-à-vis* Euro-Atlantic integrations. The Kosovan case is not the same as the Bosnian case. Neither is the same as the Macedonian case, and so on. International and regional approaches need to be better tailored to different national circumstances.

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**Part III Impact on Peace-Building
and the Role of the
International Community
on the Western Balkans**

13

Dealing with Armed Non-State Actors in Peace- and State-Building, Types and Strategies

Ulrich Schneckener

For a successful treatment of contemporary wars and conflicts the engagement with armed non-state groups has become of central importance. A glance at the data delineates the quantitative dimension of the problem: The Uppsala Conflict Data Program (UCDP) registered a total of 122 armed conflicts between 1989 and 2006, of which 89 were intrastate and 26 internationalized intrastate conflicts.¹ In these conflicts at least one armed non-state actor is involved but normally multiple militant groups will be implicated. Looking only at rebels fighting a government, the researchers conclude that, for example, in 2002 and 2003 more than 30 per cent of the ongoing conflicts involve more than one rebel group.² Moreover, the UCDP has introduced 'non-state conflict' as a new category, which refers to violent encounters between non-state actors only. In 2002, 36 'non-state conflicts' were registered (compared to 32 conflicts with the involvement of a state actor); in 2006 the number was 24 (compared to 33 with state involvement).³ Although there is no reliable database that sheds light on

This essay has been written in the context of a research project (2008–10) funded by the German Foundation for Peace Research. For more information, please see <http://www.bundesstiftung-friedensforschung.de/projektfoerderung/forschung/schneckener.html>. I would therefore like to thank the Foundation for its support and in particular my colleague Claudia Hofmann for helpful comments at various stages of the drafting process.

¹ Lotta Harbom and Peter Wallensteen, 'Armed Conflict, 1989–2006', *Journal of Peace Research*, vol. 44, no. 5, pp. 623–34.

² Lotta Harbom, Erik Melander and Peter Wallensteen, 'Dyadic Dimensions of Armed Conflict, 1946–2007', *Journal of Peace Research* (2008), vol. 45, no. 5, pp. 697–710, at p. 697.

³ Human Security Centre, *Human Security Brief 2007*, available online at http://www.humansecuritybrief.info/HSRP_Brief_2007.pdf, accessed 29 October 2008. The UCDP has listed 27 countries that have been affected by 'non-state conflicts' since 2002: Mexico, Guatemala, Ecuador, Colombia, Brazil, Senegal, Cote d'Ivoire, Ghana, Nigeria, DR Congo, Burundi, Uganda, Kenya, Sudan, Chad, Ethiopia, Somalia, Iraq,

the approximate total of armed groups, the IISS Military Balance 2007 may serve as an indication: it lists 345 armed non-state actors in all regions of the world; 50 of them alone are active in India, 25 in Iraq, 21 in Pakistan, and half a dozen each in Bangladesh and Nigeria.⁴

There is no doubt that armed non-state groups of different types, be they rebel groups, warlords, or criminal networks, dominate the environment during and after armed conflict in manifold ways. On the one hand they are responsible for violence against unarmed civilians in breach of international humanitarian law as much as for the establishment of criminal and informal shadow economies. On the other hand armed non-state groups are often the expression of socio-economic and political problems, they may promote themselves as advocates for certain grievances and may build on broad support within the population. The growing concern of the international community with regard to armed non-state actors is based on at least three observations: first, these actors not only cause and trigger violent conflicts, but they also make it increasingly difficult to end wars and restore peace and stability. As such, these groups often bear the potential to disturb, undermine, or completely truncate processes of post-conflict peace- and state-building, leading violence to flare up again. Second, armed non-state actors are in many instances not just a local affair, but they act across borders and may destabilize entire regions, some – such as transnational terrorist networks – even pose threats to international security. Third, international peace operations led by the UN or by other organizations are in many ways directly affected by the these actors who may attack or threaten international troops, police officers, or aid workers, they may take foreigners as hostages, they may prevent humanitarian aid from being delivered to the population, they may be responsible for the lack of international investment and of development. Therefore, the key question for external actors, intervening in zones of conflicts, is how to deal with armed non-state actors. This essay aims at developing a framework for analysing this question. First, it will address the various types of armed non-state actors that need to be distinguished in order to highlight specific profiles. Second, the contribution will introduce a number of counter-strategies that can serve as a ‘menu for choice’, depending on the specific situation.

13.1 The political sociology of armed non-state actors

Generally speaking, ‘armed non-state actors’ are (1) willing and able to use violence for pursuing their objectives; and (2) not integrated into formalized state institutions such as regular armies, presidential guards, police, or

Palestine/Israel, Afghanistan, India, Pakistan, Nepal, Sri Lanka, Bangladesh, Myanmar, Philippines. See <http://www.pcr.uu.se/gpdatabase/search.php>, accessed 8 May 2009.

⁴ James Hackett, *The Military Balance 2007*, International Institute for Strategic Studies, London 2007, pp. 422–38.

special forces. They therefore (3) possess a certain degree of autonomy with regard to politics, military operations, resources, and infrastructure. They may, however, be supported or used by state actors whether in an official or informal manner. Moreover, there may also be state officials who are directly or indirectly involved in the activities of armed non-state actors – sometimes because of ideological reasons, but not seldom due to personal interests (that is, corruption, family or clan ties, clientelism, profit). Finally (4), they are shaped through an organizational relationship or structure that exists over a specific period of time (for example spontaneous riots would not qualify).⁵

Analytically, they can be roughly divided into eight types:⁶

- (1) Rebel or guerrilla fighters seek the liberation of a social class or a political community ('nation'). They fight for the overthrow of a government, for the secession of a region, or for the end of an occupation or a colonial regime.⁷
- (2) Militias and paramilitaries are irregular combat units that aim at protecting and defending the state and certain segments of society. They usually act on behalf of, or are at least tolerated by, the ruling elites, while they are generally not legalized or act under written or transparent provisions.⁸ A peculiar type of militia are so-called 'sobels' (soldier – or policemen – by day, rebel by night) who often act as 'black sheriffs' (for example, in order to fight organized crime by extralegal means).⁹
- (3) Clan chiefs or 'Big Men' are traditional, local authorities who head a particular tribe, clan, or ethnic or religious community.¹⁰ They are leaders of an identity-based group, deeply rooted in history and traditions,

⁵ See Ulrich Schneckener, 'Fragile Statehood, Armed Non-State Actors and Security Governance', in Alan Bryden and Marina Caparini (eds), *Private Actors and Security Governance*, Lit Verlag, Berlin 2006, pp. 23–41.

⁶ For similar attempts, see Stefan Mair, *Die Globalisierung privater Gewalt*, German Institute for International and Security Affairs, Berlin 2002; Herbert Wulf, *Internationalisierung und Privatisierung von Krieg und Frieden*, Nomos, Baden-Baden 2005, pp. 54–62; C. McCartney, *Engaging Armed Groups in Peace Processes*, Conciliation Resources, London 2006, p. 3–4.

⁷ On the tactics of guerrilla warfare, see Herfried Münkler, *Gewalt und Ordnung*, Fischer, Frankfurt am Main 1992, pp. 152–162; Christopher Daase, *Kleine Kriege, große Wirkung*, Nomos, Baden-Baden 1999; Brad E. O'Neill, *Insurgency & Terrorism*, 2nd edn, Potomac Books, Washington, DC 2005, pp. 45–65; Jeremy Weinstein, *Inside Rebellion. The Politics of Insurgent Violence*, Cambridge University Press, Cambridge 2007.

⁸ See Comfort Ero, 'Vigilantes, Civil Defence Forces and Militia Groups. The Other Side of the Privatisation of Security in Africa', *Conflict Trends* (2000), vol. 3, no. 1, pp. 25–9; David J. Francis, *Civil Militia. Africa's Intractable Security Menace?*, Ashgate, Aldershot 2005.

⁹ See Paul Richards, *Fighting for the Rainforest: War, Youth and Resources in Sierra Leone*, Heinemann, Portsmouth 1996; A. B. Zack-Williams, 'Kamajors, "Sobel" and the Militariat. Civil Society and the Return of the Military in Sierra Leonean Politics', *Review of African Political Economy* (1997), vol. 24, no. 73, pp. 373–80.

¹⁰ This definition does not include corrupt and autocratic African presidents or politicians (for example the former president Mobutu of Zaire) who in the literature are also sometimes called 'Big Men'.

and have usually attained their positions according to traditional rules, whether by virtue of their age and experience, ancestry, or personal ability (charisma).¹¹

- (4) Warlords are local potentates who control a particular territory during or after the end of a violent conflict. They secure their power through private armies, which are recruited and paid by the warlord himself, and quite often attempt to legalize the benefits they acquired during the war by running for public office.¹²
- (5) Terrorists use violent means for spreading panic and fear in societies in order to achieve political goals, be they based on left- or right-wing, on social-revolutionary, nationalistic, or religious ideologies.¹³ They are organized in a clandestine way, most often in small groups and cells, sometimes also in larger cross-border networks. They can be distinguished between local terrorists, who aim primarily at changing an existing political order at the national level (for example, change of regime, separatism), and transnational terrorists, who address the international order or the state system in a wider region (such as Al Qaeda and Jemaah Islamiyyah).¹⁴

¹¹ See the classic analysis by Marshall Sahlins, *Poor Man, Rich Man, Big Man, Chief: Political Types in Melanesia and Polynesia*, Bobbs-Merrill, Indianapolis 1963, pp. 285–303. For more recent examples of clan politics, see Pierre Englebert, 'Born-Again Buganda or the Limits of Traditional Resurgence in Africa', *Journal of Modern African Studies* (2002), vol. 40, no. 3, pp. 345–68; Florence Ssereo, 'Clan Politics, Clan-Democracy and Conflict Regulation in Africa: The Experience of Somalia', *The Global Review of Ethnopolitics* (2003), vol. 2, nos. 3–4, pp. 25–40; Kathleen Collins, *Clan Politics and Regime Transition in Central Asia*, Cambridge University Press, Cambridge 2006; Kathleen Collins, 'The Logic of Clan Politics: Evidence from the Central Asian Trajectories', *World Politics* (2004), vol. 56, no. 2, pp. 224–61; Edward Schatz, *Modern Clan Politics. The Power of 'Blood' in Kazakhstan and Beyond*, University of Washington Press, Seattle 2004.

¹² On warlordism see William Reno, *Warlord Politics and African States*, Lynne Rienner, Boulder, CO 1998; Astrid Nissen and Katrin Radtke, 'Warlords als neue Akteure der internationalen Beziehungen', in Ulrich, Albrecht et al. (eds), *Das Kosovo-Dilemma. Schwache Staaten und neue Kriege als Herausforderung des 21. Jahrhunderts*, Westfälisches Dampfboot, Münster 2002, pp. 141–55; Paul Jackson, 'Warlords as Alternative Forms of Governance', *Small Wars and Insurgencies* (2003), vol. 14, no. 2, pp. 131–50; Antonio Giustozzi, 'The Debate on Warlordism: The Importance of Military Legitimacy', Discussion Paper, Crisis States Development Research Centre, London 2005; Antonio Giustozzi, 'Respectable Warlords? The Politics of State-Building in Post-Taliban Afghanistan', Working Paper, Crisis States Research Centre, London 2003; Anthony Vinci, 'Like Worms in the Entrails of a Natural Man: A Conceptual Analysis of Warlords', *Review of African Political Economy* (2007), no. 112, pp. 313–31.

¹³ See Andrew Guelke, *The Age of Terrorism and the International Political System*, Tauris, London 1995; Peter Waldmann, *Terrorismus. Provokation der Macht*, Gerling Akademie Verlag, Munich 1998.

¹⁴ See Ulrich Schneekener, *Transnationaler Terrorismus. Charakter und Hintergründe des 'neuen' Terrorismus*, Suhrkamp, Frankfurt 2006.

- (6) Criminals are involved systematically in illegal activities in order to gain material benefits. They are often organized in Mafia-type structures, syndicates, gangs, or larger (transnational) networks.¹⁵
- (7) Mercenaries and private security companies (PSCs) are volunteers usually recruited from third states who are remunerated for fighting in combat units or for conducting special tasks on their own. They can serve different masters, ranging from the army of a state to warlords who promise rewards.¹⁶
- (8) Marauders are demobilized or scattered former warriors and combatants who engage in looting, pillaging, and terrorizing defenceless civilians during or after the end of a violent conflict.

Despite their different profiles, there are a number of common features that made it increasingly difficult to distinguish analytically between these types. In particular, three trends have contributed to this. First, most of these armed non-state actors use frequently – albeit to a different degree and by different means – violence against unarmed civilians. Sometimes this happens accidentally, but in most cases this is part of a strategy in order to exploit, intimidate, or deter people, to provoke reactions from the government and to undermine the authority and legitimacy of state institutions that are apparently not able to protect the population. In other words, non-state armed actors generally do not care a great deal for the distinction made by humanitarian international law between combatants and non-combatants. If anything, such a distinction may have played a role for classical rebel or guerrilla movements, who avoided using excessive violence against the civilian population, since the latter represented a source of – at least temporary – support for the insurgents. They primarily attacked members of the regular armed and security forces; however, they tended to view as ‘combatants’ all representatives of the state apparatus (for example, politicians, policemen, judges) and thereby extended the notion of combatant

¹⁵ For an overview of organized crime see Susanne Krasmann, ‘Mafioses Verhalten, unternehmerische Mafia und organisierte Kriminalität’, *Kölner Zeitschrift für Soziologie und Sozialpsychologie*, (1997), no. 37, pp. 200–19; Phil Williams, ‘Crime, Illicit Markets and Money Laundering’, in P. J. Simmons and C. de Jonge Oudraat (eds), *Managing Global Issues. Lessons Learned*, Carnegie Endowment for International Peace, Washington, DC 2001, pp. 106–50; Mark Galeotti, ‘Underworld and Upperworld: Transnational Organized Crime and Global Society’, in Daphne Josselin (ed.), *Non-State Actors in World Politics*, Palgrave Macmillan, Basingstoke 2001; Moses Naim, *Schwarzbuch des globalisierten Verbrechens. Drogen, Waffen, Menschenhandel, Geldwäsche, Markenpiraterie*, Piper, Munich 2006.

¹⁶ For private military and security companies, see R. Mandel, *Armies without States: The Privatization of Security*, Lynne Rienner, Boulder, CO 2002; Peter W. Singer, *Corporate Warriors: The Rise of the Privatized Military Industry*, Cornell University Press, Ithaca, NY 2003; Wulf, *Internationalisierung und Privatisierung von Krieg und Frieden*, pp. 49–75.

far beyond the rather strict definition of international law. Most often, the reference to this distinction is purely rhetorical and an act of propaganda. In contemporary conflicts, especially intra-state ones, most parties do not respect the difference between combatants and non-combatants. On the contrary, far from receiving special protection the civilian population has for a number of reasons become the primary target of various armed non-state actors pursuing political and economic gains.

Second, another trend emerging since the 1990s has been the process of transnationalization, which has various dimensions. Some groups simply cooperate across borders with other distinct organizations. In other cases, groups build up their own transnational ties and networks, mainly for support, financial, and logistical purposes, by using for example diasporas, NGOs, cultural organizations, businessmen, and ethnic and religious ties. Or groups turn into transnational actors that operate simultaneously in various states and regions. In any case, transnationalization offers new opportunities and room for manoeuvre. Transnationalization not only facilitates the linking-up of war or post-war economies with cross-border smuggling routes and global 'shadow' markets; it moreover fosters the transmission of political agendas and ideological propaganda that are disseminated through supporters and international media. The degree of such transnationalization processes varies from one type to another. In particular, numerous terrorist and criminal organizations make use of transnational relations; the same is true not only for many rebel groups and warlords, but also for mercenaries and private security companies who work in different states. On the other hand, processes of transnationalization are less relevant for clan chiefs, marauders and most militias.

Closely linked to the transnationalization issue, a third trend can be recognized. Armed non-state actors move more and more from a hierarchical organization into the direction of rather loose network structures. One can conclude that this seems to be more likely the more the groups act across borders. Again, terrorist and criminal groups are the frontrunners of this trend, but rebels, warlords, marauders, and, to a lesser degree, other types increasingly show elements of network structures, which include flat hierarchies, a high degree of flexibility and rather autonomous sub-units linked to each other. In other words, as the actors become more fragmented, the leadership and command level becomes less able to achieve coherence in strategic and ideological terms.

Despite these similarities, from an analytical point of view, four criteria in particular bring the differences between these types into relief (see Table 13.1):

- (1) Change versus Status Quo Orientation. Some armed non-state actors seek a (radical) change of the status quo; they demand a different government, a different political system, the secession of a region, a new world order, and so on. By contrast, other groups – whether driven by their own interests or instigated by those in power whom they serve – aim at securing and

Table 13.1 Types of armed non-state actors

	Change vs. status quo	Territorial vs. non-territorial	Physical vs. psychological use of violence	Political/ Ideological vs. profit-driven motivation
Rebels, guerrillas	Change	Territorial	Physical	Political
Militias, para- militaries	Status quo	Territorial Non-territorial	Physical Psychological	Political
Clan chiefs, Big Men	Status quo	Territorial	Physical	Political
Warlords	Status quo	Territorial	Physical Psychological	Profit-driven
Terrorists	Change	Non-territorial	Psychological	Political
Criminals, mafia, gangs	Status quo	Non-territorial	Psychological	Profit-driven
Mercenaries, PMCs/PSCs	Indifferent	Territorial	Physical	Profit-driven
Marauders, 'sobels'	Indifferent	Non-territorial	Psychological	Profit-driven

consolidating the status quo. The former position applies to terrorists as well as rebels and guerrilla fighters, whereas the latter applies to warlords and criminals who generally seek to secure their achieved political and economic privileges. The same is often true for clan chiefs and 'Big Men', in particular when they are integrated into the political system by means of co-optive rule or neo-patrimonial structures. The prototypes of a status quo movement, however, are militias or paramilitary organizations, which are deployed to protect the rule of a regime or the dominance of particular groups. Mercenaries or marauders, by contrast, behave rather opportunistically; sometimes they may serve the interest of status quo forces, while at other times they may challenge them.

- (2) Territorial Control versus Non-Territorial Tactics. How far are armed non-state groups able to control a larger territory and, thereby, provide some key governance functions for the population concerned? Both guerrilla movements and warlords, in principle, aim at the conquest of and – if possible – the permanent control over territory in order to establish state-free regions. Mercenaries and private military companies are usually employed for similar purposes. Clan chiefs are also often connected to a particular 'homeland' or region. Terrorists, on the other hand, might have territorial ambitions (for example the creation of their own state); however, they lack the capabilities to conquer territory and defend it by military means. The same applies to marauders if one neglects the temporary control of town districts or villages. Criminals

are typically interested in the control of particular functions in towns and regions (such as transactions, flows of goods, movement of people, protection), but not in a state-like control of territories. Militias include both variants. Some (especially large) militia organizations are capable of securing or re-conquering territory from rebels, whereas other units are assigned special tasks apart from territorial control, such as the persecution of dissidents.

- (3) Physical versus Psychological Use of Violence. Each act of violence entails a physical and psychological aspect; however, for some one aspect may be more important than the other. Rebels and guerrilla movements pursue their goals primarily by relying on the physical dimension. Their aim is to weaken their opponent's military strength, defeat it or force it to surrender, and subsequently take its place. Terrorists, by contrast, use violence because of its psychological effects. Between these two extremes other armed non-state actors are to be found: clan chiefs or mercenaries primarily use physical violence in order to defeat opponents, while for marauders and criminals the threat and use of violence is often merely a means of intimidation. Finally, militias and warlords are rather ambivalent with regard to the type of violence they use; depending on the group itself and the general circumstances they make use of both forms of violence.
- (4) Political/ideological versus Profit-Driven Motivation: whereas guerrilla movements, militias, clan chiefs, Big Men and terrorist groups pursue – at least rhetorically – a socio-political agenda, often based on ideologies, for which they need economic resources, the reverse usually holds true for warlords and criminals. They are primarily interested in securing economic and commercial privileges and personal profits. Political power and public offices, as well as the use of violence, serve the realization of their selfish economic interests. In that sense warlords and criminals are not 'apolitical' actors; yet their motivation for joining the political struggle for power is different from that of other political actors. Similarly, mercenaries and marauders pursue primarily narrowly-defined profit interests.

Clearly this characterization is based on ideal-types. In reality numerous grey zones exist, since groups sometimes undergo transformation in the course of a conflict. Rebel leaders, Big Men or marauders, for instance, may turn into warlords; militias or warlords may degenerate into ordinary criminals; criminals may become involved in terrorist networks and vice versa; militias, rebels or warlords may increasingly employ terrorist methods, and so on. Often what has started as a so-called national liberation movement ends in terrorism against unarmed civilians (see cases in Northern Ireland or Palestine). And the other way around: some groups start with terrorist attacks in order to mobilize the population, to recruit more and more volunteers

and to become a rebel organizations (see, for example, development of the Kosovo KLA 1996–9). Moreover, in many cases we deal with hybrid forms that are characterized by features of different ideal types. Examples include the Tamil Tigers in Sri Lanka, FARC in Colombia, Hizbullah in Lebanon or Maoist rebels in Nepal. These organizations not only control significant territory but also continue to launch terrorist attacks nationwide. They employ physical as well as psychological means of violence and pursue far-reaching economic interests, and some of them – like FARC – are clearly involved in large-scale criminal activities (such as the drug economy). These organizations are difficult to pinpoint.

Nonetheless it does make sense to hold onto these distinctions, because they allow us to make assessments regarding the extent to which particular groups or individuals correspond to these ideal-type categories. More importantly, in order to analyse the transformation of a particular group, criteria which distinguish one situation from another are necessary and can be provided by the proposed typology. This method not only has international legal and sociological implications, but also is relevant for practical policy purposes since it may be helpful for developing counter-strategies and counter-measures and for assessing which actors may more or less likely to spoil international state- and peacebuilding efforts. In doing so, however, additional factors have to be taken into account that may determine the ‘capacity to spoil’.

13.2 Countering armed non-state actors

Generally speaking, armed non-state actors can be seen as classical spoilers or trouble-makers for state- and peace-building efforts, meaning the strengthening, reform or reconstruction of state structures and institutions. They have hardly any interest in consolidated statehood or stable peace since this would inevitably challenge their position – a notable exception are private security and military companies that depend largely on government contracts. Capable state structures would limit their room for manoeuvre and opportunities to pursue their political and/or economic agendas. Some of them, such as militias or rebels, would face disarmament and, eventually, dissolution. Others, like warlords, guerrilla fighters or terrorists would probably be forced to transform themselves, that is, to become political forces or to integrate into official state structures, while criminals, mercenaries or marauders would simply lose economic profits and would face law enforcement measures. Therefore, they are more likely to challenge than to support any steps that would strengthen security governance through government, that is, the (re-)establishment of the state’s monopoly of the use of force. This behaviour can be observed in almost every international intervention, ranging from Bosnia and Kosovo to Somalia, Haiti, Afghanistan, and the Democratic Republic of Congo. In these cases, the

international community is confronted with the following dilemma: on the one hand, peace- and state-building activities have to be implemented against the vested interests of these armed actors in order to achieve positive results in the long run; on the other hand, progress toward a secure environment is often only possible if at least the most powerful of these actors can be involved in a political process that would grant them some kind of political influence (for example posts in an interim government) and/or economic and financial privileges, which in turn could undermine the whole process of state-building.

In other words, armed non-state actors are not only part of the problem but must sometimes also be part of the solution. In particular with regard to already established para-state structures by warlords, rebels, Big Men, or militias, the question is whether it is possible to use these structures as temporary solutions and building blocs for reconstructing statehood, or whether this would simply increase the risk that they would be strengthened and legitimized so that the establishment of the state's monopoly of the use of force becomes even less likely. In other words, those actors who in theory have the greatest potential for state-building and security governance are also the ones who can mobilize the greatest spoiling power. Moreover, the international community runs the risk of sending the wrong message ('violence pays') by devoting too much attention or by granting privileges to armed non-state actors who have already benefited from war and shadow economies. This may not only trigger increasing demands by these actors but also seriously harm the credibility and legitimacy of external actors *vis-à-vis* the general public ('moral hazard' problem). The task becomes more difficult the more the three trends mentioned above prevail. If an actor has been or is involved in gross human rights violations, if an actor becomes transnationalized and can exploit opportunities across borders, and if an actor is characterized by a loose network structure where central decision-making can no longer be assured – all these factors may make deals by international mediators or facilitators with these actors more and more difficult.

13.2.1 Options for engaging with armed non-state actors

Clearly, there are no satisfying answers to these questions. Considering past experience, context-specific, flexible arrangements in dealing with armed non-state actors will always be necessary. However, more broadly speaking, in principle the international community has a number of options for 'spoiler management' at its disposal. One prominent attempt at systematizing strategies for dealing with non-state armed groups was made by Stedman, who distinguished three so-called spoiler management strategies: positive propositions or inducements in order to counter demands made by non-state armed groups; socialization in order to bring about situational or even normative changes of behaviour; and arbitrary measures in order

to weaken armed groups or force them to accept certain terms.¹⁷ A more recent study, conducted by the German Development Institute (DIE), identified avoidance of engagement, disregard/observation/involuntary engagement, apolitical action/equidistance, exclusion, and cooperation as possible courses of action when dealing with non-state armed groups.¹⁸ Under closer scrutiny, however, these approaches lack theoretical substantiation and do not cover the complete range of options available.

Seen from a more general perspective and using International Relations theory, strategies for dealing with non-state armed groups may be divided into three directions: firstly, realist approaches, which ultimately focus on the elimination of, the suppression of, or the control over non-state armed groups in order to force them to adapt to a new situation; secondly, institutionalist approaches, which aim at changes of interests and policies of these groups; and, thirdly, constructivist approaches, which concentrate on a change in norms (such as non-violence) and in self-conception (identity) of the respective actor. Thus, the directions not only differ regarding strategies and instruments, but also show different underlying assumptions with respect to the learning processes of armed groups, ranging from pure adaptation to changes of preferences to changes of identity. Accordingly, the approaches base themselves on different mechanisms and result in different degrees of behavioural change. The realist approach rests mainly on the application of force and the use of leverage, which may precipitate a behavioural change only as long as force is applied. Under such pressure from outside, non-state armed groups may change their policies, but usually inherent preferences will remain unchanged – on the contrary, their positions may become even more hardline than before. The institutional approach focuses on bargaining as its key mechanism, which may achieve a sustainable result but relies heavily on the respective actor remaining a part of the bargaining system. Only the continuous application of an institutional setting offers enough incentives and guidance in order to first change policies and later possibly preferences. Constructivists rest their efforts on persuasion; a result may be difficult to achieve but if a behavioural change occurs it is – in theory – sustainable as the motivation to behave in conform manner may over time become ingrained within the actor (see Table 13.2). Literature accounts for an array of approaches, which may be roughly assigned to these tendencies.¹⁹

¹⁷ Stephen J. Stedman, 'Spoiler Problems in Peace Processes', *International Security*, (1997) vol. 22, no. 2, pp. 5–53.

¹⁸ Jörn Grävingholt, Claudia Hofmann and Stephan Klingebiel, *Entwicklungszusammenarbeit im Umgang mit nicht-staatlichen Gewaltakteuren*, German Development Institute, Bonn 2007; Claudia Hofmann, 'Engaging Non-State Armed Groups in Humanitarian Action', *International Peacekeeping* (2007), vol. 13, no. 3, pp. 396–409.

¹⁹ Ulrich Schneckener, 'Warum manche den Frieden nicht wollen? Eine Soziologie der "Störenfriede"', in Jörg Calließ (ed.), *Zivile Konfliktbearbeitung im Schatten des Terrors*,

Table 13.2 Approaches for handling spoilers

Approach	Key mechanism	Behavioural change based on	Result
Realist	Force/Leverage	Adaptation	Non-Sustainable (based on the constant application of force)
Institutionalist	Bargaining	Adaptation; Policy/ Preference Change	Sustainable (within institutional framework)
Constructivist	Persuasion	Adaptation; Policy/ Preference Change; Identity Change	Sustainable

13.2.2 Realist approaches

- (1) Coercion. International actors may use coercive measures, including the use of force.²⁰ Typical instruments are military or police operations aimed at fighting or arresting members of armed groups, the deployment of international troops in order to stabilize a post-war situation, or the implementation of international sanctions (for example, arms embargoes, no-fly zones, economic sanctions, freezing of foreign assets, travel sanctions, war criminal tribunals), which could harm the interests of at least some non-state armed groups, in particular paramilitaries, rebel leaders, warlords, and clan chiefs.
- (2) Control and containment. This strategy aims at systematically controlling and containing the activities of armed non-state groups and, thereby, reducing their possibilities to manoeuvre and to communicate. The aim is to freeze a certain status quo and to put these groups under strict surveillance (by using intelligence measures). This can be done in particular with groups who are concentrated in a certain territory that can be cut off (for example by the use of fences) from the rest of the country (see Palestine/Israel).

Evang. Akad. Loccum, Rehburg-Loccum, 2003, pp. 61–80; Schneckener, 'Fragile Statehood, Armed Non-State Actors and Security Governance'; Edward Newman and Oliver Richmond (eds), *Challenges to Peacebuilding. Managing Spoilers During Conflict Resolution*, United Nations University Press, Tokyo 2006.

²⁰ See Robert J. Art and Patrick M. Cronin (eds), *United States and Coercive Diplomacy*, United States Institute of Peace Press, Washington, DC 2003; Alexander George, *Forceful Persuasion: Coercive Diplomacy as an Alternative to War*, United States Institute of Peace Press, Washington, DC 1991; Alexander George, 'The Role of Force in Diplomacy: A Continuing Dilemma for US Foreign Policy', in Chester Crocker, Fen Hampson and Pamela Aall (eds), *Managing Global Chaos*, United States Institute of Peace Press, Washington, DC 1996, pp. 209–22; James A. Nathan, *Soldiers, Statecraft and History: Coercive Diplomacy and the International Order*, Praeger Publishers, Westport, CT 2002.

- (3) Marginalization and isolation. This approach is concerned in particular with reducing the political and ideological influence of armed groups. The idea is to marginalize their world views and demands in public discourse and to isolate them – politically as well as physically – from actual or potential followers and their constituencies. For that scenario, a broad consensus is needed among political elites and societal groups not to deal with these actors and not to react to their violent provocations, but to continue an agreed political process. This approach is an option particularly for rather weak or already weakened actors such as smaller rebel groups, terrorists, or marauders.
- (4) Enforcing Splits and Internal Rivalry. Another option aims at fragmenting and splitting armed groups between more moderate forces and hardliners. This can be achieved by different means, be it the threat of using force indiscriminately, by offering secret deals to some key figures or by involving them in a political process, which would encourage them to leave their group or to transform it into a political movement. This strategy can, however, result in the establishment of radical fringe and splinter groups, which may be even more extreme than the former unified group. This kind of fragmentation process can often be observed with rebel or terrorist groups.
- (5) Bribery and blackmail. Members of armed groups may be corrupted in a certain way – they may be forced or induced to cooperate or silenced through the offering of material incentives, that is, economic resources or well-paid posts. In some cases, this may also involve attempts to blackmail or to intimidate leaders (for example, threatening family members) in order to make them more likely to accept money or other offers. This strategy is politically and normatively questionable; however, in some cases it is indispensable for getting a peace process started in the first place (see Afghanistan). In particular, profit-driven actors, such as warlords or criminals have often been receptive to such a strategy.

Most of these approaches involve a mixture of sticks and carrots, occasionally including deals with the group, with the leadership, or with some key members in order to alter their behaviour to conform at least in the short-term. Therefore, in most instances, these strategies are not used exclusively, but in combination. For example, the concept of counterinsurgency combines some of these approaches in order not only to fight against rebels or other groups but also to cut off the links between an armed group and its (potential) constituency or supporters among the population.²¹ Still, the

²¹ David Galula, *Counterinsurgency Warfare: Theory and Practice*, Praeger Publishers, Westport, CT 2006; Bruce Hoffman, *Insurgency and Counterinsurgency in Iraq*, RAND, Santa Monica, 2004; Tony Jeapes, *SAS Secret War*, Greenhill Books, London, 2005; Bard E. O'Neill, *Insurgency & Terrorism*.

focus is mainly on coercive measures backed by some (material) incentives that somehow reflect the underlying assumption that most leaders of armed groups at the end of the day are not driven by ideals, but by selfish interests. For realists, the bottom line reads as follows: if one is able to put enough pressure on them and/or offer them some profits, these people would ultimately act opportunistically.

13.2.3 Institutional approaches

- (1) Mediation and Negotiation. By this approach, external actors aim primarily at fostering a negotiation process among different parties, including armed non-state actors, in order to find a political settlement.²² As facilitators or mediators, they would try to urge armed actors to refrain from the use of force and to abandon maximalist political demands. For that purpose, informal contacts, multi-track diplomacy and pre-negotiations are often necessary, in particular when direct contacts between the conflicting parties (for example, a local government and a rebel group) are unlikely. Usually, in such a process the pros and cons of possible solutions have to be weighed, incentives and disincentives (for example, possible sanctions) have to be taken into account, and a compromise acceptable for all sides has to be found. Oftentimes arguing and bargaining methods (including cost-benefit analyses) need to be combined in order to achieve such an outcome. These approaches obviously imply a long-term engagement, since during the implementation of agreements mediation may still be necessary. This scenario applies mainly to groups with a political agenda and that are strongly tied to a defined constituency (for example tribe, clan, ethnic group, political party). The most likely cases, therefore, are clan chiefs, Big Men, or rebel leaders; in some instances terrorists or warlords may also be part of such a process, in particular when they seek to transform themselves into 'politicians'.
- (2) Cooptation and integration. Here the basic idea is that non-state armed groups and in particular the respective leadership can be co-opted and slowly integrated into a political setting, for example by distributing resources and sharing political responsibility. Therefore, this approach implies a certain degree of informal or formalized power-sharing, be it

²² See Jacob Bercovitch (ed.), *Studies in International Mediation*, Palgrave Macmillan, Basingstoke 2002; Jeffrey Z. Rubin (ed.), *Dynamics of Third Party Intervention: Kissinger in the Middle East*, Praeger Publishers, New York 1981; Saadia Touval and I. William Zartman (eds), *International Mediation in Theory and Practice*, Westview Press, Boulder, CO 1985; Oran R. Young, *Intermediaries: Third Parties in International Crises*, Princeton University Press, Princeton, NJ 1967; I. William Zartman and J. Lewis Rasmussen (eds), *Peacemaking in International Conflict. Methods and Techniques*, United States Institute for Peace, Washington, DC 1997; Liesbeth Zegveld, *The Accountability of Armed Opposition Groups in International Law*, Cambridge University Press, Cambridge 2002.

at national or local level, which would involve leaders of armed groups in day-to-day politics.²³ In other words, the attempt would be to give them a role to play, which may then change their attitudes and preferences. This strategy is sometimes based on a formal agreement, brokered by outsiders, but it is often pursued by efforts of building alliances and coalitions among different local groups. A good illustration for that approach was the attempt to gradually integrate Afghan warlords into the newly established political system, not at least by offering posts such as governors or ministers, but also by granting them a certain political status quo. Similar processes can be observed in various African societies with regard to clan chiefs, Big Men, or certain militia groups.

At the heart of institutionalist approaches is the establishment of procedures, rules, and institutional settings that allow for some kind of peaceful coexistence and, at the same time, open a room for bargaining, negotiation or mediation processes in order to reach a political agreement. Here, in contrast to the realist version, the starting point is that many armed non-state actors are indeed driven by certain grievances and political demands that can be addressed through negotiations and/or other means. Even if the leadership is corrupt and greedy, in many instances they must show some kind of political programme or agenda in order to find followers and supporters in local communities. In other words, even the most selfish leaders are under pressure to deliver – and therefore may be receptive for incentives and guarantees, assured by institutional arrangements.

13.2.4 Constructivist approaches

- (1) Socialization. By involving armed non-state actors in processes and institutions this approach claims that over time chances will increase that spoilers would be successively socialized into accepting certain norms and rules of the game. Armed groups would undergo processes of collective learning, which would alter strategies and, eventually, their self-conceptions as actors. This medium- to long-term strategy may work again primarily for those armed actors with clear political ambitions who have to address the long-term expectations of their constituencies and develop an interest to improve their local as well as international

²³ See Caroline A. Hartzell and Matthew Hoddie, *Grafting Peace: Power-Sharing Institutions and the Negotiated Settlement of Civil Wars*, Penn State University Press, Pennsylvania 2007; Ian O'Flynn and David Russel (eds), *Power Sharing. New Challenges for Divided Societies*, Pluto Press, London 2005; Anna K. Jarstad, 'Power-Sharing: Former Enemies in Joint Government', Anna K. Jarstad and Timothy Sisk (eds), *From War to Democracy. Dilemmas of Peacebuilding*, Cambridge University Press, Cambridge 2008, pp. 105–33.

image. This may be in particular true for rebel movements but also for clan chiefs and Big Men.

- (2) Naming and shaming. The attempt here is to organize social pressure and to campaign publicly, at national and/or international levels, against certain practices of armed non-state actors in order to harm their legitimacy within and outside of their (actual or potential) constituencies. The aim is usually to persuade them to accept and respect certain agreements and norms, in particular norms of humanitarian international law, but also to encourage them to refrain from certain violent methods (such as terrorist acts) and from using particular means (for example land mines or child soldiers). Again, this approach may be useful in cases of groups that need moral and material support from abroad.
- (3) Amnesty. Granting amnesty (that is, exemption from punishment or mitigation of punishment) for certain crimes and actions committed by members of armed groups may be an incentive to change behaviour and to respect certain norms in the future. This approach is highly problematic from a normative point of view since it will not give justice to the victims of violence and serious human rights violations. However, it may work under certain circumstances as a final stimulus to end violence or not to return to the use of violence. Generally, amnesty would be part of a greater political package and may not be applied to every crime or every group member. In reality, this option often runs the risk that leading figures of armed groups receive amnesty, whereas lower ranks are punished, which causes a so-called impunity gap. Nevertheless, amnesty might be especially attractive for groups whose members are already willing to opt for a different life and whose leaders are willing to opt for a different political career, thus already displaying signs of genuine behavioural change.

In general, constructivist approaches put an emphasis on the role of arguing and persuading, but also on processes of norm transfer. All three approaches have in common that they try to persuade armed groups to accept, to respect, and, eventually, to internalize norms. The ultimate goal is to foster long-term transformation processes that not only involve different behaviour for some tactical reasons but a genuine and sustainable change of the actor's policies and self-conception. The assumption here is that armed non-state actors can be affected by norms and arguments since most of them are concerned with their public image, their moral authority (*vis-à-vis* their enemies), and their sources of legitimacy. And, indeed, many leaders refer in their public statements to general norms and, thereby, try to argue their case also from a normative perspective. So, as constructivists would ask, why not take them seriously and engage them in debates about norms and standards?

13.3 Concluding remarks

All these counter-strategies and methods have their downsides and limitations. Moreover, in most instances, a combination of these strategies will be necessary since typically both incentives and disincentives are needed. Engaging successfully armed non-state actors is, however, dependent on various factors. To begin with, non-state armed groups differ widely in kind, displaying different forms of appearance, aims and underlying motivations. They may seek to change the existing status quo or be a distant agency of the ruling party; they may seek territorial dominance or simply any dominance; they may use physical and psychological violence for different reasons; and they may be predominantly ideology-oriented or profit-driven – or a combination thereof. Moreover, the leadership, field commanders, followers, and supporters of armed groups may have to be addressed differently. And, to make the issue even more complicated, most conflicts usually involve more than one armed group. Multiple groups coexist, some work together, others fight each other. Some are being utilized, some are supported, some are even deliberately set up by governments (see militias) while others, like rebels or warlords, are combated.

At the same time, a number of external actors, such as states, international organization or NGOs, display different means when dealing with armed non-state actors. Thus in many conflicts we are confronted with a plurality of actors who apply, be it intended or unintended, different approaches for spoiler management. As stated above, in theory these approaches may complement each other. In practice, however, these attempts exist in parallel; they follow different goals, prioritize different means and compete against each other. This problem is further complicated by the fact that external actors do not exchange information about their own strategies *vis-à-vis* armed groups, which in the field may lead to a number of unintended effects. For example, armed groups are often in a position to play actors off against each other and use their different strategies and lack of communication between each other to their own advantage. Moreover, local actors are aware of the fact that time is usually on their side since external actors will not stay forever but need to leave the country because of limited resources and pressure from the public at home.

In general, external actors often lack knowledge about the non-state armed groups they are dealing with and about the range of options they may have at their disposal in that particular case. In particular, governments are often unwilling or unable to reflect all possible strategies. Instead, they tend to choose a certain approach that they may have most experience with, are most familiar with, or are most capable of applying but they are not flexible enough to adapt their position to, for example, a transformation of the non-state armed actor in the course of the conflict. This has often resulted in the expansion of counter-insurgency efforts beyond their original goals due to a previous failure to reach the set goals ('mission creep' problem, see in particular Afghanistan and Iraq). At the same time, abandoning the mission

in favour of official peace negotiations is oftentimes seen as giving in and awarding the use of violence by non-state actors. Instead, external actors dealing with non-state armed groups need to be aware of the existing range of approaches as well as of their pros and cons. This implies that the international community has to be prepared to make ambivalent decisions, to risk backlashes and failures and to put up with normative dilemmas (as in the case of amnesty or negotiation processes). But external actors also need to reflect the changing nature of these groups during and in the aftermath of a conflict in order to apply the appropriate mix of strategies. This however requires a much more nuanced understanding of the characteristics, dynamics, and opportunity structures under which these different armed groups act.

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14

Bosnia and Herzegovina in the Western Balkans' System of Security

Lada Sadikovic

14.1 Introduction

The issues of human security, terrorism and organized crime in the Western Balkans are certainly of great significance for the countries that belong to the region, as well as for the whole of Europe. It is very noticeable that the region of the Western Balkans is the grey area of the whole European continent. While most European countries have acceded to the EU and NATO, the countries of the Western Balkans are the major exception that certainly diminishes the success of overall European integration.

The countries that are part of the Western Balkans area have many common characteristics, such as the post-war situation, relative economic backwardness, insufficient development of democratic institutions and an incomplete protection of human rights. However, each of these countries has its own characteristics, which must be observed and analysed in order to determine the strategy of combating the effects of crime and terrorist organizations.

At the moment, a common characteristic of the Western Balkan countries is the fact that, after the atrocious irredentist war and genocide, all of them have, both formally and actually, entered a new situation in recent years, having signed Stabilization and Association Agreements (SAA) with the EU. The signing of these Agreements means that the road is now open for the further progress of these countries in the areas of economic and international cooperation, through the harmonization of their legislation with that of the EU, the promotion of a functional market economy and the strengthening of economic relations – the processes that are of relevance for security, both of the Western Balkans and Europe as a whole.

In order to create relations of security within the Western Balkan region, the issue of individual security of each of these countries has to be raised. Thus, a question has to be raised whether Bosnia–Herzegovina (BiH), within its regional framework, has the kind of state security within its own borders that could lead to the realization of security in the whole region, which – according to G. Kornić – implies the protection of state consistency, territory,

population, key political institutions, independence and authority by way of preventing and repressing illegal acts that could threaten that security.¹

14.2 Internal security of BiH

At this moment, there are two tracks in BiH's progress towards Euro-Atlantic integrations: one leads towards NATO, and another towards the EU. Certainly, the system of security in BiH, just as is the case with other countries of the region, is to the greatest extent linked to its accession to NATO. In this respect, BiH has taken significant steps, the most important being its accession to the Partnership for Peace (PfP) Programme, which occurred on 14 December 2006. With this, BiH has made a decisive step towards full membership in the alliance, since PfP is the most important institutional arrangement that transcends the borders between NATO's members and non-members.²

The example of BiH, in fact, confirms the intention of the founders of NATO to relate this form of military integration to the political and economic integration of Europe, with the EU in particular. Although NATO is a military organization, it is inseparable from those democratic and political goals that make the basis for democratic, economic and every other aspect of integration in Europe. The Preamble of the North-Atlantic Treaty stipulates that NATO members are states that protect the freedom, common heritage and civilization of its nations, based on the principles of democracy, individual freedoms and the rule of law. This is the reason why the goals that lie ahead for BiH in terms of building its political and constitutional systems are also the goals related to the country's further progress towards membership in NATO, as well as to its further progress towards EU membership. In essence, NATO and the EU protect certain shared values, such as freedom, democracy, peace and stability, common heritage, individual freedoms, prosperity, solidarity and the rule of law.³

However, BiH has now found itself in a very critical phase of development, when it needs to have a state that would affirm the values relevant both for

¹ Gérard Cornu, *Vocabulaire juridique*, Puf Quardrige, Paris, 1987, p. 866.

² Alex J. Bellamy, *Security Communities and their Neighbours, Regional Fortresses or Global Integrators?*, Palgrave Macmillan, Basingstoke, 2004, at p. 82.

³ 'The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments. They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law. They seek to promote stability and well-being in the North Atlantic area. They are resolved to unite their efforts for collective defence and for the preservation of peace and security. They therefore agree to this North Atlantic Treaty.', *The North Atlantic Treaty*, Washington, DC 1949, p. 1, available online at <http://www.nato.int/docu/basicxt/treaty.htm>, accessed 15 August 2008.

the above-mentioned aspects of Euro-Atlantic integrations, and for its own security within the Western Balkan region. Namely, BiH has not yet built a modern democratic state capable of protecting human rights and all other values shared by European states, which are preconditions for the country's security and for the security of the Western Balkans. If security is an 'aspiration towards the absence of threat',⁴ then BiH has an urgent need to develop a constitutional system that will, *inter alia*, bring about a great breakthrough in terms of providing for its own security. This is particularly important when one knows that BiH still suffers from the grave consequences of the war and genocide that was committed in the occupied parts of its territory, which was confirmed by the International Court of Justice in its judgment of 26 February 2006. The document *The Security Policy of BiH*, adopted by the Presidency of BiH on 8 February 2006, emphasizes this need for further development of the security of the state of BiH.⁵

Here, we need to emphasize that BiH, unlike all other countries that have expressed their aspiration for Euro-Atlantic integration (NATO and EU), does not have a state capable of enabling the realization of the fundamental goals and values implied by full membership in these associations. Suffice it to say that, in the constitutional and legal system of BiH, neither the principle of political representation based on free and fair elections, nor the principle of distribution of power are applied, although they are an unavoidable condition for the development of any modern and democratic state that is ruled by law. Besides, the Constitution of BiH still contains provisions that discriminate against its citizens on ethnic, religious and racial bases. Therefore, the essential nature and particularity of the position of the state of BiH lies in the fact that it still behaves according to the provisional constitutional document included in Annex 4 of the General Framework Agreement for Peace that could, according to the modern understanding of legal and constitutional science, hardly be considered as a true constitution.

⁴ Barry Buzan, *People, States and Fear: An Agenda for International Security in the Post-Cold War Era*, Harvester Wheatsheaf, New York/London 1991, at p. 9.

⁵ 'BiH shall continue building a favourable state of security that ensures fundamental values that arise from the Constitution of BiH, i.e., continuity of the state, sovereignty, political independence, territorial integrity and international personality, human rights and fundamental freedoms of its citizens in line with international standards, development of parliamentary democracy and free democratic elections, rule of law, ethnic equality and reconciliation among its peoples, stable economic development in the conditions of the freedom of movement of goods, service and capital, sound and stable ecological conditions for the life of man and development of international regional cooperation. The security policy, as an integral part of the state policy, implies an organized implementation of measures and activities of successful and lasting protection of the above-mentioned and other values in BiH, with optimum use of all the available resources'. The Presidency of Bosnia and Herzegovina, 'Sigurnosna politika Bosne i Hercegovine' [The Security Policy of Bosnia and Herzegovina], *Official Gazette of BiH* (2006), vol. 88, no. 5, p. 1.

The irredentist war, waged in the region of the Western Balkans, mainly occurred in the territory of Bosnia and Herzegovina. It caused not only the destruction of state democratic institutions, as well as its economic and other assets, but also devastated its society. Genocide, ethnic cleansing and mass deportations were the key features of this war. For these reasons, it is absolutely necessary not only to strengthen the country's democratic institutions in accordance with the principles of democracy and rule of law, but also to ensure the revitalization of the entire civil society in BiH.

Indeed, this situation has deeply weakened both the state and all the mechanisms of defending the society of BiH. On that account, BiH has become a fruitful soil for different influences of criminal and terrorist groups that represent a threat not only for the security of BiH but for the whole of Europe and, potentially, for a broader area.

A significant characteristic of organized crime in the modern world is that it expands into the areas where state institutions are poorly organized and where a modern judiciary and police structure of the state are non-existent. All of these are exactly the characteristics of the state-of-play in the society of today's BiH.

14.3 The relevance of the SAA for the normalization of the state of Bosnia and Herzegovina

This emphasizes the need for strengthening democracy and rule of law, as well as for increased political, economic and institutional stability in BiH and in the region as a whole. The realization of the goals, that, now, after the signing of the SAA, lie ahead of BiH, implies the realization of all the tasks and reforms enumerated in the Dayton Peace Agreement that have not been introduced yet. Here, we need to point out the fact that the Dayton Peace Agreement envisages the obligation to implement the European Convention for the Protection of Human Rights (ECHR), which would imply not only the full protection of human rights, but also the strengthening of the democratic state, in order for it to be able to protect human rights.

The provision of particular importance for the democratic development of BiH and for the affirmation of the principles of rule of law is Article 2, Point 2 of Annex 4, that is, the Constitution of BiH that stipulates that the ECHR shall be applied directly and have priority over all other law in BiH. The harmonization of the Constitution of BiH with the ECHR would mean a huge step forward in the strengthening of the democratic state, the protection of human rights and the abolition of all forms of discrimination introduced by this Constitution into the political and legal life of BiH. Thus, a broad avenue would be opened for the affirmation of BiH as a democratic state ruled by law, and it would undoubtedly contribute greatly to the stabilization and security of the region as a whole.

The above-mentioned constitutional obligation to implement the ECHR directly in the legal system of BiH and to treat the Convention as the legal instrument that has priority over all other law has not been realized in the 13 years since it was introduced. Due to this fact, even now, numerous provisions that have introduced ethnic, religious and racial discrimination into the political system of BiH still persist. According to the provisions of the country's Constitution, only the representatives of three so-called constituent peoples in BiH (that is, Bosniaks, Croats and Serbs) can be elected into the most relevant state bodies, while all others cannot. This particularly relates to the Presidency of BiH and the members of the House of Peoples of the Parliamentary Assembly of BiH (that is, its upper house). Individuals belonging to the so-called groups of 'others' include Roma, Jews, Albanians, Slovenians and so on.

This provision was not changed even when, in July 2002, BiH ratified the ECHR and, thus, once again accepted the obligation to ensure to all individuals under its jurisdiction all the human rights and fundamental freedoms enumerated in the Convention. Discriminatory provisions of the Constitution of BiH, as well as the laws based on those provisions, in particular the Election Law of BiH, were not abolished even when, in 2006, the country ratified Protocol 12 of the Convention, which is even more specific and clear when it comes to the prohibition of all forms of inequality of individuals before state and law, and consequently all forms of discrimination in BiH. None of these facts has given impetus to either domestic or international institutions active in the country to establish the full equality of individuals before state bodies, and to prohibit every form of discrimination on an ethnic, religious and racial basis, the move that would be of particular importance for BiH as a multi-ethnic and multi-religious community.

Had the human rights stipulated by the ECHR been respected, BiH would have become a functional state to the extent that it would truly be able to meet numerous obligations of an economic and other nature imposed by the SAA with the EU, and, naturally, the candidate status in the Union that is currently the goal of paramount importance for the country. Above all, this would mean a greater efficiency of the state and a reduction of its huge and parasitic bureaucratic apparatus (two entities, ten cantons, 130 ministers and so on.).

The state apparatus of BiH costs 60 per cent of its GDP, which is undoubtedly an unprecedented case in the whole of Europe. *Foreign Policy (FP)* magazine and the Fund for Peace have found that BiH is the only European state and, consequently, the only Western Balkan state that appears on the list of failed states (*The Failed State Index 2008*).

The *FP* and Fund for Peace Report assesses the state of BiH as 'one of the poorest former Yugoslav republics' and that the country still belongs to the category of states that are 'vulnerable to internal violent conflicts and other social behaviours'. The report goes on to state:

While efforts towards institutional and economic integration of the Federation and RS have crept along slowly, the country is still deeply polarized and heavily reliant on outside assistance for everything from the provision of security to economic sustainability. Corruption and organized crime still need to be confronted more forcefully and the BiH leadership needs to assume more responsibility in improving fiscal sustainability and encouraging foreign investment and privatization ... However, without stronger efforts to combat rampant institutional corruption and apprehend indicted war criminals, membership in the European Union will continue to remain a dream that looms over the horizon of the country.⁶

In order to ensure the sovereignty, territorial integrity and political independence stipulated in the Preamble of its Constitution, BiH must be transformed into a modern state with modern social functions, and with an organization capable of performing that function. BiH needs an active, engaged interventionist state capable of responding to the interests of its society at this time of strong progress – in economics, technology and every other field – that results from scientific and technological revolution. At the same time, BiH needs a state that would enable the emergence of social relations on the basis of social justice, which are possible under the conditions of private ownership and market economy. Therefore, the state in its present form needs to be transformed so that it can fulfil the goals of its own Constitution, the requirements of numerous social spheres that imply incentives and focus on economic and all other developments of BiH.

Due to the war that was imposed on it, the state of BiH has not yet harmonized its organization and competencies with the progress that has been achieved in the last few decades by other European states. All over Europe, states have agreed to meet the obligation of regulating economic and social relations, particularly those related to the market economy. In contrast to the neutral state of the nineteenth century, today, across the globe, in the countries of developed democracy and universal national prosperity, the state is deeply engaged in all economic and other development processes. Studies on the development of modern states indicate that in most developed European states the role of the state in economic affairs is being expanded.

Deep changes in the functions of the state – and, consequently, in its organization – reflected in the constant increase of the number of institutions that perform those functions arises not only from the will of the state, but also from strong pressures from society, through its political parties, trade unions,

⁶ The Fund for Peace, *Promoting Sustainable Security, Failed States Index Scores 2008*, The Report is available online at http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=52&Itemid=560, accessed 20 August 2008.

strong economic monopolies, media, public opinion and so on. Technical and technological progress make it possible for a state to resolve, throughout the state's territory, numerous burning social issues in a uniform and consistent way and through laws as an expression of popular interest. Commenting on the results of a research paper, one author asserts that 'even in states without a centralistic tradition of governance, one can notice a certain concentration of decision-making that has an effect on certain areas of governance'.⁷

Thirty distinguished politicians, led by Ms. Doris Pack, made a statement that points out the following:

Powerful central government would be needed for economic and political development. The central government of the country is too weak compared to the authorities of the entities. The constitutional structure does not allow a proper functioning of the central government and prevents policies from having an effect beyond the respective national groups. Due to the double or even triple state machineries, the ratio of government expenditures to GNP is extremely high and in many respects presents a strain on the country's economic prospects. In practice, this structure also entails considerable legal uncertainty. In the long run, this situation is unacceptable for economic and political reasons.⁸

The state of BiH has not defined in its Constitution, nor has it realized in practice the principle of political representation that is of paramount importance for a democratic system. Furthermore, it has not succeeded in building a modern judicial system with a regular, rather than an ad hoc or provisional court that would ensure the equal implementation of justice across the country's territory. Therefore, it is still an illusion to expect to have security in the Western Balkan region, unless BiH, as the state that is both geographically and politically in the heart of the region, succeeds in building a constitutional structure that corresponds to the requirements a modern European state has to meet.

14.4 Constitutional incompatibilities

It suffices to take a glance at the Constitution of BiH to see that, even formally, the state of BiH is not built as a democratic state governed by the rule of law. Firstly, the Parliamentary Assembly of BiH is not structured as

⁷ Robert Savy, *La Concentration du pouvoir économique, L'intervention des pouvoirs publics dans la vie économique*, PUF, Paris 1978, p. 16.

⁸ Hans Koschnick, Tadeusz Mazowiecki, Phillipe Morillon, Doris Pack et al., *Securing Peace in Bosnia and Herzegovina Amending the Treaty of Dayton* (15 December 2003), p. 1, available online at <http://www.juspax-eu.org/en/archiv/20031215-securing-peace.shtml>, accessed 20 June 2008.

a modern legislative body whose laws express the general interests of the entire nation irrespective of its existing entities, ethnicities and cantons. This Assembly is not the result of free elections that would secure the free expression of the people's will as it is stipulated in Article 3 of Protocol 1 to ECHR. It actually acts as the sum of representatives of two entities and three constituent peoples. Yet this happens without a clearly defined role of the individual citizen and in disconnection from the interest of the Bosnian–Herzegovinian nation as a whole. The Parliamentary Assembly of BiH is not capable of exercising democratic control over the functioning of the Council of Ministers as the executive body, nor does it have any competencies to successfully draft legislation that would express the needs of today's Bosnian–Herzegovinian society.

The Parliamentary Assembly of BiH is not capable of adopting legislation that would express the general interests of the society of BiH. Besides, it acts on the basis of numerous discriminatory and segregationist provisions, so that its normal functioning in accordance with the requirements of modern times is not possible, as is also the case with the Presidency of BiH and the Council of Ministers. On the other hand, the executive powers embodied in the Council of Ministers do not cover, with their competencies and institution, all the numerous and ever growing diverse needs of citizens and society as a whole. This particularly relates to the economic sphere of the state's function, but certainly also to the state security function within the state itself, and consequently to the region to which it belongs. In this respect, great difficulty lies in the fact that the competencies and functions of the Presidency of BiH overlap to a great extent with those of the Council of Ministers, which further increases confusion in the functioning of basic state institutions.

The judiciary has not yet been built as a rational functional body that can protect citizens from an attempted abuse of competencies. In addition, BiH does not have a Supreme Court, that is, a state-level court, which would perform the function of the implementation of justice that encompasses the entire society. This shortcoming of judicial power actually means that BiH is not yet built on the principle of the division of powers that would secure the prevention of arbitrariness, inequality among people before the law and all sorts of abuses. The judicial authorities of BiH are characterized by institutional overcrowdedness. There are far too many courts and additional institutions such as ombudspersons, commissions and so on. Together, they can in no way substitute for a modern organization of the judiciary such as the one that characterizes modern states across Europe. The existence of the Constitutional Court of BiH certainly does not mean that this institution can in any way cover all the areas and obligations that, in a modern state, are performed by regular judicial authorities led by a Supreme Court.

If BiH does not have an integral constitution yet, which would be based on modern democratic and legal principles, such as the principle of political

representation, division of powers, a democratic election system and the possibility for an efficient protection of human rights and fundamental freedoms, it cannot function successfully within the system of security of the Western Balkans, that is still, after the 'tragic conflict that occurred in the region', treated as an earthquake area of Europe. Evidently, the state of Bosnia and Herzegovina does not yet have the capacity to realize complex social, political and all other functions of a modern state and, as such, it cannot successfully participate in the system of security of the Western Balkans. The situation is further complicated by the territorial aspirations of some neighbouring countries towards BiH. This makes relations within this region difficult and, consequently, adds to the difficulties facing BiH itself.

14.5 Government for the state of emergency

Furthermore, it needs to be pointed out that BiH cannot successfully realize security within the state itself unless it resolves the issue of structuring its Government for emergency situations in accordance with the provisions of Article 15 of the ECHR. These provisions allow the state in the situation of peace to envisage, either constitutionally, or in some other way, its organization and efficient functioning in the conditions of the so-called state of emergency. This notion encompasses the state of war or any other threat that can seriously threaten the survival of the nation.⁹

This provision of the ECHR is of an exceptional importance for BiH, given the fact that it has only recently come out of a serious regional conflict. This leads to the necessity for BiH to envisage, in the process of constitutional and legal statebuilding, reliable mechanisms that would be automatically activated in case of any threat to the survival of the nation. All EU countries and members of the NATO Alliance, irrespective of the existence of joint security guarantees, have their own constitutional instruments and, in that respect, BiH should not be an exception.

In BiH, this role is presently played by the High Representative, who is at the same time the key interpreter of the Dayton Peace Agreement. However, in the process of normalization of the state, the Peace Implementation Council (PIC) in Brussels has envisaged this function to be substituted by other, more modern instruments. Therefore, enabling the state to accept and realize its economic and other competencies that arise from membership in the EU certainly presupposes a modernization of the state apparatus and its enrichment with all those instruments of protection of the democratic state envisaged in the ECHR and by the membership *acquis* of EU and NATO, their membership representing the key goal of BiH.

⁹ Lada Sadiković, 'Vanredno Stanje I Ljudska Prava' [State of Emergency and Human Rights], *Magistrat Sarajevo* 2003, pp. 141–53.

In order for BiH to succeed in realizing, in a new way, its political independence, territorial integrity and international legal personality, a mechanism for protecting the survival of the Bosnian–Herzegovinian nation must be established for the time of war or any other major threat that may jeopardize the survival of the nation.

The Council of Europe's Venice Commission has expressed its opinion that, in BiH, the Office of the High Representative and EU Special Representative actually represents the authority that should secure everything that is envisaged by Article 15 of ECHR. However, in the context of constitutional changes that should strengthen the state of BiH, the issue of a national institution that would protect the survival of the Bosnian–Herzegovinian nation in a state of emergency definitely must be resolved. In that respect, the decision of the Peace Implementation Council to realize five goals and introduce two conditions is quite justified.¹⁰

This actually means that the successful completion of the present mission is unimaginable without building a BiH that is ruled by law and has a modern judicial system. It is this decision of the PIC that actually needs to give an impetus to the realization of the previously defined goals of BiH, that is, the building of a democratic state ruled by law with modern election and judicial systems, without which it is hard to imagine independence and security in BiH as well as in the region as a whole.

14.6 Security of BiH within the regional framework

The signing of the SAA with the EU emphasizes the constitutional obligation of BiH to be a democratic country ruled by law and to have a modern judicial system as well as a police force organized in a modern way. These

¹⁰ The objectives that will need to be delivered by the BiH authorities prior to transition are

- the acceptable and sustainable resolution of the issue of apportionment of property between State and other levels of government;
- the acceptable and sustainable resolution of conflicts relating to defence property;
- implementation of the Brcko Final Award;
- fiscal sustainability (promoted through an Agreement on a Permanent ITA Co-efficient methodology and establishment of a National Fiscal Council);
- ensuring rule of law (demonstrated by the adoption of the National War Crimes Strategy and the passing of the Law on Aliens and Asylum, and the adoption of the National Justice Sector Reform Strategy).

In addition to the objectives listed above, the PIC Steering Board agrees that two conditions need to be fulfilled prior to transition: signing of the SAA and a positive assessment of the situation in BiH by the PIC SB based on full compliance with the Dayton Peace Agreement. See PIC Steering Board, *Declaration by the Steering Board of the Peace Implementation Council* (27 February 2008), p. 1, available online at http://www.ohr.int/pic/default.asp?content_id=41352, accessed 15 March 2008.

tasks of modernization and building of the state need to be performed jointly by the national institutions of BiH and the EU institutions. Now, BiH has been enabled to do everything that it failed to do since the signing of the Dayton Peace Agreement. BiH's SAA is an opportunity and an obligation to achieve the security of the state of BiH itself, as a precondition for the security of the countries of the Western Balkans.

Naturally, it is assumed that other states that belong to the region will also develop as democratic states ruled by laws that protect human rights. The states belonging to the Western Balkans region still suffer from nationalistic indoctrination and every other consequence of the recent irredentist war. From the point of view of security, it is of paramount importance to emphasize that in some countries of the Western Balkans that are in the immediate neighbourhood of BiH there are still aspirations relating to the annexation of some territories of BiH, to increasing unilateral influence on BiH and to undermining its stability. The most obvious among these is the aspiration of some states in the region to use the above-mentioned weaknesses of the state of BiH to apply political, economic and other forms of pressure in order to achieve, now in the situation of peace, those goals that they failed to achieve in war.

Significant progress on the road towards NATO membership, achieved by all the countries of the Western Balkans, certainly does not allow any longer for the possibility of conflict among the states such as the one that occurred at the beginning of the 1990s. However, it is possible, even under current circumstances, to incite a crisis and tensions in BiH, and, consequently and reciprocally, in other states. This can be seen in the demands to realize separate relations between the neighbouring states and the one or the other entity in BiH. If the current provisional Constitution of BiH has allowed for the establishment of parallel relations of BiH entities with the neighbouring states,¹¹ then, today, after all the obligations assumed by the countries of the Western Balkans within their Euro-Atlantic integration, these special relations are completely outdated. States of the Western Balkans have a duty, just like other European states, to entertain relations, be they general or special, with the state of BiH as a whole, and through the EU.

This is why, with the signing of the SAA, the task that lies before every country of the Western Balkans, BiH included, is to create and affirm a functional modern state capable of accepting the EU legislation and all that is implied by the membership of this European organization. It is only these Western Balkan states that would be able to establish reliable security relations in the region, which, *inter alia*, implies successfully fighting terrorism, organized and every other crime. In this respect, there is no doubt that the EU must pay special attention to BiH now, after the signing of the SAA,

¹¹ *General Framework Agreement for Peace, Annex 4, Constitution of Bosnia and Herzegovina* (14 February 1995), Article 3, Point 2 of the Constitution of BiH, available online at http://www.ohr.int/dpa/default.asp?content_id=380, accessed 15 April 2008.

since without political and other security in BiH it would be an illusion to expect stable relations and democratic communication among the Western Balkan countries, particularly in the rectangle that is made up of Serbia, Montenegro, Croatia and BiH.

The building of modern conditions and, consequently, of instruments of security in BiH is of great importance for the further development of the country towards Euro-Atlantic integrations, but it is also important for the neighbouring countries within the Western Balkans. Namely, this accelerated and intensified the state-building efforts in BiH, after this unjustifiable 13-year long delay, has deterred all irredentist aspirations that still exist in the political life of the neighbouring states. As a matter of fact, one could say that building BiH can have a positive effect on the development of democratic relations in its neighbouring states since it would make it easier for the pro-European democratic forces to prevail over the forces that draw their political power from the ambitions and appetite to conquer the territory of BiH.

The signing of the SAA by all the states belonging to the Western Balkans region is a sign that they have all made progress in the realization of the goals of the General Framework Agreement for Peace in BiH in terms of respect for mutual sovereign equality, resolution of open issues using peaceful means and restraint from any actions that imply threat, use of force or any other actions directed against territorial integrity or the political independence of BiH, or, respectively, any other state, as it is stipulated in Article 1 of that Agreement.¹²

Respect for human rights and freedoms in BiH and other states of the Western Balkans is certainly the *conditio sine qua non* for the realization, not only of Dayton obligations, but also of shared goals that arise from the SAA. For BiH to realize successfully its role within the system of security in the Western Balkans, it needs to overcome as soon as possible all the drawbacks, inconsistencies and weaknesses of its state structure.

BiH is the central part of the Western Balkans, not only geographically, but also in every other sense of the word, particularly given the ethnic and religious structure of its population. The multi-ethnic character of BiH can be the key factor in connecting the states, and not only of conflict, which was often the case in the past of the Western Balkans. Therefore, the present, new historical position that has occurred after the signing of SAA must be

¹²'The Parties shall conduct their relations in accordance with the principles set forth in the United Nations Charter, as well as the Helsinki Final Act and other documents of the Organization for Security and Cooperation in Europe. In particular, the Parties shall fully respect the sovereign equality of one another, shall settle disputes by peaceful means, and shall refrain from any action, by threat or use of force or otherwise, against the territorial integrity or political independence of Bosnia and Herzegovina or any other State'. *General Framework Agreement for Peace, General Framework Agreement for Peace in Bosnia and Herzegovina* (14 December 1995), Article 1, available online at http://www.ohr.int/dpa/default.asp?content_id=380, accessed 15 April 2008.

built upon, so that the multi-ethnic nature of BiH and other countries of the region can be the basis for connecting these states on the grounds of mutually accepted interests in the context of Euro-Atlantic integrations instead of being the stage for conflicts.

To achieve a reliable position for BiH in the Western Balkan region, which is, at the same time, the condition for further progress towards EU integration, the country needs a stable political system. This primarily means that, instead of the provisional Constitution as Annex 4 of the *General Framework Agreement for Peace*, a reliable constitutional project needs to be established, which would primarily and consistently adhere to the principle of political representation and division of power.

The completion of a proper legal and political structure in BiH is the road toward overcoming the current unequal and inferior position of BiH within the Western Balkans and, at the same time, the way to realizing the goals set in the SAA. This primarily means that at the central level of the state of BiH there must be greater competencies as is the case with all other European states, if the necessary economic development of the country is to be achieved. Integration in the EU envisages a continuous increase of economic and other competencies of the state of BiH by adopting numerous EU regulations and incorporating them into its legal system. These new obligations that arise from the SAA and from the aspirations of the country itself to become a full EU member as soon as possible, exert and will continue to exert on the state of BiH the ability to take over these regulations and to implement them consistently. This, on the other hand, means that fulfilling consistently the obligations taken vis-à-vis the Council of Europe and the EU would require new and appropriate instruments for the state of BiH. The list of competencies defined for the state of BiH in the Dayton Peace Agreement has already been significantly exceeded, but the instruments for the realization of these competencies have remained the same – and therefore understandably insufficient for their practical implementation.

VII Conclusion

This analysis of the political, legal and security-related situation in BiH clearly shows that state security, in terms of consistency of the state, does not exist and that the creation of internal security is an urgent task for the national and international authorities in BiH. That is the reason why BiH currently cannot play an adequate role in the building of security as is expected from it in the Western Balkan region. Due to internal security in BiH, which is the condition for regional security, urgent modification of the Constitution must be introduced so that the state of BiH becomes capable of consistently and creatively acting within the Western Balkan region, NATO and the EU. And for the purpose of internal security, BiH must begin the drafting of all the constitutional amendments that will enable it to consistently and

creatively apply all the numerous requirements of the EU that are the conditions for its prosperity – economic and otherwise – and, above all, its security in the region of the Western Balkans as well as EU and NATO.

The purpose of Euro-Atlantic integration lies in increasing the capacity of a state to realize, both individually and in the context of integration, full security, both with regard to its own existence and functioning, and in its relations with neighbouring and other states. BiH must build such a state that will be able to respond to the needs of contemporary society ruled by a market economy based on private ownership and private initiative. It must be a state capable of giving incentives and motivating, directing and stimulating, in every possible way, the development of the market economy, industry, agriculture and export. The state must also take care of healthcare, culture, pensions, new jobs, education that is free of charge and so on.

The State of BiH, which was the victim of irredentist aggression and genocide, whose territory was the main stage of the armed conflict in the 1990s until the Dayton Agreement signed in 1995, is certainly vitally interested today in the issue of national security in the region of the Western Balkans. It has become clear that the solution of the issue of national security must be closely related to the issues of security in the neighbouring states, particularly those that were directly involved in the 1992–5 war. If its Constitution has defined it as a democratic state ruled by law, then, undoubtedly, the security it is obliged to ensure can only be realized in a democratic way. In addition, neighbouring states have committed themselves, in the Dayton Agreement, to 'the sovereignty, territorial integrity and political independence of BiH in accordance with international law'.¹³

In order to realize the relations of stability, security and cooperation based on equality among the Western Balkan states, it is indispensable for BiH to stop being the weakest link in the chain of the region. If it fails to be affirmed as a democratic state ruled by law, BiH cannot be successful in defending itself against the influences of those political forces in the neighbouring states that have not yet given up the goals for which they started the war against BiH. In this respect, the most important thing is to determine, instead of the present state organization of BiH, a credible and reliable constitutional project of its building as the state ruled by law that is capable of defending its own independence and territorial integrity.

Since the state of BiH came out of the 1992–5 war weakened in every respect, it is up to the EU to help it in every possible way to adopt a modern and democratic constitution and to build a functional state. It is obvious that, due to the consequences of the war and genocide that was perpetrated

¹³ *General Framework Agreement for Peace, General Framework Agreement for Peace in Bosnia and Herzegovina* (14 December 1995), Preamble of the Constitution of Bosnia and Herzegovina, available online at http://www.ohr.int/dpa/default.asp?content_id=380, accessed 15 April 2008.

on its territory, BiH cannot give any significant contribution to the stability and the security of the region unless new efforts are made by national authorities and the international community to strengthen it democratically. BiH cannot be a reliable partner of the state in the Western Balkans unless it develops the constitution that would meet the fundamental principles of modern statehood. The special importance of the SAA, signed on 26 June 2008, lies to the greatest extent in the fact that it envisages that all the above-mentioned, as well as other problems of BiH, are resolved by the joint efforts of BiH and the EU.

If this analysis of the situation of BiH has brought us to the conclusion that BiH is the central link in the chain of security in the region of the Western Balkans, then it is quite understandable to expect that efforts invested by the international community are focused especially on BiH. Every step made in the process of the building of a sound state of BiH and of the political situation in the country is at the same time the step towards increased security in the Western Balkans, and consequently in Europe. In this respect, it would be normal to expect that, because of its exceptional circumstances, BiH receives exceptional support from the international community. In the first place, this means that the EU will accelerate the progress of BiH towards the status of candidate, and then that of member, in the same way it did with some of the other Southeast European states. Only a strong, democratic state of BiH can play a positive role in preventing organized crime, terrorism, human trafficking and all sorts of crime that occur in this still insufficiently settled and ordered region of Europe.

Primarily for the sake of its national and international goals, the state of BiH must strengthen its central authority and pass modern social and economic legislation that is the characteristic of every developed state. As such, it must be successful in carrying out the function of integration into the European and world order, since it is the state – not its entities – that is the subject of international law and the carrier of responsibility for fulfilling the obligations that arise from that engagement. BiH must be able to resist successfully the attempts of economic, financial, commercial and other monopolies to use the leverage of power for their own particularistic interests. And, finally, the state of BiH must be able to confront, efficiently and in an organized way, organized crime, terrorism and other negative and destabilizing influences that are felt more and more acutely in BiH, because they use the weaknesses of the state that we have mentioned above in order to achieve their criminal goals.

It is exactly why the first thing that should be done now, after the accession to PFP and the signing of the SAA, is harmonizing the institutions established by the Constitution with the ECHR. The need to harmonize the present Constitution of BiH with ECHR is an obligation that was imposed on the state by the Dayton Peace Agreement, its membership in the Council of Europe and its signing of the SAA. This is an obligation without which

there can be no progress in the integration into the EU, nor any chance to establish appropriate security relations in the Western Balkans region. Essentially, this harmonization of the Constitution with the ECHR would mean the creation of the basic contours of a modern BiH that has the potential to be a key factor in ensuring cooperation and security in the Western Balkan region, and, at the same time, would be a serious candidate for membership in NATO and the EU.

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15

Bosnia and the Art of Policy Implementation: Obstacles to International Counter-Crime Strategies

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15.1 Introduction¹

The prize-winning Bosnian film *Gori Vatra* (2003) depicts life in the Bosnian village Tešanj two years after the war. A well-intentioned representative of the international community with a shiny uniform and a heavy German accent attempts to prepare a visit by US President Bill Clinton, who wants to put his weight behind Bosnia and Herzegovina's reconstruction and reconciliation effort by visiting Tešanj and becoming an honorary citizen.² The villagers see the visit as an opportunity to improve the image and economy of Tešanj, where the only lucrative activities are forced prostitution and alcohol smuggling. Prostitutes now become 'folkloric' dancers representing Bosnia's different groups. The chief of police, while still helping the local crime boss to put whisky labels onto bottles filled with cheap alcohol, pretends to crack down on crime. And the mayor makes sure that all documents are thrown out of the town hall window before an inspection of the neo-colonial German. The mayor's promise that he is not a terrorist helps the German to get over the discovery of a large weapons cache. At the end, Clinton's visit is aborted because a villager, who cannot get over the loss of his son during the war, blows up his house, with himself in it.

The film not only reveals the Bosnian sense of humour in the face of tragedy, but also says a lot about post-Dayton Bosnia. The local economy is shattered and crime is thriving. Citizens cope with the effects of the war and economic deprivation in ingenious ways, while some Bosnian officials

¹ We thank the officials interviewed for this project, who spoke to us on the condition of anonymity. Ursula Schroeder and Cornelius Friesendorf also gratefully acknowledge financial support from the Volkswagen Foundation as part of the European Foreign and Security Policy Studies Programme.

² In the following, we refer to Bosnia and Herzegovina as Bosnia.

obstruct the work of the international community and collude in criminal enterprises. The 'internationals' hope for quick victories in their reconstruction and reconciliation efforts, but fail to understand local conditions.

The Dayton Agreement of 1995 ended Europe's most destructive conflict since World War II. One of the main problems of post-Dayton Bosnia has been organized crime, not least due to the ability of war profiteers to become entrenched in politics and business. The smuggling and trafficking of people, arms, drugs, timber, fuel, or cigarettes were part and parcel of the war, and partly even increased after the war. It was obvious that organized crime as well as corruption, both a cause and a consequence of crime, undermined the security of Bosnia and Europe as a whole, harmed the economy by deterring investors, and prevented Bosnia's fledgling domestic institutions from gaining legitimacy in the eyes of the citizenry. The 'international community'³ initially neglected organized crime, but slowly began to see it as one of the major obstacles to the establishment of a stable, peaceful, and democratic Bosnia. In response, international actors began to formulate and implement various policies against crime.

Observers have frequently argued that international counter-crime policies in Bosnia suffer from an implementation gap.⁴ This essay addresses this observation by exploring the dimensions of the professed gap. To what extent has the international community been able to implement its counter-crime policies in Bosnia? Have these policies reduced organized crime? What are the biggest obstacles to the fight against organized crime in a post-war society such as Bosnia? By answering the three interrelated research questions, this chapter hopes to shed light on the state of the art of international counter-crime policies in Bosnia. So far, the evidence of an implementation gap is anecdotal, and comprehensive evaluations of international police and justice reform strategies in Bosnia are still scarce. Responding to this research gap, the chapter traces the ways in which political commitments in the field of counter-crime policies are put into practice; and it outlines the major obstacles to their implementation. Adopting the perspective of policy implementation research, the chapter thus studies 'what develops between the establishment of an apparent intention on the part of government to do something or to stop doing something, and the ultimate impact in the world of action'.⁵

³ This term falsely implies a high degree of homogeneity among actors. We use the term nevertheless as a matter of convenience.

⁴ See, for instance, Lucia Montanaro-Jankovski, *Good Cops, Bad Mobs? EU Policies to Fight Transnational Organized Crime in the Western Balkans*, European Policy Center, EPC Issue Paper (2005), no. 40, p. 22.

⁵ Laurence J. O'Toole, jr., 'Research on Policy Implementation: Assessment and Prospects', *Journal of Public Administration Research* (2000), vol. 10, no. 2, pp. 263–88, on p. 266.

The first part of this chapter assesses the state of criminalized activities in Bosnia. Differentiating between the impact of domestic conditions in Bosnia and the design of international counter-crime programmes on policy outcomes, the main part of the chapter highlights major challenges to the implementation of counter-crime policies in Bosnia. These domestic and international factors are considered to be variables intervening between efforts to implement strategic policy objectives and the results of these implementation efforts. At the international levels, a dearth of coherent multilateral programming, a lack of credibility on the ground, and deficits in crime-fighting competences and mandates have impeded the international community's ability to pursue its stated aims. The second part of the chapter underlines the significance of the domestic polity and society of the target state for successful policy implementation. It distinguishes between the local political will to fight crime and the domestic actors' actual capacity to implement changes as major factors influencing policy outcomes. In summary, the analysis shows that while significant obstacles have hampered the implementation process, implementation efforts at both domestic and international levels have been enhanced in recent years. This improvement has coincided with signs of a reduction of the more violent forms of organized crime in Bosnia.

15.2 Organized crime in Bosnia

By the time Europe's bloodiest conflict since the end of World War II ended in 1995, criminal groups had a strong position in Bosnian society and politics, not least due to wartime profiteering. Several years into post-Dayton peace, international actors began to perceive crime and corruption as endemic in Bosnia and expressed their worry that criminal activity undermined international stabilization and peacebuilding efforts.⁶ Activities ranging from the smuggling and trafficking of people, goods such as illicit drugs, arms, cigarettes, or fuel, and illicit logging were seen as threats to the security of Bosnia as well as countries in the Balkans and beyond.

Yet, given the absence of systematic data collection efforts, and the problems of defining organized crime more generally, international counter-crime efforts largely operated in an empirical and conceptual void. Organized crime is difficult to gauge due to its clandestine nature, problems of existing definitions, and the absence of sound methodologies for measuring organized crime.⁷ In Bosnia, the sheer number of international actors

⁶ See for instance United States General Accounting Office, *Bosnia Peace Operations: Crime and Corruption Threaten Successful Implementation of the Dayton Peace Agreement*, Washington, DC 2000.

⁷ Petrus C. Van Duyne, Matjaz Jager, Klaus von Lampe and James L. Newell (eds), *Threats and Phantoms of Organised Crime, Corruption and Terrorism: Critical European Perspectives*, Wolf Legal Publishers, Nijmegen 2004.

and the fragmentation of the Bosnian polity exacerbated these problems. Moreover, political interests, rather than systematic empirical research, dictated the way the organized crime situation was presented. Allegations of the pandemic presence of organized crime in Bosnia are therefore problematic.

Measuring crime levels is notoriously difficult, since the availability of data is only a necessary, but not a sufficient condition. As Klaus von Lampe stated, 'measurement means linking unambiguously delineated concepts to empirical events'.⁸ It requires specifying key concepts, translating these concepts into variables and linking these variables to empirical data.⁹ In this sense, statistics per se often do not provide proper insights into the nature of organized crime.¹⁰ Further, it is important not to automatically equate every complex criminal activity with organized crime. The label 'organized crime' evokes an image of large, transnational structures. In reality, however, many groups are ad hoc arrangements operating locally or regionally.

In Bosnia, the Criminal Code defines organized crime through the perpetrating actors: organized criminal groups.¹¹ However, there is a lack of data on organized crime groups as well as on criminal activities. As a consequence, measuring the extent and nature of organized crime in Bosnia

⁸ Klaus Von Lampe, 'Measuring Organised Crime: A Critique of Current Approaches', in Petrus C. van Duyne, Matjaz Jager, Klaus von Lampe, and James L. Newell (eds), *Threats and Phantoms of Organised Crime, Corruption and Terrorism: Critical European Perspectives*, Wolf Legal Publishers, Nijmegen 2004, pp. 85–116, at p. 86.

⁹ Von Lampe, 'Measuring Organised Crime', p. 87.

¹⁰ Petrus C. Van Duyne, 'Introduction: Counting Clouds and Measuring Organized Crime', in Petrus C. van Duyne, Almir Maljević, Maarten van Dijck, Klaus von Lampe, and James L. Newell (eds), *The Organisation of Crime for Profit: Conduct, Law and Measurement*, Wolf Legal Publishers, Nijmegen 2006, pp. 1–16.

¹¹ According to Article 250 of the Criminal Code of BiH, organized crime exists if a person commits a criminal offence prescribed by this Code as a member of an organized criminal group, unless a heavier punishment is foreseen for a particular criminal offence; if a person commits a criminal offence prescribed by the law of BiH as a member of an organized criminal group, for which a punishment of imprisonment of three years or a more severe punishment may be imposed, unless a heavier punishment is foreseen for a particular criminal offence; if a person organizes or directs at any level an organized criminal group that jointly perpetrates or attempts to perpetrate a criminal offence prescribed by the law of BiH; and if a person becomes a member of an organized criminal group that jointly perpetrates or attempts to perpetrate a criminal offence prescribed by the law of BiH, unless a heavier punishment is foreseen for a particular criminal offence. Article 2 of the Criminal Code of BiH defines an organized criminal group as a structured group of at least three or more persons, existing for a period of time and acting in concert with the aim of perpetrating one or more criminal offences for which a punishment of imprisonment of three years or a more severe punishment may be imposed under the laws of BiH.

remains difficult. The *National Strategy for Fighting Organized Crime and Corruption in Bosnia and Herzegovina 2006–2009*¹² provides a situation report, although it falls short of a systematic threat assessment (see the last part of this report for a further discussion of data problems).

These empirical and methodological problems notwithstanding, international and domestic actors have perceived organized crime in Bosnia as an integral part of organized crime in the Balkans. Indeed, there are indications that organized crime was significant in the 1990s and continues to be so to this day – even though activities such as smuggling and trafficking are less visible now and have probably declined to some extent. Police investigations (proactive and reactive), prosecutions, and court convictions indicate the continuing presence of organized crime in Bosnia. In a recent example, members of the Sarajevo-based Gashi family, suspected of being involved in a variety of criminal activities after the war (including extortion and racketeering), were arrested in January 2008.

As one example of ongoing criminal activities, illicit substances are both trafficked and (with regard to synthetic drugs and also small amount of cannabis) produced in Bosnia. By early 2008, Bosnian law enforcement agencies had identified several criminal groups trafficking drugs in the Balkans. Of the 19 convictions for organized crime activities handed down by the State Court of Bosnia and Herzegovina during 2004–2007, several persons were convicted for being part of an international drug trafficking network. Arms trafficking has been another problem. Individuals and organized groups have smuggled weapons left over from the war into Albania, Kosovo, and EU member countries such as France, Netherlands, and Sweden. In 2002, a NATO raid even exposed a scheme to supply weapons to Saddam Hussein.¹³ During the 1990s, Bosnia was also an important human smuggling hub.¹⁴ Bosnia has served mainly as a transit country for migrants moving toward Western Europe. For example, both BiH citizens and Chinese criminals based in Bosnia have smuggled Chinese migrants to Western Europe. In 2005, Bosnian authorities arrested members of a criminal group that smuggled an estimated 3,000 Bosnian citizens to France.¹⁵ In addition to human smuggling, human trafficking has been a thriving industry in Bosnia, mainly for the purpose of sexual exploitation. Another crime dominant in

¹² Savjet Ministara, B&H, *Strategija Bosne i Hercegovine za Borbu protiv Organizovanog Kriminala i Korupcije (2006–9)*, Sarajevo 2006.

¹³ Dejan Anastasijevic, 'Organized Crime in the Western Balkans', HUMSEC Working Paper Series, 2006.

¹⁴ Peter Andreas, 'The Clandestine Political Economy of War and Peace in Bosnia', *International Studies Quarterly* (2004), vol. 48, no. 1, pp. 29–51, at p. 46.

¹⁵ European Commission and Council of Europe, CARPO Regional Project, *Update of the 2006 Situation Report on Organized and Economic Crime in South-Eastern Europe*, PC-TC (2007), vol. 6, Strasbourg 2007; see also Savjet Ministara B&H, *Strategija Bosne i Hercegovine*.

Bosnia has been vehicle theft and trafficking. The involvement of organized crime in this activity is indicated by the arrest in 2005 of 30 members of an organized crime stealing and trafficking vehicles in the Republic of Srpska. Groups engaged in vehicle crime in Bosnia have developed good cooperation with organized crime groups elsewhere.

Yet what we can broadly label 'economic crimes' arguably has had a graver impact on the stability and prosperity of Bosnia than the forms of crime mentioned above that are associated with high levels of potential or actual violence. The EU, in 2003, put losses at €150–300 million per year, which is roughly equivalent to the annual state budget at the time.¹⁶ The forms of organized economic crime that have been most present in Bosnia are the smuggling of high-excite goods such as cigarettes, fuel, and alcohol; the under-taxing of goods such as textiles; the counterfeiting of documents; customs fraud; tax evasion; money laundering; and fraudulent privatization practices.¹⁷ The bribing of state officials such as police and customs officers has furthered and facilitated these activities.¹⁸

15.3 International community engagement in Bosnia

15.3.1 Major international counter-crime programmes

Responding to the crime situation in Bosnia outlined above, international actors have repeatedly criticized Bosnia's law enforcement and judicial systems as being inadequate and institutionally incapable of prosecuting cases of crime and corruption. To augment Bosnia's fight against organized crime, the international community has exerted significant pressure on BiH stakeholders to strengthen the rule of law as well as its implementation.

The engagement of international actors in Bosnia has been extensive. At the highest level, the Office of the High Representative (OHR) – endowed with significant powers at the 1997 Bonn conference – coordinates the activities of the different international actors and programmes.¹⁹ By 1998, the OHR employed more than 700 personnel.²⁰ Under the OHR's guidance, a variety of donor governments and international organizations have formulated

¹⁶ European Commission, *Report from the Commission to the Council on the Preparedness of B&H to Negotiate a Stabilisation and Association Agreement with the European Union*, Brussels, COM (2003) 692 final, p. 29.

¹⁷ On the latter see Michael Pugh, 'Transformation in the Political Economy of Bosnia since Dayton', *International Peacekeeping* (2005), vol. 12, no. 3, pp. 448–62.

¹⁸ Timothy Donais, 'The Political Economy of Stalemate: Organized Crime, Corruption and Economic Deformation in Post-Dayton Bosnia', *Conflict, Security & Development* (2003), vol. 3, no. 3, pp. 359–82, at p. 360.

¹⁹ See David Chandler, 'From Dayton to Europe', *International Peacekeeping* (2005), vol. 12, no. 3, pp. 336–49, at p. 343.

²⁰ Gerald Knaus and Felix Martin, 'Travails of the European Raj', *Journal of Democracy* (2003), vol. 14, no. 3, pp. 60–74, at p. 63.

and implemented crime-fighting strategies. On the military side, NATO's Implementation Force (IFOR), Stabilization Force (SFOR), and the European Union Military Force in Bosnia (EUFOR) have stabilized Bosnia through their military presence. IFOR/SFOR nevertheless only reluctantly engaged in law enforcement tasks, including crowd and riot control and the arrest of suspected war criminals.²¹ NATO interpreted its mandate in an overly narrow sense, especially in the crucial first years after Dayton, thus allowing a large public security gap to open up that undermined international credibility and contributed to Bosnians seeking protection from nationalist parties. Later, military mandates were indeed interpreted more flexibly, and EUFOR in particular has been actively engaged in the fight against organized crime. During its first mandate, EUFOR even set up roadblocks to deter criminals, since its commander David Leakey perceived organized crime as one of the main impediments to security and democracy in Bosnia. New operational guidelines allow BiH security forces to draw on EUFOR capacities such as aerial surveillance through the EU Police Mission (EUPM). This arrangement, in place since mid-2005, combines safeguards against undue military involvement in national policing with the availability of military capacities for the police.

Traditional policing tasks were taken up first of all by the UN's International Police Task Force (IPTF) that was created in Dayton and at its peak had 2,000 officers.²² In 2003, the EUPM followed on to it with a general mandate to support police reform in Bosnia. The revised mandates of EUPM II (2006–7) and III (2008–10) mirror the EU's increased interest in fighting organized crime. The missions monitor and advise Bosnia's police forces in planning and conducting major organized crime investigations. Since its second term, EUPM has become the prime international crime fighting institution in Bosnia. In addition, different governments have sent police and military liaison officers and prosecutors to Bosnia on a bilateral basis.

Above all other forms of international engagement, the EU has assumed the lead in supporting BiH's transition. Community assistance to BiH alone has exceeded €2.5 billion since 1991. The relevance of the EU in Bosnia has been indicated by the OHR's creation, in 2002, of the Directorate for European Integration within the Bosnian Council of Ministers. The OHR tasked the Directorate, which has since been EU-funded and advised, with preparing a strategy for European integration. The EU began to focus on illicit activities in the late 1990s. The 1999 Thessaloniki Summit emphasized the fight against crime as a crucial task for bringing the Balkans closer to the EU. At a Ministerial Conference in 2002 in London, the EU and partner

²¹ Jane M. O. Sharp, 'Dayton Report Card', *International Security* (1997/1998), vol. 22, no. 3, pp. 101–37, at pp. 118–21.

²² Michael Merlingen and Rasa Ostrauskaite, 'Power/Knowledge in International Peacebuilding: The Case of the EU Police Mission in Bosnia', *Alternatives* (2005), vol. 30, no. 3, pp. 297–323, at p. 304.

countries subsequently affirmed that organized crime 'is an enemy we must defeat, or it will defeat us'.²³ This message has been reiterated numerous times since. Particularly the prospect of EU accession is a crucial instrument for making Bosnian officials implement counter-crime policies. To qualify for EU membership, Bosnia has to adopt the *acquis communautaire*. As a precondition for receiving macro-economic support within the Stabilization and Association Process (SAP), Bosnia has to implement economic and political reforms recommended by the EU.²⁴ A road map for Bosnia's SAP inclusion was first established in March 2000. Since reform items concern the field of Justice and Home Affairs, the SAP has started to play an important role in the fight against crime and corruption. One of the preconditions for signing a Stabilization and Association Agreement (SAA) is a restructuring of the BiH police forces towards a more centralized model. However, despite significant international pressure, the Republic of Srpska refused to give up its powers over policing. The debate over police restructuring led, in autumn 2007, to Bosnia's deepest political crisis since the end of the war.

On a positive note, the EU has created or restructured a significant number of criminal justice and law enforcement institutions in recent years. EUPM, for one, provided crucial support to the BiH State Investigation and Protection Agency (SIPA), created by the IPTF in 2002. SIPA became the country's central institution in the fight against organized crime and its first state-level law enforcement body.²⁵ Moreover, the EU has substantively assisted in the establishment of other agencies, especially the State Border Service (SBS)²⁶ tasked with reducing smuggling and trafficking goods or persons, and the Bosnian Ministry of Security.²⁷ Yet the Commission, as the main driver of enlargement, has had to interact in a complex policy environment alongside the OHR/PIC, which represents the interests of governments.²⁸ To be sure, the EU supports Bosnia's move toward EU membership, if the country resolves outstanding issues, especially police reform. 'Europe is ready and waiting', High Representative Miroslav Lajcak has said.²⁹ Given that there is no viable political and economic option for Bosnia outside the EU, conditionality has become one of the main, albeit imperfect, instruments for promoting the national implementation of international priorities.

²³ London Statement, *Defeating Organized Crime in South Eastern Europe*, Lancaster House Ministerial Conference (25 November 2002), available online at <http://www.stabilitypact.org/org-crime/london-statement.pdf>.

²⁴ See Chandler, 'From Dayton to Europe', p. 342.

²⁵ The U.S. provided support as well and, among other things, donated computers.

²⁶ In 2006, the SBS became the State Border Police.

²⁷ Susan E. Penksa, *Policing Bosnia and Herzegovina (2003–2005) Issues of Mandates and Management in ESDP Missions*, CEPS Working Document (2005), no. 255, at p. 4.

²⁸ We thank Susan Penksa for her comments on this point.

²⁹ 'Lajcak Announces Steps to Strengthen BiH institutions', in *Southeast European Times* (19 October 2007).

A good example of additional bilateral counter-crime assistance to Bosnia is the case of US counter-trafficking programmes. The US government threatened to use sanctions to back up its demands in the field of human trafficking. For example, the US *Trafficking in Persons Report*³⁰ put countries into different tiers depending on their performance in the fight against human trafficking. When Bosnia found itself in tier three (the lowest) in 2003, US pressure forced the Bosnian government and security forces to step up efforts against trafficking, leading the country to move to tier two in the subsequent year.³¹ As part of its counter-trafficking efforts, Bosnia created the office of a national anti-trafficking coordinator and also institutionalized referral mechanisms providing for the identification and protection of victims of trafficking. These changes occurred simultaneously with a decline in the number of identified victims. In 2005 only 66 victims of human trafficking were identified, down from several hundred a few years previously.³²

However, one should not overestimate the importance of these internationally-induced policy and polity changes. After all, the national anti-trafficking office had a relatively small domestic power base. Moreover, the counter-trafficking campaign lacked credibility in Bosnia: The boom in human trafficking was primarily a consequence of the demand for commercial sexual services from 'internationals' who, in the late 1990s, may have accounted for 70 per cent of traffickers' profits.³³ International complacency on this issue has undermined efforts to spread anti-trafficking norms to Bosnia. Another problem is that counter-efforts have been skewed toward the reinforcement of borders, bar raids, and the creation of databases. Few initiatives have addressed the socio-economic root causes of trafficking that force people, especially women, to take risky migration and employment decisions. The biggest caveat against claims of thorough policy success, however, are signs that increased law enforcement pressure, instead of completely eliminating the trafficking industry, has led traffickers to change their modus operandi. They operate less visibly now, pay their victims small sums of money to keep them from contacting the authorities, and also use more domestic victims. Until the early 2000s, most victims were women from Ukraine, Moldavia,

³⁰ United States Department of State, [*Annual*] *Trafficking in Persons Report*, Washington, DC, available online at <http://www.state.gov/g/tip/rls/tiprpt/>. Accessed on 25 February 2010.

³¹ Interview with one of the authors with a former member of the US Department of Justice's International Criminal Investigative Training Assistance Programme (ICITAP), Sarajevo October 2007.

³² State Coordinator, BiH State Coordinator for Combating Trafficking in Human Beings and Illegal Migration in BiH, *Report on Trafficking in Human Beings and Illegal Migration in Bosnia and Herzegovina*, Sarajevo 2006, p. 30.

³³ Sarah E. Mendelson, *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans*, Center for Strategic and International Studies, Washington, DC 2005, p. 10.

and Romania. Over the recent years, there has been an increase in the number of victims from Bosnia.³⁴

15.3.2 Challenges to policy-implementation

International efforts to create and reform Bosnia's crime-fighting institutions have run into a series of problems. Challenges have resulted from a lack of coherence among international programmes, from their lack of local credibility, or from a lack of appropriate competences and capacities to achieve policy goals.

The first challenge has been that governments, international organizations, and NGOs have prioritized different policy approaches and programmes in their crime-fighting efforts, often working at cross-purposes. While Bosnians are expected to streamline their decision-making processes, international actors have often failed to do so themselves. The coordination of EU counter-crime institution building in the Balkans, for instance, has been flawed 'on the ground in the region, between EU capitals, between EU institutions and EU capitals, and within the EU institutions in Brussels'.³⁵ Divergent law enforcement approaches of international actors have been a further challenge to the operational implementation of counter-crime policies. Different governments have supported Bosnian institutions in a way that reflected their own standards, leading to incoherent implementation of police reform.³⁶ Hence, understanding implementation means taking into account the imperfect coordination of international actors.

Implementation efforts also suffer from a lack of credibility, resulting not only from international failures during the war, but also from the fact that the European Union is a relatively weak player in Bosnia, particularly as compared to other transition countries. Also, inflated international salaries have fed cynicism about the large international presence in Bosnia. In addition, in the eyes of international and Bosnian critics, international crime fighting and peace-building has been partly inappropriate to the task at hand. Due to its focus on centralized institutions controlled by a small elite, international engagement has, some observers argue, neglected the interests of Bosnians and prevented local ownership.³⁷ Bosnian police officers, for example, have been answerable to EUPM, instead of to elected politicians or citizens.³⁸ Police officers supported by EUPM officially back the international agenda to avoid losing their jobs or international resources. But this is not the same

³⁴ Savjet Ministara B&H, *Strategija Bosne i Hercegovine*, at p. 21.

³⁵ Montanaro-Jankovski, *Good Cops, Bad Mobs?*, at p. 23.

³⁶ Michael Merlingen and Rasa Ostrauskaite, 'ESDP Police Missions: Meaning, Context and Operational Challenges', in *European Foreign Affairs Review* (2005a), vol. 10, no. 2: pp. 215–35, at p. 228.

³⁷ See Chandler, 'From Dayton to Europe'.

³⁸ Merlingen and Ostrauskaite, *Power/Knowledge*, at p. 308.

as effective and legitimate policing through localized strategies. Given the norm of centralization, strategies such as community policing have been implemented in a slow and only partial manner.³⁹ Elitist crime-fighting has been a particular hallmark of EU policy-making and implementation. The complex process of applying for European Commission funding limits the role of Bosnian NGOs to that of sub-contractors that for instance conduct crime surveys. The second and third EU pillars are even more opaque from an outsider's perspective. Indeed, in the field of counter-crime efforts, only the EC Delegation has been explicitly tasked with developing links to civil society, unlike the European Security and Defence Policy (ESDP) missions.⁴⁰

Lastly, the implementation of democratically controlled and efficient police capacities in Bosnia hinges not only on the credibility and on the coordination of international efforts, but also on the competences and capacities of deployed international trainers on the ground. Here, there have been many shortcomings. Some IPTF members 'had to be sent home immediately – some because they had no language skills, others because they could not drive, some even because they could not function after dark for fear of evil spirits'.⁴¹ IPTF failed to pass onto EUPM files important for criminal investigations. Then, it took many months until EUPM officers were equipped with computers and other infrastructure. In the early phase of EUPM, officers at the over thirty co-locations were not given implementation guidelines.⁴² Moreover, good relations between international and domestic actors have been undermined by the fact that international police officers go back home once they have familiarized themselves with local conditions.⁴³ Further, the reliance on interpreters has rendered liaising cumbersome. Finally, it has been difficult to recruit competent personnel for international police missions, given that there are few career incentives to participate in international missions.⁴⁴

While these and other problems have not gone away, we hold that they have been alleviated in recent years. International stakeholders now, more than before, emphasize the need for systematic pre-deployment training of international personnel and career incentives; support for civil-society organizations; strategies such as community policing; a strengthening of the hitherto relatively neglected criminal justice apparatus; and donor coordination. Regarding the latter, the increasingly dominant position of the EU, and improved coordination for example between EC assistance and the US's ICITAP programmes, has alleviated somewhat the previous lack of donor

³⁹ Interviews of one of the authors with Bosnian and international security officials and independent observers in Sarajevo August and September 2007.

⁴⁰ Penksa, *Policing Bosnia and Herzegovina*, at p. 22.

⁴¹ Sharp, 'Dayton Report Card', at p. 118.

⁴² Penksa, *Policing Bosnia and Herzegovina*, at p. 10.

⁴³ *Ibid.*, at pp. 108–9.

⁴⁴ *Ibid.*, at p. 109.

coherence, although some problems persist. All of these improvements have been conducive to the fight against organized crime.

15.4 Influence of domestic conditions in Bosnia

The international community has driven implementation efforts in Bosnia. Yet without the support of local actors these efforts were bound to fail. Crucially, the success of crime fighting depends on the actual implementation of capacity building strategies by domestic actors. International actors can prescribe strategies, but crime fighting depends first and foremost on the ability and willingness of Bosnian officials to translate decisions taken on the policy level and embedded on the institutional level into action 'on the ground'. Two domestic factors were thus particularly relevant to the implementation of counter-crime strategies: the domestic political will in fighting crime, and the actual capacity of domestic counter-crime institutions to implement change.

15.4.1 Domestic interest constellations

A trinity consisting of nationalist parties, a partly corrupt security sector and criminal groups has marked post-Dayton Bosnia. This trinity is one of the consequences of the problematic double transition from war to peace and from socialism to capitalism. Each of these groups – be they the political elite or the criminal underbelly of Bosnian society – pursues interests that run counter to the implementation of crime-fighting strategies.

One reason why international preferences have often not translated into domestic action is the divergence between international and domestic preferences. Concretely, many BiH officials and citizens have been more concerned about local crime rather than international organized crime. A survey conducted in 2001 and 2002 found that Banja Luka residents were mainly worried about vandalism and violence committed by idle youth.⁴⁵ Other concerns that trumped the international zeal to fight organized crime have been the revision of degrading visa procedures and the economic malaise.⁴⁶ Unemployment by far tops all other priorities.⁴⁷

Also, political elites have often lacked the political will for implementation. An anti-drug law sponsored by the international community and adopted by the Bosnian parliament in late 2006, for example, still awaited systematic implementation in spring 2008. Bosnian politicians have neglected drug

⁴⁵ Milan Danicic et al., *Good Governance in Bosnia and Herzegovina: Police Training for Democracy*, Felix Verlag, Holzkirchen, 2003, at p. 43.

⁴⁶ See the quotes of the BiH Director for European Integration, in Penksa, *Policing Bosnia and Herzegovina*, at p. 21.

⁴⁷ United Nations Development Programme, *The Silent Majority Speaks: Snapshots of Today and Visions of the Future of Bosnia and Herzegovina*, Selection of Graphs, Sarajevo 2007, at pp. 38 and 41.

problems, despite signs of increasing domestic consumption,⁴⁸ and thus failed to adopt an action plan against drugs (which the above mentioned law would be part of).

International officials cite corruption as the main reason for the lack of domestic zeal against crime, and international counter-corruption efforts have yielded paradoxical results. Even though most BiH citizens regard the public sector (especially the state level) as corrupt⁴⁹, they have tended to vote for nationalist parties, despite frequent allegations of party officials being involved in corruption. Nationalist parties have been firmly in control of Bosnian politics ever since the (US) decision to hold elections in 1996. As David Chandler has convincingly argued,⁵⁰ international campaigns against corruption have backfired. Voters were told that nationalist parties were not trustworthy. Yet instead of creating the intended effect of making voters turn away from these parties, voters continued to vote for them, despite evidence of corruption. Internationally-promoted counter-corruption campaigns exacerbated a climate of insecurity in which voters relied on the best among bad options. Even though many voters saw nationalist parties as not trustworthy, they still regarded them as the only providers of security. In other words, when given the choice between 'moderates' backed by the international community, and corrupt and authoritarian leaders, 'most ordinary Bosnians seem to prefer the homegrown devil that they know'.⁵¹ This has had implications for crime fighting, given that nationalist parties often control local police and courts.⁵²

The politicization of policing has been the second major reason for deficient counter-crime policy implementation. Police officials are often selected on the basis of their party affiliation and personal connections, rather than merit. Moreover, there is a high degree of political interference in police investigations.⁵³ And some of those officials who dare to look into cases of war crimes and organized crime have received anonymous threats.⁵⁴ A side effect of the politicization of police institutions in BiH is that domestic veto players have been able to undermine international attempts to strengthen the State level police. RS parties, especially the Serbian Democratic Party and the Alliance of Independent Social Democrats, have been the best-known veto players.

⁴⁸ Irma Deljkic, *Suprotstavljanje zloupotrebi opojnih droga: Bosna i Hercegovina i Evropska unija* [Combating Narcotic Drug Abuse: Bosnia and Herzegovina and the European Union], Fakultet Kriminalističkih Nauka, Sarajevo 2007.

⁴⁹ United Nations Development Programme, *The Silent Majority Speaks*, at p. 15.

⁵⁰ David Chandler, 'Anti-Corruption Strategies and Democratization in Bosnia-Herzegovina', in *Democratization* (2002), vol. 9, no. 2, pp. 101–20.

⁵¹ Sumantra Bose, *Bosnia after Dayton: National Partition and International Intervention*, Oxford University Press, Oxford 2002, at p. 8.

⁵² See Anastasijevic, *Organized Crime in the Western Balkans*.

⁵³ Author interviews with law enforcement official, Sarajevo October 2007.

⁵⁴ Savjet Ministara B&H, *Strategija Bosne i Hercegovine*.

RS Prime Minister Milorad Dodik blocked police and other reform projects, arguing that centralization violates the Dayton agreement. In the Federation, Croat and Bosniak politicians and security forces in Mostar successfully resisted EU attempts to integrate the two forces.⁵⁵

The close relationship between criminal and political interests has played an additional large role in hindering effective police work in Bosnia. Smuggling networks that played a prominent role during the war have continued to conduct criminalized activities after the war. In Bosnia, 'criminal capital accumulated during a criminalized war has been converted to political capital after the war'.⁵⁶ Moreover, in some cases, politicians became involved in criminal activities, drawing on connections with criminals developed during the war.⁵⁷ Members of security forces are known to have collaborated with smuggling and trafficking networks directly or been paid off by them.

In this environment, the implementation of counter-crime policies is obviously bound to fail when it hinges on the cooperation of the wrong people. Corrupt officials try to undermine policies that would harm their business interests, especially impeding the fight against economic crimes. The war has thus forged networks between criminals and officials that have facilitated the pursuit of crime with impunity. Bosnian police officers, for instance, reportedly controlled some of the brothels where trafficked women were kept.⁵⁸ Similarly to the police, the justice system has been an imperfect deterrent, as described by a Sarajevo news magazine in 2000:

The mafia leadership is completely untouchable, like the Communist Politbureau. All the mafia leaders are well-known, their names have been published numerous times in various registers. What we have is ten-odd people who have more than a hundred crimes behind them, neatly reported, recorded in files and in the justice system. However, the justice system is definitely the best defense for criminals in Sarajevo.⁵⁹

This failure shows that defendants have had political clout. Suspects also benefit from the fear they inspire in witnesses. As an international prosecutor said,

⁵⁵ Bose, 'Bosnia After Dayton', chapter 3.

⁵⁶ Andreas, 'The Clandestine Political Economy', at p. 44.

⁵⁷ Savjet Ministara B&H, *Strategija Bosne i Hercegovine*; see also Michael J. Dziedzic and Andrew Bair, 'Bosnia and the International Police Task Force', in Robert B. Oakley, Michael Dziedzic, and Eliot M. Goldberg (eds), *Policing the New World Disorder: Peace Operations and Public Security*, National Defense University Press, Washington, DC 1998, pp. 253–314.

⁵⁸ Mendelson, 'Barracks and Brothels'.

⁵⁹ Quoted in United Nations Office on Drugs and Crime, *Crime and its Impact on the Balkans and Affected Countries*, Vienna 2008, at p. 53.

'we cannot get a witness who is not terrified to come forward'.⁶⁰ In addition to fear, reluctance to testify has been due to imperfect witness protection programmes and the fact that many Bosnians do not trust officials. However, the reputation of the police forces has somewhat improved over recent years.⁶¹

In sum, to continue receiving international funding and legitimacy, Bosnian state representatives have quickly learned to emulate the international counter-organized crime discourse. But translating this rhetorical commitment into practice has been more problematic, among other reasons because many in Bosnia did not share international perceptions of crime problems. Some Bosnians criticize the international community for turning Bosnia into a laboratory for stabilization efforts that reflect the strategic interests of main international stakeholders, keeping the country in a state of dependency.⁶² Moreover, many citizens resent being told that selling untaxed cigarettes on the streets, engaging in small-scale tax fraud, or other mechanisms that allow citizens to adapt to harsh economic and political conditions constitutes crime. However, as these conditions have improved over time, so too have counter-crime implementation efforts .

15.4.2 Domestic institutional capacity

Years of war, the Dayton Agreement, and political disputes have resulted in a weak, fragmented law enforcement and criminal justice system, allowing Bosnian and foreign criminal groups to make profits. Dayton ended the war, but has made crime-fighting cumbersome.⁶³ The agreement invested significant autonomy, including policing powers, into the two entities constituting the country, the Bosniak-Croat Federation and the Republic of Srpska (RS). Moreover, Brčko District has its own police force, and the Federation is divided into ten cantons, each with its own police forces and Cantonal Ministries of Internal Affairs (in addition to a Federation Ministry of Internal Affairs). Criminals benefit from this fragmented policing structure, which is rife with agency competition.⁶⁴ All in all, BiH in early 2008 counted 19 law enforcement agencies. While other countries have a fragmented law enforcement structure, Bosnia is too small and too poor to afford this unwieldy apparatus. Moreover, its fragmentation has exacerbated corruption and politicization. In the years after Dayton, the capacity of the Bosnian security forces to act against

⁶⁰ Interview with one of the authors, Sarajevo October 2007.

⁶¹ United Nations Development Programme, *The Silent Majority Speaks*, at p. 13.

⁶² D. Mirsad Abazović, *Državna bezbjednost: Uvod i Temeljni Pojmovi* [State Security: Introduction and Basic Concepts], Fakultet Kriminalističkih Nauka, Sarajevo, 2002.

⁶³ Donais, 'The Political Economy of Stalemate'.

⁶⁴ Dominique Wisler, 'The Police Reform in Bosnia and Herzegovina', in Anja H. Ebnöther and Philipp H. Fluri (eds), *After Intervention: Public Security Management in Post-Conflict Societies – From Intervention to Sustainable Local Ownership*, Bureau for Security Policy, Vienna 2005, pp.139–60.

crime in an effective, efficient, and legitimate way was abysmal. In many cases, BiH law enforcement agencies and criminal justice institutions failed to arrest suspects, put them on trial, and convict them. As most observers of Bosnian politics deplore, the laws are there, but they are not being used.

Partially as a result of the fragmented security institutions in Bosnia, the police services' and judicial system's lack of skills and institutional capacity has led to failures of domestic implementation. Yet it is controversial who exactly lacks competence. While Bosnian judges deplore the poor preparation of cases by prosecutors, the latter deplore the high rate of successful appeals against convictions.⁶⁵ The Bosnian crime fighting apparatus has also lacked the necessary logistical and technical capacities. International actors often provide equipment such as sophisticated surveillance technology, yet not the training needed to use the equipment. Especially complex investigations continue to pose problems. Efforts of the Anti-Crime and Corruption Unit and the Criminal Investigation Unit, established within the OHR, were unsatisfactory, among other reasons because both units were understaffed.⁶⁶

Overall, the state of the Bosnian police and justice system's capacities yields an ambiguous picture. Over time, the performance and capacities of BiH law enforcement institutions, and especially of SIPA and the State Border Police, has somewhat improved. Both institutions today have better capacities to conduct counter-crime operations than in earlier years. However, there are still shortcomings. For instance special investigation techniques prescribed by Criminal Procedure Codes are still not properly used, and the State Border Police, in late 2007, was understaffed.⁶⁷ The fact that BiH security forces, in 2007 and 2008, continued to draw on EUFOR and EUPM support underlines their lack of capacity. One could therefore consider the state of counter-crime capacity in Bosnia in 2008 as a glass half-full, or indeed half-empty.

15.5 Light at the end of the tunnel?

On the whole, what have we learnt? What is the state of the Bosnian fight against organized crime to date? This essay pointed to weaknesses and challenges of counter-crime implementation, but also found that we are currently witnessing positive changes both in the design of international programmes, and in the attitudes and capacities of political actors in

⁶⁵ Interviews of one of the authors with prosecutors and security experts, Sarajevo August–October 2007.

⁶⁶ Institute for War and Peace Reporting, *Balkan Crisis Report, Investigation: Will Europe Take on Bosnia's Mafia?* http://iwpr.net/?p=bcr&s=f&o=154989&apc_state=henibcr2004, accessed 25 October 2007.

⁶⁷ Interview of one of the authors with EUPM official, Sarajevo November 2007.

Bosnia. Nevertheless, two challenges – the enduring lack of reliable data on the Bosnian crime situation and the sheer number of international actors – hinder us from making a more clear-cut argument about the impact of counter-crime policies in Bosnia.

As to the first challenge, due to a scarcity of data on long-term organized crime trends, we can only cautiously argue that crime in 2007/2008 was no longer as big a problem as it may have been in the post-war years. Figures on crime in Bosnia, as figures of crime in the Balkans more generally, are often unreliable. For example, the International Organization for Migration (IOM) used to estimate the number of women and children annually trafficked to the EU through and from the Balkans at 120,000. Yet the methodologies on which this figure was based are unknown, and the IOM no longer endorses the figures, regarding them as outdated.⁶⁸ While human trafficking was certainly a large industry in Bosnia in the 1990s, its dimensions have most likely been exaggerated.

Little has been done to improve data collection and sharing, not least because a lack of data prevents a refutation of claims of policy success. Instead of attempting to improve data collection efforts, international actors have given priority to policy output indicators such as laws, procedures, arrests, and seizures that support (potentially false) claims of policy success. Indicators such as identified victims of trafficking, drug seizures, and stiffer sentences can be read as indicators of success, but also of failure by highlighting the continuation of criminal activities. In the end, such figures merely indicate law enforcement activity, allowing states to show that they are fighting crime.

Nevertheless, available data shows that by 2007/2008 neither crime nor organized crime in Bosnia was as big a problem as it may have been in the 1990s. Bosnia's rates of conventional crimes such as murder and burglary, as in Southeast Europe in general, are lower than in some West European countries.⁶⁹ Moreover, 'traditional' organized crime in Bosnia that is often related to much violence is less significant than commonly imagined in Western Europe. In recent years, there have been fewer reports of cases of arms smuggling. The amounts of illicit drugs confiscated in Bosnia and at the borders (around 9 kg of heroin and 1.6 kg of cocaine in 2006) have been relatively small.⁷⁰ And while Bosnia in the 1990s served as a transit hub for possibly tens of thousands of smuggled people, there are no indications that smuggling is a huge-scale industry now, while human trafficking is much less visible now than before. Although counter-human trafficking programmes have pushed the industry underground to some extent, it is unlikely that the industry is huge. Since Bosnia is a small country with a

⁶⁸ UNODC, *Crime and its Impact on the Balkans*, pp. 15, 75–80, 121–2.

⁶⁹ UNODC, *Crime and its Impact on the Balkans*.

⁷⁰ European Commission and Council of Europe, *CARPO Regional Project*, at p. 19.

sizable, although diminishing, international presence, large-scale human trafficking would not go unnoticed.

None of the above suggests that Bosnia does not have an organized crime problem. Nevertheless, one should not exaggerate the dimension of organized crime, and claims of increasing crime⁷¹ collide with the available evidence. Bosnia does not seem to host any sophisticated, transnational crime groups engaged in traditional, violent organized crime.⁷² A EUPM official speaks of 'small-town organized crime'.⁷³ A Bosnian security expert agrees: 'Given the legacy of war and the bad economic situation, organized crime in Bosnia could be much worse'.⁷⁴ Organized crime in Bosnia predominantly manifests itself as business crime,⁷⁵ which has engulfed most post-socialist societies, and especially post-war societies due to war profiteering. A cautious observer notes that 'if there are positive developments, they result not from intentional policies to contain crime but rather from processes of converging black economic activities into shadow and "white" entrepreneurship'.⁷⁶

In addition to the outlined lack of reliable data, the second challenge to assessing policy impact is the over-determination of policy outcomes. Given the large number of actors implementing different programmes, often simultaneously, and given the continuous changes in demand for criminal activity in Bosnia, we cannot attribute causal power to any one actor or programme. A (possible) decline in human trafficking, for example, may be due to bar raids by the IPTF, to US pressure, or to EU capacity-building efforts. By improving Bosnia's economy and social cohesion, international development aid has additionally mitigated the socio-economic causes of crime. The simultaneous pursuit of international coercive and non-coercive activities renders counterfactual argumentation problematic. We cannot say how the criminal landscape would look if we subtracted specific programmes from the equation.

Similarly, it is difficult to tell whether factors endemic to criminal activities in Bosnia present the largest influence on the organized crime situation: when the demand for small arms, drugs, timber, or unregulated labour is high, criminals in Bosnia are likely to benefit. A reduction in demand, in turn, forces criminals to change their modus operandi. Thus, a reported decline in human trafficking in Bosnia may not be due to the fact

⁷¹ Jasmin Ahic, 'Reconstruction of BH Police', in Philipp Fluri and George Katsirdakis (eds), *Security Sector Reform in the New Partnership for Peace Members: Bosnia-Herzegovina, Montenegro, Serbia. Geneva and Brussels, DCAF and NATO* (2007), pp. 10–27, at p. 15.

⁷² European Commission and Council of Europe, *CARPO Regional Project*, at pp. 9–10.

⁷³ Interviews of one of the authors, Sarajevo August 2006 and October 2007.

⁷⁴ Interview of one of the authors, Sarajevo September 2007.

⁷⁵ United Nations Office on Drugs and Crime, *Crime and its Impact on the Balkans*.

⁷⁶ Krassen Stanchev, 'Economic Perspectives on Organized Crime', in Ekavi Athanassopoulou (ed.), *Fighting Organized Crime in Southeast Europe*, Routledge, London/New York 2006, pp. 25–33, at p. 32.

that international organizations forbid their staff to purchase commercial sexual services, but it may be a consequence of the dwindling number of international personnel. A decline in weapons trafficking may not be due to more stringent control mechanisms, but might merely indicate that most expensive weapons have been sold or destroyed, or that markets are saturated. Crime may have decreased because of economic growth, or due to demographic developments: Bosnia's society on average is relatively old and rural. As Ethan Nadelmann argued,⁷⁷ levels of crime hinge on the availability of criminal resources. One resource is a young and urban population. An old and rural population, in contrast, is less prone to pursue criminalized activities.⁷⁸

In summary, we showed that counter-crime policy implementation in Bosnia has proceeded in fits and starts. We detected implementation gaps, and underlined that unsystematic policy implementation was partly due to the inability and/or unwillingness of domestic actors to pursue counter-crime policies. Further, challenges to the coherence, credibility, and competence of international actors' engagements in Bosnia hindered successful implementation. As a result, we did not see an unequivocal success of counter-crime policies. However, it must be noted that, as far as we can tell, Bosnian counter-crime efforts seem to have improved.

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⁷⁷ Ethan A. Nadelmann, 'Global Prohibition Regimes: The Evolution of Norms in International Society', *International Organization* (1990), vol. 44, no. 4, pp. 479–526, at p. 486.

⁷⁸ UNODC, *Crime and its Impact on the Balkans*, at pp. 23–34.

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16

The Corruption of Human Rights: A Problem of Good Intentions

Nicholas Dorn

16.1 Introduction

How can we understand the international and local dynamics occurring in the Western Balkans in relation to corruption and human rights? Although these two concerns are not generally considered alongside each other, this chapter presents reasons why they should be.

Scanning policy narratives and specialist literatures on corruption and extortion, we find a variety of ways of framing and understanding corruption and extortion (a phenomenon sometimes related to corruption, see below) as objects for commentary and control. The issues include tradition and culture; business competition; state compromise; the entry of criminals, ex-military, mercenary and ex-private security persons as 'enforcers'; the international community, including multilateral organizations and anti-corruption campaigners.

Additionally, there can be interactions between these issues. For example, some traditional aspects of European societies and cultures, within which exchange of gifts and favours is a pervasive and taken-for-granted aspect of everyday life, generate opportunities for minor 'everyday' and normalized forms of corruption. These merge into larger-scale business improprieties and 'backhanders' involving state officials and politicians (not only at a national level). Because these arrangements cannot be policed through the justice system, there are opportunities for the involvement of criminals and ex-conflict actors, acting as enforcers if particular citizens, business-persons, officials or politicians are reluctant to 'play the game'.

So far, this analysis would seem entirely conventional: it would fit the international narrative on corruption, 'mafia' linkages, and the emphasis placed on the need for an international response community – targeting regions and countries of perceived high corruption and reforming structures and governance within public and private sectors. Non government organizations (NGOs) have played a prominent role in constructing this discourse on international terrain – from which it has been picked up and

deployed within negotiations and bargaining between post-conflict states and international donors and gatekeepers. The ‘fight against corruption’ becomes a taken-for-granted aspect of conditionality for accession of states into the European Union (EU).

This contribution moves towards a more critical understanding of the dynamics occurring within the international arena in relation to international and EU conditionality, corruption and human rights. How does one ‘story’ crystallize and become dominant, empowering some actors (‘us’) while disempowering others (‘them’)? Our case study in this respect will be the Western Balkans, with special attention to Bosnia and Herzegovina and a look forward to Kosovo. In the context of a concern with state-building, development, democratization and human rights, the crunch question is this: does the way in which the narrative on corruption is shaped by the international partners help or hinder these goals?

Our argument is that, in the context of the Western Balkans and possibly more widely, the record is at best a mixed one. There is a case for saying that ‘the fight against corruption’, as currently deployed, is bad for human rights and democratization. From a thorough-going cosmopolitan perspective, corruption is best dissolved by respect for human rights, rather than by suspension of the latter.

16.2 The problems: Contexts and drivers of corruption and extortion

We now briefly acknowledge and summarize some key insights found in the literature in relation to corruption and/or extortion in everyday life, involving criminals or conflict actors, and/or mediated through companies or states. Although the various social ‘sources’ of corruption and extortion are analytically distinct, often in European settings these social forms can be found alongside each other and in some cases they interact, as will be quite briefly explored.

16.2.1 Gift-giving and favour-granting in everyday life, merging into business and politics

Researchers have noted some institutionalized (socially embedded) practices and expectations – such as citizens paying state officials for services, or business paying politicians in order to avoid unwanted business regulation, or simply giving gifts to the doctor at certain times. Such practices may in some settings be so institutionalized that they are not perceived as extortion, corruption or anything else untoward: they are normalized.¹ Another example: access to health care in a society in which treatment is supposed to be a right

¹ Luís De Sousa, “‘I don’t bribe, I just pull strings’”: Assessing the Fluidity of Social Representations of Corruption in Portuguese Society’, *Perspectives on European Politics and Society* (2008), vol. 9, no. 1, pp. 8–23.

for citizens but, customarily, depends on giving the doctor presents. The family that has not cultivated the doctor by giving presents may find that the doctor is unavailable or slow in coming when the child is seriously sick; then perhaps the family will have to pay extra. Likewise, businesses may find things go more smoothly with discrete gifts and favours.

The idea that as a citizen or a business person one has a 'choice' not to indulge in such practices may not correspond to social reality in some circumstances – for example when low-level corruption is strongly culturally and institutionally embedded, and/or when the payer is vulnerable. In those circumstances, 'everyday' corruption may blend into extortion, in the sense that 'choice' is not really there.² Some state customs checks may go very slowly for traders who do not have good relations with the customs officer (or with their superiors). This might be only a nuisance, if the driver, trader or firm is prepared to wait for some days. However, in cases when delay is very costly, for example when the load is perishable, then one sees the disappearance of any distinction between having an 'option' of paying (bribery) and having 'no option' but to pay (extortion, in effect). Traders who cause difficulties by not offering a gift right at the onset (or through a pre-established mechanism) may find that they end up paying more.

For similar reasons, research into party political financing notes that big firms may make contributions not just to one political party but to several separate and even opposed parties. This is a form of 'insurance', so that whichever party gets into power will recall the generosity and implement helpful rather than onerous regulations.³ This is not corruption in the legal sense, however it can be seen to be a part of a wider 'atmosphere' of acceptance of making payments to avoid dis-favours, even payments in advance. The protection of officials and politicians from extortion is a related issue.⁴

Obviously, then, there is some social and cultural common ground, in everyday life, business and politics, between paying for favours today and paying not to be hurt tomorrow. Indeed, some Danish work points to the continuities between extortion and wider corruption – while also cautioning

² Ironically, respondents in Corruption Surveys may not report bribes or other forms of corruption, because gift-giving is so normalized – a taken-for-granted aspect of social etiquette – that it is not perceived as being remarkable in any way. Nor of course will they report to the police. Yet it is precisely in such cultural circumstances that corrupt practices have the strongest potential to slide from 'gifting' into 'demanding'.

³ The idea of the state as a protection racket, the classic work being that of Charles Tilly, who died in June 2008; see Charles Tilly, 'War Making and State Making as Organized Crime', in Peter Evans, Dietrich Rueschemeyer and Theda Skocpol (eds), *Bringing the State Back In*, Cambridge University Press, Cambridge 1985, pp. 167–92.

⁴ E. Buscaglia and J. van Dijk, 'Controlling Organized Crime and Corruption in the Public Sector', Berkeley Program, Law & Economics Working Paper Series Paper 195, Berkeley 2005, at p. 33, available online at <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1176&context=blewp>, accessed 3 December 2008.

us against any automatic assumption that legislation necessarily comes without its own price.

... companies should know that although it may seem tempting to pay for easing business this is 'the thin end of the wedge, as it results in increased vulnerability to extortion, and if corrupt (governmental or municipal) authorities are revealed the company, which had fallen victim to these authorities, may go down as well' [...]. Because of changes in legislation it is now necessary that bribes be financed out of funds that are kept secret and this makes it difficult for the company to control its flow of money, which in turn makes it easier for the employees to cheat the company.⁵

In the same manner, there is an increased risk of extortion for those companies whose Management Boards, high executives and/or finance staff take it upon themselves to create and hold secret 'slush funds', in order to maintain a competitive advantage. Those who have benefited from such funds in the past (or even just hear about them) may demand payment, threatening otherwise to make disclosures to the authorities or the media.⁶

The International Chamber of Commerce has suggested that the impact of the OECD Convention on Combating Bribery of Foreign Public Officials may be somewhat limited by its focus on those who are bribed ('the demand side') and the relative neglect of the supply side'.⁷ Progress 'has been limited by the absence of a holistic approach to the phenomenon of corruption'.⁸ And:

By addressing one aspect only of corruption (for example active international bribery), the Convention has benefited from a strong focus but has missed another important element of the corruption equation: the

⁵ A. Lindgreen 'Corruption and Unethical Behavior: report on a set of Danish Guidelines', *Journal of Business Ethics* (2004), vol. 51, no. 1, pp. 31–9, at p. 36. The matter in quotation marks inside the quotation has been translated by Lindgreen from its source, which is J. Olsen, 'Virksomheder slås med bestikkelse', *Dagbladet Børsen* (22 July 2002), pp. 12–13, at p. 13.

⁶ The dangers are underlined by alleged events concerning banks in Liechtenstein, where more than one person seems to have sought to extort money as the price for non-disclosure to German and other national tax authorities. It seems that some of the blackmail attempts were expected several times. Without going into the rights and wrongs of these somewhat controversial cases, they do raise a question about whether such extortion demands were ever made in the past and, if so, what the outcomes may have been in terms of investigation and prosecution.

⁷ ICC, Department of Policy and Business Practices, *The Most Important Obstacle to the Effective Enforcement of the OECD Anti-Bribery Convention*, Paris 2007, at p. 4, available online at <http://www.iccwbo.org/uploadedFiles/ICC/policy/anticorruption/Statements/ICC%20note%20on%20OECD%20Convention%20effective%20enforcement%2011%20June%202007.pdf>, accessed 3 December 2008.

⁸ *Ibid.*

demand side (for example bribe solicitation and extortion), which is addressed in UNCAC. The authors of the Convention made the assumption that by focusing the supply side, the demand side would dry up. This, however, is not what business is experiencing on the ground, as numerous company executives, frequently exposed to extortion, will confirm.⁹

What, then, is the relationship between corruption (a phenomenon that is widely experienced in everyday life), and extortion (a relatively rare event in many societies but a very serious one for those victimized)? The International Chamber of Commerce puts it like this:

Corruption is the abuse of entrusted power for private financial or non-financial gain. It diverts resources from their proper use, distorts competition and creates gross inefficiencies in both the public and private sectors. Corruption can occur in form of bribery, bribe solicitation or extortion. Bribery: is an offer or the receipt of any gift, loan, fee, reward or other advantage to or from any person as an inducement to do something which is dishonest or illegal. Bribe solicitation: is the act of asking or enticing another to commit bribery. Extortion: When bribe solicitation is accompanied by threats it becomes extortion.¹⁰

Thus, although extortion and corruption are analytically and (generally) legally distinct, in some cases they will slide into each other.

- Essentially, corruption, and its most common form, bribery, refers to the following proposition: 'if you want to have this positive result, then you must pay.'
- Whereas extortion refers to this proposition: 'if you want to avoid this negative result, then you must pay.'

This brings us to the involvement of criminals and conflict actors, who may get involved as facilitators of corruption and/or as 'enforcers' in debt-collection and extortion.

16.2.2 Extortion as criminal restitution and substitute for legal remedies

In most if not all European countries, criminals have long been involved in extortion (and its close cousins, corruption, bribery, blackmail and kidnap), sometimes within their criminal circuits, sometimes acting as agents of wider economic and political actors. In relation to extortion by criminals,

⁹ Ibid.

¹⁰ ICC, *Corruption Explained*, available online at <http://www.iccwbo.org/policy/anticorruption/id13018/index.html>, accessed 3 December 2008.

consider two dimensions of criminality: its 'breadth' in a society (how common it is, which is related to the dimension of 'probability' in strategic intelligence analyses); and its 'depth' (how big a payment is demanded, and what incentives/punishments are offered or applied, these being dimensions of 'seriousness'). In these terms, criminal extortion refers to activities that typically do not target the whole population – rather they target specific and visible pockets of relative wealth (such as small shop-keepers, especially in poor areas).

For those targeted by criminal extortionists, the impacts can be particularly serious, both in terms of the money costs involved and the fear generated. Criminal extortion is both tightly focussed (low in 'breadth') and rather intense (high in 'depth') against those targets having specific vulnerabilities. Here we can identify three types of vulnerability. (1) One set of vulnerabilities concerns politicians, officials, businesses or individuals¹¹ with something to hide – for example, past corruption opens up the door to being extorted. (2) Another set of vulnerabilities is defined by business processes – for example commercial firms that rely on technical infrastructure for much of their business (increasingly, retailers, banks, stock exchanges), against which cyber crime presents a threat to business viability. (3) A third set of vulnerabilities, upon which we focus for a moment, is the criminal world itself, since criminals cannot (without difficulty) turn to the police for protection. In some cases these categories may become indistinct.¹²

Action by criminals against other criminals may be regarded as sometimes being justified by the former, if the latter have (or are perceived as having) broken the rules of criminal cooperation – for example by running off with drugs or money, losing such valuable materials in a criminal exchange that goes wrong, or making unconvincing claims to have been 'ripped off' by another group. In cases of such suspected 'theft' or 'business crime', action may be taken to encourage repayment: a situation perhaps better described as 'debt collection' than extortion (if extortion is understood as enforcement of re-payment in a context in which civil law cannot be used).

It is in this context that 'advice' and 'warnings' may take the form of severe frightening (or worse) of accused persons, their associates or families; if the threats do not achieve the hoped-for results then physical action may be taken. Only a minority of criminals may have either the skills or the aptitude to carry out such 'enforcement' actions themselves, however specialists

¹¹ For example in 2008 there was an extortion attempt against a bank in Liechtenstein that had helped wealthy individuals in many countries to arrange their tax affairs; the bank refused to pay, with the result that incriminating information was passed to the tax authorities of other countries, causing severe embarrassment and loss of business to the Principality.

¹² H. Van de Bunt, *The Symbiosis between Underworld and Legitimate Business*, Erasmus University, Rotterdam 2007, available online at http://www.eur.nl/english/news/the_issue/issuearchive/2007/issue_week_44/, accessed 3 December 2008.

may be employed (a kind of private security). Even so, as observed within the criminological literature, the view of many criminals groups is that violence is 'bad for business':¹³ it makes other groups wary of close contact; it attracts the attentions of law enforcement and related intelligence agencies; and it might backfire. If one group brings in outside specialists in intimidation and violence, then who is to know that such people might not cast their eyes over other potential targets (or that the people they were supposed to 'police' may not engage other contractors to protect themselves)? Accordingly, 'ordinary' criminals may discourage each other from going 'too far' in pursuit of debt-collection. If relatively gentle messages and reminders about the debt have no effect (for example, only a proportion of the money is returned), then they may decide to write off the loss and to avoid future contact with the accused person (again echoing preferences in the licit world of business when employing corporate security).¹⁴

To summarize, there may be some demand from some criminals for 'extortion-like' debt-collection specialist services. However, their demand for such services is 'unlikely to escalate', because widespread threats would destroy the basis of trust on which criminal markets depend. Arguably a high level of violence is a sign of breakdown in arrangements. Consider, for example, the situation in the early and mid 2000s in Serbia¹⁵ and earlier in relation to Italy.¹⁶ If there is an increase in such services, it may be due to 'an increase in the supply' of persons with those aptitudes and skills.

16.2.3 Regional conflicts, the international community and corruption and extortion

Regional upheavals and conflicts have made not just individuals, but whole populations more familiar with corruption, criminality and privatized forms of enforcement. Due to the mobility of criminals, some individuals and networks capable of extortion can be found across the EU. But why do such skill-sets and aptitudes arise in the first place? Part of the answer has to do with post-communist breakdowns in the political and economic systems imposed upon

¹³ Geoffrey Pearson and Dick Hobbs, 'King Pin? A Case Study of a Middle Market Drug Broker', *Howard Journal of Criminal Justice*, vol. 42, no. 4, 2003, pp. 335–47.

¹⁴ Meerts, Clarissa and Nicholas Dorn, 'Corporate Security and Private Justice: Danger Signs?', *European Journal of Crime, Criminal Law and Criminal Justice* (2009), vol. 17, no. 2, pp. 97–111. See also J. Williams, 'Reflections on the Private Versus Public Policing of Economic Crime', *British Journal of Criminology* (2005), vol. 45, no. 3, pp. 316–39.

¹⁵ Aleksandar Fatić, 'Serbian Prime Minister Assassinated: Organised Crime Proclaimed the Prime Security Threat', *South East Europe Review for Labour and Social Affairs* (2002), no. 4, pp. 7–14, available online at <http://www.cceol.com/asp/getdocument.aspx?logid=5&id=0F59B167-75D7-42B8-947E-B43CD9EE84BF>, accessed 3 December 2008.

¹⁶ Alison Jamieson, *The Antimafia: Italy's Fight against Organised Crime*, Macmillan/St. Martin's Press, Basingstoke/New York 2000.

South Eastern Europe, intra-group conflicts, autonomy movements, attempts to (re-)impose central authority, outside interventions on humanitarian or other grounds and so on. These factors alone would have generated large populations with direct experience of forced or fear-driven displacement from and seizure of property, as victims or perpetrators or both.

Additionally, the actions of the wider international community in response to such conflicts have spread corruption and criminality to wider populations. Concerning the Former Yugoslavia in the 1990s, and with a focus on Bosnia and Herzegovina, Peter Andreas has made a study of the wide and deleterious consequences of sanctions, their consequential evasion, the collusions that this necessitates between governments and criminal networks, and the impacts upon the societies concerned (and upon adjacent countries).¹⁷ To cut the story short, sanctions give their targets a simple choice – either capitulate quickly or go into an alliance with criminality in order to resist – with the consequences of the latter extending long beyond the lifting of the sanctions. Andreas refers to international arms embargoes as being

politically popular because they provide a convenient substitute for more direct military intervention and signal strong international condemnation of the fighting (even as some external powers that formally support an embargo may informally tolerate, encourage, and even contribute to its evasion).¹⁸

Yet, unfortunately, sanctions

become part of the clandestine political economy of the conflict [because] they can also create an economic opportunity structure for clandestine traders that helps to criminalize the political economy of the conflict zone. This strengthens the hand of criminal actors, fuels cross-border black market networks, and encourages closer ties between political leaders and organized crime which can become entrenched and persist long after the conflict is over. When the international community subsequently charges that organized crime and corruption are impeding postwar reforms, and applies pressure on local leaders to crack down on criminal networks (as has been the experience in Bosnia and Serbia), rarely is there any acknowledgment of having contributed to creating such an enormous crime problem in the first place.¹⁹

¹⁷ Peter Andreas, 'The Clandestine Political Economy of War and Peace in Bosnia', *International Studies Quarterly* (2004), vol. 48, pp. 29–51, available online at http://www.brown.edu/Departments/Political_Science/documents/Clandestine_Political_Economy_of_War_and_Peace.pdf, accessed 21 November 2007.

¹⁸ Andreas, 'The Clandestine Political Economy of War and Peace in Bosnia' at p. 49.

¹⁹ *Ibid.*, at p. 49.

Similar problems more recently arose in relation to international attempts to economically isolate and strangle the government elected in Palestine in 2006, reflecting Western displeasure at the electoral success of Hamas. A Transitional Implementation Mechanism (TIM) was put in place, with a London-based bank being given a contract to get funds to beneficiaries while circumventing the government.²⁰ This reportedly and somewhat unsurprisingly led to compensatory financial measures by other donors, sympathetic to the survival of the government. Excess and politically competing money sloshed over into informal channels and the cash-in-suitcases nature of the economy was reinforced, most probably with all kinds of diversion of funds. The circumvention of government was accompanied by an up-tick in violence and the *de facto* splitting of an already-weak state into two entities.

The echoing of themes between the situations in Palestine, Bosnia and Herzegovina, and Serbia/Kosovo is not at all politically comfortable. Sanctions declared in ringing tones, and yet imposed in a very partial manner – with widespread internationally-supported evasions – institutionalize and normalize corruption in and around their targets. This internationally/historically-created problem sits alongside an under-performing post-war economy and an over-supply of individuals with experience of and skill in violence. The question then becomes, what would be the optimal response to this difficult situation?

16.3 Contradictory responses: The retreat from democracy, legal safeguards and human rights

16.3.1 Helping weak states? Capacity-destruction through the anti-corruption narrative

‘Ninety per cent of the success of the Brčko District ... has been because there is no democracy here’.

(Former official with the Office of the High Representative for Bosnia and Herzegovina).²¹

Capacity building may be described as the attempt to implant into ‘weak’ states – be they disintegrated parts of former states (Former Yugoslavia), post-colonial states (for example the Congo) or ‘failed’ states (Afghanistan) – the technical and administrative apparatus of international ‘good governance’. This involves the adoption of legal codes thought to be appropriate by the donors, the reform of judiciaries and law enforcement agencies according to

²⁰ Harvey Morris, ‘Palestinian Aid Policies “Backfiring”’, *Financial Times* (7 February 2007), available online at <http://www.ft.com/cms/s/ae85d588-b62a-11db-9eea-0000779e2340.html>, accessed 3 December 2008.

²¹ Cited in A. Jeffrey, ‘Building State Capacity in Post-Conflict Bosnia and Herzegovina: The case of Brčko District’, *Political Geography*, vol. 25, no. 2, pp. 203–27, at p. 216.

certain precepts, targets for progress and the means of monitoring these. As a means to such ends, technical expertise and political willingness have to be inserted into national ministries and implementing institutions, and any resistance to the changes has to be circumvented or overcome.

For example, in relation to efforts to stabilize BiH, David Chandler has described how international toleration of senior elected politicians is conditional on their lack of opposition to international measures.²² There have been many high-profile dismissals by the Office of the High Representative, these being justified in terms of standards of 'good governance' that are much tougher than those of many Western democracies.²³ Chandler suggests that such actions are 'even more corrosive of the authority of non-western states than earlier policies which sought to bypass or marginalise the state'.²⁴ These measures are mobilized within a political strategy that conceives political legitimacy as something that is firstly crafted through international assistance and subsequently adopted by local populations.

Thus, in Bosnia, there is a struggle to reform the police and judiciary, but without much in the way of involvement by local political forces (after all, they often constitute the problem, the thinking goes). Available research suggests that police reform – the widely-perceived purpose of which is as much to change the political map as to improve community safety – has demoralized and reduced the effectiveness of the police in terms of its role in community safety.²⁵ Similarly, regarding Kosovo, the slogan has been 'standards before status'. This means that internal and downward-facing political legitimacy and decision-making are supposed to be addressed after upward-facing institutions have been made satisfactory in the eyes of external interests.

The anti-corruption narrative plays a key role in these reforms. Those local politicians or expatriate returnees who are thought to be willing to work to the international agenda are elevated, or at least not opposed,

²² D. Chandler, 'Building Trust in Public Institutions? Good Governance and anti-Corruption in Bosnia-Herzegovina', *Ethnopolitics* (2006), vol. 5, no. 1, pp. 85–99, available online at http://www.davidchandler.org/pdf/journal_articles/Ethnopolitics%20-%205.1%20Bosnia%20governance.pdf, accessed 2 December 2008.

²³ *Ibid.*, p. 86.

²⁴ *Ibid.*, p. 93–4.

²⁵ See European Stability Initiative, *The Worst in Class: How the International Protectorate Hurts the European Future of Bosnia and Herzegovina*, Berlin 2007, p. 10, available online at http://www.esiweb.org/pdf/esi_document_id_98.pdf, accessed 3 December 2008. See also G. Celador, 'Police Reform: Peace Building Through 'Democratic Policing'', *International Peacekeeping* (2005), vol. 12, no. 3, pp. 364–76, available online at http://www.ssrnetwork.net/uploaded_files/2453.pdf, accessed 3 December 2008; and Susan Penksa, 'Police Reform: Strengthening the Capacity of Bosnia and Herzegovina to Fight Crime', paper given at Second Annual Conference on Human Security, Terrorism and Organized crime in the Western Balkan Region, Sarajevo 4–6 October 2007.

by the external capacity builders. On the other hand, elected politicians not following the agenda may be criticized and in some circumstances dismissed. The many dismissals by successive High Representatives for BiH – Carl Bildt from 1995, followed by Carlos Westendorp, Wolfgang Petritsch, Paddy Ashdown, Christian Schwarz-Schilling and, from 2007, Miroslav Lajčák – were often legitimized in terms of alleged corruption.

The problem is that while corruption may be present – and that is not doubted, see above and elsewhere in this book – the objectives of democratization and the protection of human rights are seriously damaged by political dismissals made on the grounds of allegations, without testing those allegations under criminal law, and with an effective suspension of human rights. A recent assessment of the level of democracy in Bosnia and Herzegovina, conducted in accordance with international methodology by local experts, explains declines in voting on the basis that:

BiH is organized as a kind of protectorate [in which] citizens do not have the possibility to elect the most powerful political figure in their country, the High Representative for Bosnia and Herzegovina, which confirms the limited scope of democracy.²⁶

In the face of the apparent futility of using one's vote to try to steer the overall development of BiH, voters have increasingly turned back to nationalist parties. Things look better in neighbouring countries in which external forces do not so clearly hold the reins of power.

16.3.2 Due process safeguards, except for really annoying people

Do the international community and the EU bring human rights to countries under their administration? The dismissals for alleged corruption by the High Representative for Bosnia and Herzegovina offer a test for this question. Under the BiH constitution the creation of a Human Rights Chamber, beneath the Constitutional Court, means that the path to the European Court of Human Rights (ECtHR) at Strasbourg is clear enough as a directional sign – however, in practice the path is a stony one if it is the international community that has injured one. This is due to serious deficiencies in international law and to the peculiar characteristics of the Dayton constitution of BiH: the international community and its hierarchy within BiH are strongly resistant to any prospect that their own actions might fall under the scrutiny of the European Convention of Human Rights (ECHR).

²⁶ S. Sevima Dizdarević, S. Sali-Terzić, R. Huremagić et al., *Democracy Assessment in Bosnia and Herzegovina*, Open Society Fund Bosnia and Herzegovina, Sarajevo 2006, pp. 461, at pp. 324–5, available online at http://www.soros.org.ba/images_vijesti/Istrazivanje%20demokratije/Democracy%20Assessment%20in%20Bosnia%20and%20Herzegovina.pdf, accessed 9 September 2007.

In 2006 there was an illustration of this: a high-profile case was brought before the BiH Constitutional Court, concerning the legality of dismissals of BiH office-holders by the High Representative. The Constitutional Court was hardly adventurous in its judgement – it found that although the human rights of the complainants had been breached, nothing could be done, because the powers of the High Representative arise from international sources. Nevertheless the High Representative and his circle seemed strongly displeased that such a case was even heard. In 2007 he issued a warning for the judiciary to back off, saying the following:

Any step taken by any institution or authority in Bosnia and Herzegovina in order to establish any domestic mechanism to review the Decisions of the High Representative ... shall be considered by the High Representative as an attempt to undermine the implementation of the civilian aspects of the [Dayton Agreement] and shall be treated in itself as conduct undermining such implementation.²⁷

It is not difficult, in the circumstances of BiH, to read this as a warning to the judicial system. Certainly the High Representative's statement underlines the powerlessness of the judicial system and it may discourage its use by citizens. This is doubly unfortunate, following on from the toughness already displayed by the international community in judicial reform in BiH: subordinating sitting judges to the will of the administration, sacking some and then making all remaining judges go through a centralized re-appointment system. This is not a set of experiences that sits easily with concepts of an independent judiciary, balance of powers and democracy.²⁸

Not surprisingly, finding the Constitutional Court so constrained in its powers, the plaintiffs in the case in question then took their case to the ECtHR. The ECtHR found the case inadmissible, on the same grounds noted by the Constitutional Court – the High Representative's powers arise from an international rather than a national source.²⁹

²⁷ Office of the High Representative, *Order on the Implementation of the Decision of the Constitutional Court of Bosnia and Herzegovina*, Sarajevo 2007, para. 21, available online at http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=39397, accessed 3 December 2008.

²⁸ On this point and more broadly, see Bernhard Knoll, 'Bosnia: Reclaiming Local Power from International Authority', *European Constitutional Law Review* (2007), vol. 3, pp. 357–66.

²⁹ European Court of Human Rights, *Decision as to the Admissibility of Application Nos [Many] by Dušan BERIĆ and Others Against Bosnia and Herzegovina Lodged Between 21 September 2004 and 4 June 2005*, Strasburg: European Court of Human Rights (Fourth Section), sitting on 16 October 2007.

This confirms a very sorry picture: a suspension of human rights, all the more worrying since it seems not to be temporary, and indeed is part of a wider trend internationally. International bodies' resistance to human rights law sends exactly the wrong message: the exercise of absolute and unreviewable powers constitutes a poor model for development.³⁰ Before this disabling procedure is repeated with embellishments in Kosovo, there is a need for reflection.

16.3.3 The complicity of NGOs

Scanning international administrative measures on corruption, it is possible to see a pattern. Strong, developed and late modern states, notably the US but increasingly those of the EU, penetrate much weaker states, either through a strategy of micro-management (for those states that are being assisted), or in a strategy of disruption (for those that are resistant). In certain counties and regions, such as Bosnia, the strategy combines technical micromanagement (oversight and reform of institutional and agencies) and political disruption (dismissals of elected politicians). On the one hand, the 'administering' states extend their reach down to local level; on the other hand, the 'administered' states experience a corresponding loss of capability – and a consequential loss of connection with their citizens.

Through their narrative on corruption, NGOs provide a justification for this process, thus becoming implicated in the political decapitation of administered states. This may be seen as part of a wider process that Christopher Bickerton and his colleagues refer to as 'a mundane process of dreary administration', in which post-sovereignist actors play a part in transforming government into governance.³¹ These critics identify 'an unholy alliance against sovereignty', which 'participates in the degradation of political agency at both domestic and international levels. [...] The result is that we endure all the negative aspects of sovereignty, and enjoy few of its potential benefits [notably] the organization of collective political life'.³² Narratives of corruption, sponsored by NGOs and utilized by international administrators, are the stock-in-trade of this 'unholy alliance'.

Thus one arrives at a considerable contradiction in the literature on administrative measures in security, state capacity building/destruction and other aspects of conditionality in international assistance. On the one hand, at least theoretically, a cosmopolitan outlook frees one from allegiance to the policies of 'administering' states, and facilitates the articulation of criticisms

³⁰ Knoll, 'Bosnia', pp. 357–66.

³¹ Bickerton, Christopher, Cunliffe, Philip, and Gourevitch Alexander, 'Introduction', in Bickerton Christopher, Cunliffe Philip and Gourevitch Alexander (eds.), *Politics without Sovereignty*, 2007, UCL Press, Abingdon, pp. 1–19, cited at p. 3.

³² *Ibid.*, pp. 2–3, see also pp. 20–57.

of such measures. That might imply that a less state-centric and more cosmopolitan approach could do better. However, in practice, cosmopolitanism shares a responsibility, by fashioning politically acceptable categories and arguments – notably the narrative on corruption in the Balkans – that legitimizes ever more intrusive management. Furthermore, one sees NGOs and other cosmopolitan actors getting involved alongside (often contracted to) administering states, running anti-corruption campaigns, and so on, hence adding to the imbalance of power.

The conclusion is that many would-be independent actors share with administering authorities the responsibility for unhappy outcomes. To observe this is not to deny that corruption exists in Balkan countries, nor that it may have deepened as a result of the recent history of the region (see above). We simply express the doubt that corruption could ever be reduced by substituting international governance for self-government, or by substituting administrative action for human rights.

16.4 Conclusion: Return to core values

In this contribution we have briefly surveyed a variety of contemporary and historical drivers of corruption. We have also examined aspects of international policies that, on the face of things, might be expected to be useful in tackling corruption, but actually re-create the conditions in which it prospers. What might be the policy implications?

16.4.1 Multiple sources of corruption and ambivalence towards it

At the level of everyday life, customs and cultural expectations involving gift-giving and exchanges of favours create the thin end of the wedge, normalizing corruption in business and politics. Some ‘ordinary’ criminals (by ‘ordinary’ we mean those who do not have military or quasi-military experiences gained in conflict zones) become involved in corruption and/or extortion, although in some such cases it is hard to distinguish this from debt-collection. Some ex-military personnel, private military contractors, ex-guerrilla fighters, refugees and persons displaced from conflict zones who, having acquired skills and fearsome reputations, put them to use in these markets.

Finally, states – or rather ministries, agencies and groups, and individuals within them – are not always above corruption (or even extortion) when strategic interests are invoked. On the other hand, states may be threatened by high levels of corruption and extortion and their legitimacy may demand that they be seen to control these phenomena. Therefore anti-corruption is a key theme in national political and governance discourses, sometimes however being poised uneasily between political mud-slinging and a more thorough-going zero tolerance of corruption. Into this uneasy situation steps the international community.

16.4.2 The international narrative and its loss of legitimacy

The international policy discourse on corruption draws upon all of the above themes, making a potentially very complex narrative, sometimes spectacular yet often inconclusive – due to a multiplicity of claims and counter-claims about the boundaries of corruption, and about which persons, practices and entities should be described in this manner. So, who gets labelled, and how? When the international community points the finger, the targets may lose some of their human rights, for example to a fair hearing. If this resulted in claims of success in reducing levels of corruption in the target societies, then at least one could have a debate over how proportional and acceptable it might be. Yet – in contrast to contemporary debates on suspensions of human rights in the context of the war on terrorism – there seems to be no such debate in relation to corruption. It is simply the case (and rather bizarrely so) that the international community seeks simultaneously to inculcate human rights in targeted societies, while breaching those standards itself.

In the midst of this difficult situation – interacting with host communities, national administrations and international/EU decision-makers – stand a variety of NGOs. Their role in governance has come under increasing scrutiny, as they move from a helping and humanitarian role into a policy-brokering role.³³ On the one hand, policy-activist NGOs carry an honourable historical banner, as far as awakening understanding and interest in international and local scandals, and particularly for their role in stimulating the mechanisms of international criminal justice, ranging from the International Criminal Court to mediation and reconciliation tribunals. On the other hand, the further they move away from humanitarian work and human rights advocacy, and into ‘good governance’ and anti-corruption work, the more they risk finding that their good intentions twist in their hands. So it is with the international narrative on corruption, international administrations’ dismissals of locally elected officials, and denial of due proceeds and legal redress. The role of NGOs in legitimizing such actions requires further research and, more importantly, soul-searching and redress by those responsible.

Undeniably corruption exists as sets of social institutions – the ways in which it is delineated, denied, alleged and utilized being driven by the various social sources outlined above. But, however corruption may be defined, human rights must be respected.

16.4.3 The need for criminal prosecutions and due process

Over the years, allegations of corruption have been used by the international community to remove from office a swathe of national officials and

³³ L. De Sousa, B. Hindess and P. Larmour (eds), *Governments, NGOs and anti-Corruption: The New Integrity Warriors*, Routledge, London, Published 2008.

politicians regarded as obstructive. Yet, if the objective is to build a state of law, then the demand must be that such persons are criminally charged with the specific offences of which they are suspected, a course of action that would allow them to contest the case.

Alternatively, if the evidence available is insufficient for criminal prosecution but might allow action under national administrative or civil law, then cases could proceed accordingly. That too would avoid the suspensions of due process, the lack of an independent appeal, and so on, that have so disfigured the actions of the international community and discredited its moral claims.

A third and final alternative would be for dismissals to continue to be made in the first instance by representatives of the international community – which should however waive its current immunity from judicial review under national laws and the ECHR. Any of these courses of actions would be consistent with the basic objectives of international intervention. The first might send the clearest message.

16.4.4 Where next, EU: Kosonia, land of the unfree?

One hopes for something better in Kosovo; however confidence is hard to sustain, partly because the intention seems to be to replicate (or even deepen) the structures and powers that were created for Bosnia and Herzegovina. Kosovo modelled after Bosnia: Kosonia? Whatever one's view on the rights and wrongs of Kosovo, it has to be acknowledged that the EU now seems set on its role there (at the time of writing in summer 2008). It is therefore time for a debate over the values that all these and other international interventions are supposed to underpin.

During the NATO-led war over Kosovo, the conflict was famously billed by then British prime minister Tony Blair as 'a war fought not for territory but for values' [...]. However, for the following nine years, the discussion in international policy circles has been about territory rather than values. The fallout from undermining Serbian sovereignty over the province is one that is still far from being resolved. Kosovo will come under similar EU protectorate powers as those exercised by the EU's Special Representative over Bosnia. Giving formal recognition to Kosovo's separation from Serbia is by no means the same as giving the province independence.³⁴

Stepping back to the wider picture, we recall that the way in which the 'soft diplomacy' of the EU worked historically, helping to stabilize the

³⁴D. Chandler, 'Kosovo's Declaration of Dependence', *Global Research* (15 January 2008), available online at <http://www.globalresearch.ca/index.php?context=va&aid=7805>, accessed 3 December 2008.

countries of Central Europe, was through 'conditionality'. Involving setting standards, giving assistance, monitoring and rewarding progress, conditionality was the process that underlay enlargements of the Union. Key aspects of conditionality were that the target or 'helped' country retained at least the semblance of control within its borders – the EU stayed 'outside', so to speak, encouraging positive moves, including the protection of human rights. By contrast, in Bosnia, and now in Kosovo and elsewhere, the EU and its international partners step 'inside' and, as far as their own actions are concerned, suspend the possibility of meaningful judicial review and undermine human rights. Recent history already shows us that this process does not work well, leading to frustrations of all parties and to other negative effects.³⁵ For reasons of practicability as well as principle, all concerned need to develop a different approach.

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17

Victims' Participation in the Criminal Justice System and its Impact on Peace-Building

Alline Pedra Jorge-Birol

17.1 The place of the victim in the criminal justice system

After World War II, the role of the victim in criminal proceedings became an object of interest for academics.¹ In the 1960s the importance of providing protection for crime victims was highlighted. Gradually victim support programmes started to emerge. Between 1965 and 1975, during the first wave of the victims' movements,² special services for categories of victims such as battered children and survivors of concentration camps were established.

In the early 70s, particularly in the United States, victim-witness assistance programs were established to support and encourage victims to report the crime and to collaborate with the investigation.³ Meanwhile, in civil society, mostly law and order, civil rights, and grass-root groups began to draw public attention to the severe psychological, physical, and financial damages that crime could inflict on victims. In addition these same groups began to highlight some of the victims' needs, which were being neglected by the criminal justice system and the governments in general.⁴

In the 80s, the institutionalization of victims' support and the call for justice inaugurated the third wave of the victims' movement.⁵ International and intergovernmental organizations encouraged their Member States to

¹ See for example, Hans von Henting, *The Criminal and his Victim*, Yale University Press, New Haven, CT 1948; B. Mendelsohn, 'Une Nouvelle Branche de la Science Bio-psycho-sociale: Victimologie', *Revue internationale de criminologie et de police technique* (1956), vol. 10, no. 2, pp. 95–109; M. Wolfgang, *Patterns in Criminal Homicide*, University of Pennsylvania Press, Philadelphia 1958.

² Jan van Dijk, 'Ideological Trends within the Victims' Movement: an International Perspective', in Mike Maguire and John Pointing (eds), *Victims of Crime: a New Deal?*, Open University Press, Philadelphia 1988, pp. 115–26.

³ Mike Maguire, 'The Needs and Rights of Victims of Crime and Justice', *An Annual Review of Research* (1991), vol. 14, pp. 363–433.

⁴ Ibid.

⁵ Van Dijk, 'Ideological Trends within the Victims' Movement'.

introduce Victim Support Acts into their legislations, in order to ensure that crime victims were adequately treated within the criminal justice system. This is to say, governments were clearly more concerned and were rethinking the services that they could offer in order to empower crime victims and to enhance their recovery, concurrently with controlling crime.

It was the General Assembly of the United Nations (UN) that adopted the first international instrument recommending that victims' rights be recognized by governments: the Resolution 40/34, of 29 November 1985, containing the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.⁶

The UN Declaration defines victims as 'persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power'.⁷ The concept of victim also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization. Those persons are protected by the principles of justice for victims, according to which 'Victims must have the right to information on the proceedings; Victims have the right to present their views to the judicial authorities; Victims are entitled to (free) legal aid; Victims have the right to receive compensation from the state in case of violent crimes and Victims have the right to receive social support/assistance'.⁸

Van Dijk and Goodey have concluded that '[t]his document, although not a legally binding treaty, lays down the minimum standards for the treatment of crime victims and has been heralded as the magna charta of the international victims' movement'.⁹

Despite the UN Declaration, the international and adhoc tribunals from Nuremberg to Rwanda have failed to recognize victims as subject of rights and therefore they have also failed to acknowledge their participation during criminal proceedings. Instead, in the view of these tribunals, victims were nothing else than simple witnesses.

⁶ Currently, the World Society of Victimology, a non-profit international organization, together with some members of the United Nations Commission on Crime Prevention and Criminal Justice, such as Australia, Brazil, Canada, Finland, and Thailand, are discussing the possibility of proposing a UN Convention on Justice and Support for Victims of Crime and Abuse of Power. The purpose is to update the premises of the UN Declaration and once again highlight the importance of support to crime victims.

⁷ UN General Assembly Resolution, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, UN Doc. A/RES/40/34 (1985), para. A, 1.

⁸ Jan van Dijk and Jo Goodey, 'Benchmarking Legislation on Crime Victims: the UN Victims Declaration of 1985', in Office Fédéral de la Justice (ed.), *Aide aux victimes en Suisse. Expériences et perspectives*, Haupt Verlag, Bern 2004, pp. 311–19.

⁹ Van Dijk and Goodey, 'Benchmarking Legislation on Crime Victims'.

The Rome Statute, however, establishing the International Criminal Court (ICC), contains strong provisions in favour of victims' participation during the criminal proceedings of the court. 'The potentially broad scope for victims' participation in ICC proceedings is unprecedented in an international context.'¹⁰

Lately, the General Assembly of the UN adopted Resolution 60/147 on Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. According to this resolution, the concept of victim is the same as in the UN Declaration of Basic Principles of Justice for Victims of Crime, although the Resolution refers specifically to victims of acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Victims have the right to equal and effective access to justice, including the provision of legal assistance, adequate, effective, and prompt reparation for harm suffered and access to relevant information concerning violations and reparation mechanisms.¹¹

Although those international documents brought many changes to criminal justice systems, victims participate very rarely in criminal proceedings. There is even less participation in the criminal proceedings of the International Tribunals or the ICC. In addition, it is not yet clear whether participation has therapeutic effects and promotes healing or whether it contributes to distress. Results are still inconclusive and most of the studies conducted have been focused on victims of conventional crimes, rather than on victims of gross human rights violations.

In this essay, based on experience acquired with victims of conventional crimes, we will present results of research concerning victims' expectations from the criminal justice system: what victims expect from the criminal justice system and what has been delivered. Moreover, we will discuss what impact criminal proceedings have in victims' lives: do they have therapeutic effects, promoting healing, or anti-therapeutic effects, provoking secondary victimization? We will present studies on the participation of victims of gross violations of human rights during proceedings of international courts and discuss whether this participation contributes to victims' healing and to the societal peace in post-conflict societies. Finally, we will suggest alternatives that might be more conducive to restorative justice than the proceedings of traditional criminal justice systems.

¹⁰ Carsten Stahn et al., 'Participation of the Victims in pre-Trial Proceedings of the ICC', *Journal of International Criminal Justice* (2005), vol. 4, no.2, pp. 219–38, at p. 2.

¹¹ UN General Assembly Resolution, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, UN Doc. A/RES/60/147 (2006), Paragraphs V, 8 and VII, 11.

17.2 What victims expect from the criminal justice system: The therapeutic approach

Victims, either of domestic criminal offences such as rape, assault, burglary, and so on, or of gross violations of human rights have similar expectations concerning the criminal justice system. While each individual is unique, there are certain primary needs after crime that are common to all. Victims need information concerning the proceeding, medical and emotional support, practical support, reparation, protection, and inclusion in the criminal justice process.¹² 'They can have a similar physical, psychological and emotional need for support during legal procedures.'¹³ This means that in order to restore their emotional well-being they need information about the services available to them and the criminal proceeding, they need to understand what happened, to regain control over their lives, and they need acknowledgement of their victim status and their suffering.

In other words, victims who report the crime to the criminal justice system or who decide to contribute as witnesses during criminal proceedings are not necessarily looking for the punishment of the offender, but for acknowledgment and support. Indeed, they have great expectations that the criminal justice system will help to:

- give answers to their questions and help them understand the event;
- reduce self-blame by finding someone else guilty, namely the offender, rather than themselves;
- regain control over their life; that is to say, restore feelings of order and security;
- restore their lives and their emotional well-being.

In the victim's view the healing role of the criminal justice system is more relevant than the sanctioning role.¹⁴ Mostly, victims expect that the criminal

¹² Jo-Anne Wemmers, *Reparation and the International Criminal Court: Meeting the Needs of Victims*, Report of the workshop organized by the research group Victimology and Restorative Justice, International Centre for Comparative Criminology, Université de Montréal, 28 January 2006.

¹³ Wendy Lobwein, 'Experiences of the Victims and Witnesses Section at the ICTY', in Uwe Ewald and Ksenija Turković (eds), *Large Scale Victimization as a Potential Source of Terrorist Activities*, IOS Press, Amsterdam 2006, pp. 197–207, at p. 200.

¹⁴ Although the value given to punishment may vary and depends on the view that the society has of the criminal justice system. In any case, studies demonstrate that victims are not more punitive than the general public, indicating that when they report the crime, they are not looking for punishment, but rather for support. For more on this issue see Joanna Shapland et al., *Victims in the Criminal Justice System*, Gower, Aldershot 1985; Jo-Anne Wemmers, *Victims in the Criminal Justice System*, Kugler Publications, Amsterdam 1996; Martin Killias, *Les Suisses Face au Crime*, Rügger, Grusch 1989; Andre Kuhn, 'Attitudes towards Punishment', in Anna Alvazzi del Frate, Ugljesa Zvekic, and

justice system will be supportive and will attend to their expectations of recovery. 'While the distress of some victims may be so overwhelming that they will demand the harshest possible penalty for their victimizer, this could hardly be said of the majority of victims of crime. Healing, recovery, redress and prevention of future victimization are the primary objectives of most crime victims'.¹⁵

Therefore, the legal apparatus used to litigate questions, meaning the criminal proceedings, should minimize suffering and promote recovery. In addition, the role of the criminal justice system's actors, including police officers, judges, attorneys, and public prosecutors, should provide to the crime victims a therapeutic benefit.¹⁶

The recovery cycle¹⁷ of the victim in this regard should include the therapeutic support of the criminal justice system. By acknowledging the victim status and providing the victim with the means to understand the event, the criminal justice system helps the person to regain self-confidence and to reduce or end tendencies of self-blaming. Such feelings restore the sense of control and contribute to the reestablishment of other feelings such as order and security. Figure 17.1 illustrates this line of reasoning:¹⁸

Ideally the role of the criminal justice system would be that of an aid to recovery, helping the victim to put the event behind. We should acknowledge, however, that given the level of violence, the scale of victimization and the political context of the crime, trauma is certainly expected to occur

J. M. van Dijk (eds), *Understanding Crime. Experiences of Crime and Crime Control*, UNICRI, Rome 1993, pp. 271–92; and Edna Erez, 'Victim Participation in Sentencing: and the Debate Goes On', *International Review of Victimology* (1994), vol. 3, pp. 17–32.

¹⁵ Ezzat A. Fattah, 'Victimology: Past, Present and Future', *Criminologie* (2000), vol. 33, no. 1, pp. 17–46, at p. 43.

¹⁶ Bruce J. Winick, *Therapeutic Jurisprudence and Victims of Crime. Victim Participation in Justice: A Therapeutic Jurisdiction Perspective* (2008), available online at <http://ssrn.com/abstract=1102350>, accessed June 2008; David B. Wexler and Bruce J. Winick, *Essays in Therapeutic Jurisprudence*, Carolina Academic Press, Durham 1991; David B. Wexler, *An Introduction to Therapeutic Jurisprudence*, in David B. Wexler and Bruce J. Winick (eds), *Essays in Therapeutic Jurisprudence*, Carolina Academic Press, Durham 1991, pp. 17–38.

¹⁷ In victimology, the metaphor of cycles is also used in other contexts. For example, Doerner and Lab (2005) refer to a crisis reaction repair cycle. It consists of the phases through which the rape victim passes during her recovery. These phases are named impact (shock or distress), recoil (adaptation to the fact that the violation took place) and reorganization (point of adjustment). As an innovation, the recovery cycle introduced in this essay includes the criminal justice system and the support schemes that the victim pass through (including the victims' social network) as relevant to their recovery.

¹⁸ Alline Pedra Jorge-Birol, 'Criminal Justice, Victim Support Centers and the Emotional Well-Being of Crime Victims', doctoral thesis, Université de Lausanne, École de Sciences Criminelles, Institut de Criminologie et de Droit Pénal, Switzerland 2010, at p. 25.

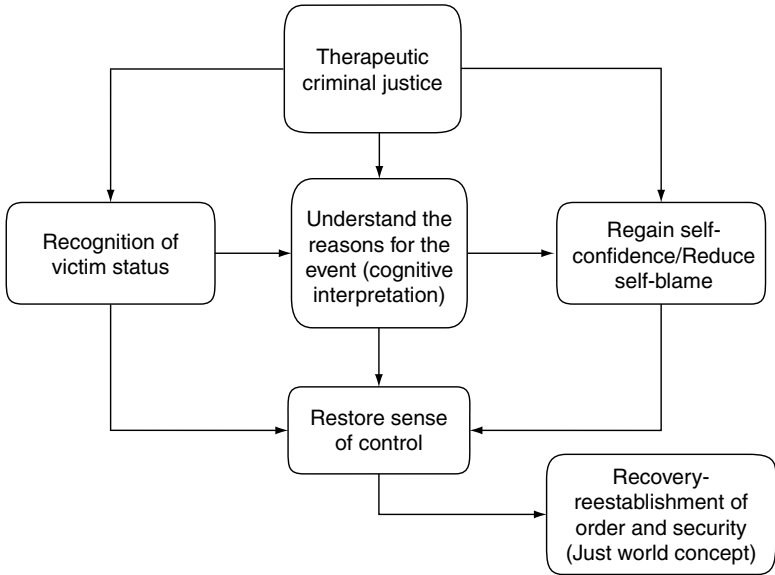


Figure 17.1 The recovery cycle

more often and last longer among victims of gross violations of human rights.¹⁹ Besides feelings of fear and threat due to the larger number of perpetrators, the scale of destruction and the death of large numbers of people have staggering consequences not only for the direct victims or their family but also for the community to which they belong. Some of the massacres dealt with by the International Criminal Tribunal for the former Yugoslavia (ICTY), for example, saw the murders of hundreds of men, including fathers, older sons, income generators, and women, including mothers and young girls. The effects of such violence continue for generations, condemning ‘the surviving members of that community not just to devastating personal grief but also to a future of impoverishment’.²⁰ Thus, the support offered by the criminal justice system and the state plays a major role in the recovery process of those victims.

However, is the criminal justice system meeting the expectations of the victims? What about the international courts? What are the consequences of their intervention for the victim’s emotional rehabilitation?

¹⁹ Wemmers, ‘Reparation and the International Criminal Court: Meeting the Needs of Victims’.

²⁰ Wendy Lobwein, ‘Experiences of the Victims and Witnesses Section at the ICTY’, at p. 200.

17.3 What has been delivered: Victims' participation in the (international) criminal justice system and their mental health

The quotation that follows summarizes the conflict of interest between victims and the criminal justice system:

Victims need social acknowledgment and support; the court requires them to endure a public challenge to their credibility. Victims need to establish a sense of power and control over their lives; the court requires them to submit to a complex set of rules and procedures that they may not understand, and over which they have no control. Victims need an opportunity to tell their stories in their own way, in a setting of their choice; the court requires them to respond to a set of yes-or-no questions that break down any personal attempt to construct a coherent and meaningful narrative. Victims often need to control or limit their exposure to specific reminders of the trauma; the court requires them to relive the experience by confronting the perpetrator.²¹

In a study conducted in the United States with 22 victims of violent crime, Herman observed that often victims' wishes and needs are opposed to the requirements of legal proceedings. Victims expected their interest to be of major concern to the authorities and had trouble understanding that the central focus of the case was on the defendant, whereas they themselves were relegated to a peripheral role as a witness, 'useful only as the instrument of the state's agenda'.²²

How victims are treated by the authorities may add to or subtract from the trauma of victimization.²³ On the one hand, participation in the justice system may be therapeutic. It can provide victims with greater safety and protection for themselves and may enhance their sense of power. On the other hand, it may be anti-therapeutic. Lack of knowledge regarding the progress of the case or lack of opportunity to express their views can contribute to maintaining, and sometimes, to increasing victims' distress.

Indeed, even the authorities recognize the ambiguous effect of contact with the criminal justice system. Wemmers interviewed public prosecutors

²¹ Judith Lewis Herman, 'The Mental Health of Crime Victims: Impact of Legal Intervention', *Journal of Traumatic Stress* (2003), vol. 16, no. 2, pp. 159–66, at p. 160.

²² Judith Lewis Herman, 'Justice from the Victim's Perspective', *Violence against Women* (2005), vol. 11, no. 5, pp. 571–602, at p. 581.

²³ Patricia Resick, 'Psychological Effects of Victimization: Implications for the Criminal Justice System', *Crime & Delinquency* (1987), vol. 33, no. 4, pp. 468–78; Pamela Tondonato and Edna Erez, 'Crime Punishment and Victim Distress', *International Review of Victimology* (1994), vol. 3, no. 1, 2, pp. 33–55; Jo-Anne Wemmers, *Victim Notification and Public Support for the Criminal Justice System*.

in Quebec, Canada, who claimed to believe that respect and recognition, the opportunity to voice one's opinion and to speak out, as well as being involved in the decision making process may be therapeutic for victims, whereas cross-examination and confrontation of the victim and lack of recognition and respect may be anti-therapeutic.²⁴

Some studies have examined the consequences of participation in the criminal justice system on victims' distress, most of which were focused on rape victims.²⁵

Resick highlights that sexual assault victims appear to be more distressed by interviews or deposition in court because 'the crime may have been degrading or humiliating and they are unaccustomed to using sexual terms or describing sexual acts, particularly in front of strangers in a public setting'.²⁶ Koss et al.²⁷ note that for rape victims preparing and going to trial can be extremely stressful. Campbell et al.²⁸ note that, among other community services, police and prosecutors may be quite helpful for some victims. However secondary victimization may also occur because of, for example, dismissal of the case, although the victim wishes the criminal to be prosecuted.

Research also indicates that the assistance of an advocate may influence the level of distress. The support of legal counsellors can be crucial during high periods of stress because, although not trained to give mental health counselling, the advocate explains the legal system, prepares the victim for the trial and the outcomes of it and accompanies the victim during hearings or court trials. In a study conducted in the United States with a sample of 45 rape victims Campbell,²⁹ for example, suggests that those who had assistance from advocates during the criminal lawsuit (17 people) had

²⁴Jo-Anne Wemmers, 'Victim Participation and Therapeutic Jurisprudence: a Canadian Perspective', paper presented at the workshop on *Victim Participation in Justice and Therapeutic Jurisprudence: a Comparative Analysis*, International Institute for the Sociology of Law, Onati, Spain, 2007.

²⁵Patricia A. Frazier and Beth Haney, 'Sexual Assault Cases in the Legal System: Police, Prosecutor, and Victim Perspectives', *Law and Human Behavior* (1996), vol. 30, no. 6, pp. 607–28; Dean G. Kilpatrick et al., 'Criminal Victimization: Lifetime Prevalence, Reporting to Police and Psychological Impact', *Crime & Delinquency* (1987), vol. 33, no. 4, pp. 479–89.

²⁶Patricia Resick, 'Psychological Effects of Victimization', at p. 476.

²⁷M. P. Koss et al., 'Expanding a Community's Justice Response to Sex Crimes through Advocacy, Prosecutorial and Public Health Collaboration', *Journal of Interpersonal Violence* (2004), vol. 19, no. 12, pp. 1435–63.

²⁸Rebecca Campbell et al., 'Preventing the Second Rape: Rape Survivors' Experiences with Community Service Providers', *Journal of Interpersonal Violence* (2001), vol. 16, pp. 1239–59.

²⁹Rebecca Campbell, 'Rape Survivors' Experiences with the Legal and Medical Systems. Do Rape Advocates Make a Difference?', *Violence against Women* (2006), vol. 12, no.1, pp. 30–45.

more opportunities for participation, reported fewer negative interpersonal interactions and had better experiences. Women who were assisted encountered fewer problems while reporting the crime and were more likely to have their cases taken more seriously.

In the course of this research we could find few studies that concerned the relationship between victims and the international courts in cases of gross human rights violations. Lobwein,³⁰ for example, analysing experiences of the Victims and Witnesses Section of the ICTY describes that on the one hand victim-witnesses might feel very sad, distressed and anxious during cross-examination and questioning. On the other hand they feel relieved when a judge intervenes after the questioning has gone on a long time or is intimidating. According to the author, victim-witnesses have stated that one of the most important things in the courtroom was when the Presiding Judge took the time to thank them personally for their testimony.

In post-conflict settings in particular the support structures that help a victim of gross human rights violations to recover are very limited. Many citizens have fled their homes to seek refuge in other states. Thus, the family and community that could provide support alongside the criminal justice system are not always available. International courts should provide support, but due to the territorial distance between the courts and the countries where those victims reside, 'it has been a challenge to assess how to produce those essential services from The Hague and to develop ways of doing this'.³¹

Indeed, it has been a challenge to provide for victims' participation in the proceedings of the international courts. Studies suggest that the International Tribunals and the ICC have failed to provide for the participation of victims of gross violations of human rights during their criminal proceedings. The most common reasons for this disregard are the legal basis of such tribunals and the lack of representatives or the bureaucracy that blocks the machinery of these courts. This also means that the proceedings of international criminal courts may have further anti-therapeutic effects than the proceedings of domestic criminal courts because they expose victims of gross human rights violations to secondary victimization and do not allow for participation or offer the necessary support. We will provide some examples.

The ICTY, an ad hoc tribunal, was established by the Security Council to punish violations of international law that took place during the Yugoslavia conflict of the 1990s. The reasons why the Security Council decided to act this way are subject to speculation and a matter of great debate. It became clear that the war had spun out of control and the conflicting parties were

³⁰ Lobwein, 'Experiences of the Victims and Witnesses Section at the ICTY'.

³¹ *Ibid.*, at p. 199.

unwilling and/or unable to bring to justice persons responsible for the serious human rights violations that were being committed.³²

The tribunal has four principal objectives: to bring to justice those responsible for violations of international humanitarian law; to put an end to the crimes being committed in the former Yugoslavia; to render justice to the victims; and to contribute to the restoration of peace by promoting reconciliation in the former Yugoslavia.³³ The creation of such a tribunal certainly shows that the rights of individuals are being taken more seriously in international politics and law.³⁴

However, the tribunal does not safeguard victims' rights for participation during proceedings even though it disposes of a Victims and Witnesses Support Unit that is responsible for recommending protective measures. The reason is that the Rules of Procedure and Evidence (RPE) of the ICTY do not provide a sufficient legal basis for victims' participation or mechanisms of compensation for physical or emotional harm suffered.

Victims do not have the right to a legal representative during the criminal proceedings, or to express their views in court especially concerning plea bargaining, which is extensively applied.

Local victim groups often express bitterness when they learn of ICTY plea bargains – which are unheard of in their national legal systems – for atrocities committed by their former tormentors. No explanation had been given to the public as to what was being pled to and what was a way of covering up something or somebody. And that is always done at the expense of the victims. Relatives of war time prison camp victims were furious when a guard who pleaded guilty to killing five inmates was sentenced to 8 years, whereas lower-level guards who went to trial got twenty.³⁵

Victims are also not entitled to compensation paid by the court, which is to be provided by the state concerned pursuant to the relevant national legislation. This means that victims should pursue their claim in a national court. Well, since the states involved in the proceedings of the ICTY are societies in reconstruction, there are very small chances of compensation.

³² Andrea Birdsall, 'Creating a More Just Order: The Ad Hoc International War Crimes Tribunal for the Former Yugoslavia', *Cooperation and Conflict: Journal of the Nordic International Studies Association* (2007), vol. 42, no. 4, pp. 397–418, at p. 402.

³³ Donna E. Arzt, 'Views on the Ground: The Local Perception of International Criminal Tribunals in the Former Yugoslavia and Sierra Leone', *The Annals of the American Academy* (2006), no. 603, pp. 226–39, at p. 228; Lobwein, 'Experiences of the Victims and Witnesses Section at the ICTY', p. 197.

³⁴ Andrea Birdsall, 'Creating a More Just Order', at p. 413.

³⁵ Arzt, 'Views on the Ground', at p. 235.

This disregard is partially a consequence of one of the objectives of the tribunal – to bring to justice those responsible for violations of international humanitarian law. The drafters of the RPE were more concerned with the punishment of those guilty of serious violations of international humanitarian law than with victims' acknowledgement and recovery. This is clear from the wording of Resolution 827(1993), which establishes the Tribunal for the Former Yugoslavia 'for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law',³⁶ but did not provide for any victims' rights. The priority was to safeguard the right of the accused to be tried expeditiously because the presence of the victim could unduly delay the proceedings and violate the procedural rights of the accused.³⁷

Moreover, The Hague, where the ICTY is established, is nine hundred miles away from the Balkans, making it physically and psychologically distant to the population of the former Yugoslavia³⁸ and making it more difficult for the Tribunal to provide for participation as well as support. 'Render justice to victims' is therefore probably one of the most problematic goals of the tribunal. Yet, the huge number of people victimized during the Yugoslavian war makes this mission very difficult, if not impossible.

Given the millions of people killed, exiled, deported, tormented, injured, or deprived of their property, such a mission is impossible from its very beginning; it is simply impractical. Furthermore, one might argue to indict even only one person requires several years, piles of documents, and lots of judges, lawyers, defendants, prosecutors, and persecutors, which makes it why many believe the ICTY is bound to be unsuccessful in this regard.³⁹

The Rules of Procedure (RPE) of the ICC attempted to overcome this shortcoming. The RPE of the ICC grant to victims the right of participation during the criminal proceedings of the Court. Indeed, the Rome Statute establishing the ICC marked a clear change in the development of enforceable legal standards on victims' rights. This is the first time that international jurisdictions have recognized the status of victims as such with concrete and meaningful rights before an international tribunal: the right to protection,

³⁶ UN Security Council Resolution, UN Doc. S/RES/827 (1993).

³⁷ 'Trial: Track Impunity Always. The Victims before the International Criminal Tribunal for the Former Yugoslavia and for Rwanda', available online at <http://www.trial-ch.org/en/international/the-victims-role/the-victims-before-icty-and-ict.html>, accessed 7 November 2008.

³⁸ Arzt, 'Views on the Ground', at p. 228.

³⁹ Beyazit H. Akman, 'Tribunal vs. Truth: ICTY and TRC in the Case of the Former Yugoslavia', *HUMSEC Journal* (2008), no. 2, pp. 127–44, at p. 133.

the right to participate in the proceedings, not only during trial but also during investigations, and the right to integral reparations.⁴⁰

For example, a victim may prepare a written application of participation during the criminal proceeding and the investigation. He/she may indicate a legal representative who is entitled to attend and participate in the proceedings. In addition, a victim may also request compensation or reparation to be paid by the offender or the state where the criminal act had taken place. As for the cases where the offender or the state cannot pay for compensation or reparation due to low resources, which is very common in many post-conflict nations, victims can count on a Trust Fund established by the ICC. This reflects that the signatories of the Rome Statute acknowledged the importance of access to justice for victims, highlighted in the international documents.

On a practical level, victims' participation in ICC proceedings can be seen as acknowledgment of the importance of the contribution of individuals who have firsthand knowledge of the commission of relevant crimes, and who can offer a human perspective on the events being described throughout the proceedings. On a moral level, the participation of victims will ensure that the Court, and the international community at large, are made fully aware of the suffering endured by victims.⁴¹

However, in practice, victims' participation in the proceedings of the ICC is an exception. The system might be failing to provide effective participation to victims. Although the Pre-Trial Chamber I has granted general rights for participation in the investigation in the Democratic Republic of Congo, the first five hundred or so applications were caught up in the machinery of the ICC. Applicants waited for over a year to learn whether they would be granted the status of victim or not. In the Lubanga case, for example, over a year after the confirmation hearing, and despite hundreds of applicants, only four victims have been qualified to participate. 'The process of granting the participation right has been intense and all consuming whereas the incorporation of the substance of victims' views and concerns in underlying ICC proceedings has been meager.'⁴²

⁴⁰ Aguirrezabal Iruñe Quijera, 'The Fight against Impunity and the Establishment of the International Criminal Court', in Uwe Ewald and Ksenija Turković (eds) *Large Scale Victimization as a Potential Source of Terrorist Activities*, IOS Press, Amsterdam 2006, pp. 137–50.

⁴¹ Carsten Stahn et al., 'Participation of the Victims in pre-Trial Proceedings of the ICC', at p. 3.

⁴² Christine H. Chung, 'Victims' Participation at the International Criminal Court: Are Concessions of the Court Clouding the Promise?', *Northwestern Journal of International Human Rights* (2008), vol. 6, no. 3, pp. 459–545, at p. 509.

This means that, even though international courts have a legal basis for victims' participation or have established Victims and Witnesses units to assist and support victims as a means to reach a restorative – or therapeutic – justice⁴³ and to provide for their participation during the criminal proceedings, a very low number of victims participate and receive support from the courts. 'Those who have been able to attend to the proceedings of the tribunal as witnesses or participants are so few that they cannot even work as a representative sample of the whole nation'.⁴⁴

The question would be whether this lack of participation has an input on the levels of societal peace of post-conflict countries or societies in reconstruction. This is what we will discuss in the following section.

17.4 Do international courts and victims' participation in criminal proceedings effectively contribute to peace-building?

After the open violence is over, people tend to return to the original communities from which they had had to flee. In so doing, they confront destroyed homes and meet former adversaries face to face. For the traumatized and hurt people who have suffered multiple losses this is a very difficult experience. In addition, many people are missing family members and face unemployment, very harsh living conditions, insufficient social services and schooling, mine fields that obstruct farming and loss of personal and professional identity [...]. Feelings of lack of control over one's life makes people feel disempowered in a community that has changed dramatically since the war.⁴⁵

This means that not only individuals but the community itself is traumatized. 'As individuals need to deal with disturbing post-traumatic symptoms and integrate their experiences and losses, communities need to find ways to deal with a painful collective history and overcome conflicting narratives about who-did-what-to-whom among various groups.'⁴⁶

⁴³ Chris Cunneen, 'Exploring the Relationship between Reparations, the Gross Violation of Human Rights and Restorative Justice', in Dennis Sullivan and Larry Tifft (eds), *Handbook of Restorative Justice: A Global Perspective*, Routledge, London/New York 2006, pp. 355–68.

⁴⁴ Akman, 'Tribunal vs. Truth', at p. 135.

⁴⁵ Dean Ajduković, 'Barriers to Social Reconstruction of Communities in the Aftermath of Organized Violence', in Uwe Ewald and Ksenija Turković (eds), *Large Scale Victimization as a Potential Source of Terrorist Activities*, IOS Press, Amsterdam 2006, pp. 269–77, at p. 272.

⁴⁶ Ajduković, 'Barriers to Social Reconstruction of Communities in the Aftermath of Organized Violence', at p. 272.

Individual recovery and community social reconstruction are 'two parallel, interdependent and non-linear processes'.⁴⁷ Thus societal peace can only be achieved through the recovery of individuals.

International criminal justice, while bringing to court people responsible for such devastation and gross violations of human rights, may contribute to peace-building by helping the victims and, on a higher level, the community to recover the control over their lives and to renew their feelings of empowerment.

According to the recovery cycle explained in this essay, by acknowledging victim status and providing the victim with the means to understand the event the criminal justice system helps the person to regain self-confidence, to restore the sense of control and to reestablish feelings of order and security that are essential for individual recovery. The recovery of the individual leads to the recovery of the community because reconstruction of destabilized communities may only be achieved once victims are acknowledged and the necessary treatment for the most affected individuals – direct or indirect victims of violations of gross human rights – is provided. This means victims' participation during criminal proceedings and their acknowledgment could assist the international courts in making a contribution to the reconciliation of a community or, more generally, a nation.⁴⁸

This theoretical approach rings true. However, studies have demonstrated that since the participation of the victim during international criminal proceedings is not effective, the impact of the international criminal courts and their judgements in peace building is neither.

For example, even though restorative justice is conceived more clearly in the ICC than is the case for the ICTY (and therefore is a clear step forward for victims' rights), the court also seems to face certain issues concerning victims' acknowledgement and satisfaction, and therefore peace-building. The rights for participation are merely symbolic, 'unconnected with the true needs of victims'.⁴⁹ The court therefore may eventually prove ineffective since 'the institutional focus of the ICC remains on the proof of guilt and the individualization of sanction rather than on truth-finding and potential mediation'.⁵⁰

It is even 'unlikely that the ICC can serve as an effective forum for any but a small portion of victims of conflicts, [.] Thus, victims and their representatives should consider that focus on obtaining participation in ICC proceedings may wrongly detract from efforts to pursue other methods of raising and

⁴⁷ Ibid.

⁴⁸ Stahn, 'Participation of the Victims in pre-Trial Proceedings of the ICC'.

⁴⁹ Mark Findlay and Ralph Henham, *Transforming International Criminal Justice: Retributive and Restorative Justice in the Trial Process*, William Publishing, Cullompton, UK 2005, at p. 284.

⁵⁰ Ibid., at p. 285.

promoting victims' voices⁵¹ which would lead, we add, to individual recovery and therefore societal peace.

Meernik examined the relationship between the ICTY trials and reconciliation and concluded that 'in more instances, the effect was the opposite. More often than not, ethnic groups responded with increased hostility toward one another after an arrest or judgment'.⁵² The author concluded that the actions of the ICTY have little or no meaningful impact in the lives of ordinary citizens, even though the citizens of Bosnia view such work as a positive contribution.

Indeed, an extensive survey of a sample of 1,642 residents from three ethnic groups living in Croatia and Bosnia and Herzegovina revealed that Bosnians, who were seen by themselves and the international community as victims were positive concerning the international tribunal while other groups held negative attitudes. These groups felt that 'members of their ethnic group were unfairly singled out for show trials'.⁵³ Curiously, two years later the perception has changed, because in the meantime the Tribunal had indicted several Bosnian military offices. It seems that Bosnians have moved from an earlier position of strong support for the work of the ICTY to a more recent position of scepticism that questions the political neutrality of ICTY judges.⁵⁴ In this regard, the tribunal does not seem to contribute to reconciliation in the community, as was highlighted by the respondents of this survey. They felt that the tribunal was not a relevant mechanism for delivery of justice since perpetrators continued to live freely in the community.⁵⁵

The victims in the region mostly claim that the workings of the ICTY hardly ever touch on their experiences, thus fostering a sense of injustice.⁵⁶

Since one factor that contributes to reconciliation is the perception of legitimacy of international tribunals by the local population,⁵⁷ a tribunal's negative perception by the community may reduce its influence on peace-building. This means that international courts may be a necessary component for reconstruction or peace-building but are not sufficient to

⁵¹ Chung, 'Victims' Participation at the International Criminal Court', at p. 538.

⁵² James Meernik, 'Justice and Peace? How the International Criminal Tribunal Affects Societal Peace in Bosnia', *Journal of Peace Research* (2005), vol. 42, no. 3, pp. 271–89, at p. 287.

⁵³ Ajduković, 'Barriers to Social Reconstruction of Communities in the Aftermath of Organized Violence', at p. 273.

⁵⁴ John Hagan and Sanja Kutnjak Ivkovic, 'War Crimes, Democracy and the Rule of Law in Belgrade, the Former Yugoslavia and Beyond', *The Annals of the American Academy of Political and Social Science* (2006), vol. 605, no. 1, pp. 129–51, at p. 131.

⁵⁵ Ajduković, 'Barriers to Social Reconstruction of Communities in the Aftermath of Organized Violence'.

⁵⁶ Akman, 'Tribunal vs. Truth', pp. 127–44.

⁵⁷ Arzt, 'Views on the Ground', pp. 226–39.

acknowledge victims' suffering, to recognize their status, and therefore to contribute to their healing process.

As a result, international courts do not seem to cause a real impact in people's (or victims') lives or to provide a particular contribution to the levels of societal peace of a post-conflict society. It seems that the focus on punishing the offender postpones or even jeopardizes a perspective of restorative justice. The experience of the ICTY in the trial against Slobodan Milošević, for example, 'reveals that a belligerent defence and an uncertain prosecution will not allow smooth or swift progress to a restorative resolution'.⁵⁸

Authors suggest that others forms of justice would be more restorative and have better results and therefore impact in societal peace. For example, Villa-Vicencio advocates that peace-building can best be achieved where the rights of the victims are vindicated through legal processes in the courts of the land, not in international courts. It is important to ensure that the emotions, demands, and expectations of those most alienated by the settlement are addressed and international courts, either as a result of the physical distance from the victims, or as a result of their rules of procedure, are not able to provide for victims' participation or to ensure that their expectations are addressed and their suffering acknowledged. Thus the author argues that processes in the courts of the land 'can produce a level of emotional appeasement and the re-establishment of the dignity for victims, made possible because the state is seen to have acknowledged and responded to their abuse and suffering'.⁵⁹

Referring to experiences from the Balkans, Hagan and Ivkovic⁶⁰ suggest that future cases involving Bosnian victims should better be tried in local rather than international tribunals. The authors conclude that to be seen as legitimate, legal justice must ultimately also be seen as local justice.

Agreeing that accountability and justice can help stabilize a transitional society after conflict, Findlay and Henham⁶¹ go further and propose an alternative approach. They suggest that accountability and justice are not necessarily only reached through prosecution. Other more flexible methods such as the Truth and Reconciliation Commissions would bring about restorative forms of justice, a perspective that is lacking in the proceedings of the international courts. This is also our proposal, and our conclusion, which shall be presented in the following section.

⁵⁸ Findlay and Henham, *Transforming International Criminal Justice*.

⁵⁹ Charles Villa-Vicencio, 'Transitional Justice, Restoration, and Prosecution', in Dennis Sullivan and Larry Tiftt (eds), *Handbook of Restorative Justice: A Global Perspective*, Routledge, London/New York, 2006, pp. 387–99, at p. 390.

⁶⁰ John Hagan and Sanja Kutnjak Ivkovic, 'War Crimes, Democracy and the Rule of Law in Belgrade, the Former Yugoslavia and Beyond'.

⁶¹ Findlay and Henham, *Transforming International Criminal Justice*, at p. 294.

17.5 Truth and reconciliation commissions: An alternative for victims' participation and peace-building?

After a period of conflict, multiple victimizations and disorder within a society, truth and acknowledgment, reparation, accountability, and reconciliation are key issues for peace-building.⁶²

First of all, finding the truth is important not only for the indirect or direct victims of such conflicts but also for their community. Direct victims need acknowledgment; they need recognition of their suffering and exemption of self-blame in order to move on with their lives without feeling insecure or guilty.⁶³ Indirect victims need to know what has happened to their loved ones. And the community needs to be aware 'of the patterns of gross human rights violations that have existed in the past'⁶⁴ in order to reconstruct its collective memory, recognize its faults, and put the event behind it.

Second, victims' reparation in a wider sense, including compensation for financial and emotional losses, restitution, and rehabilitation, is another pillar for reconstruction. Certainly the nature of crimes of genocide, crimes against humanity, and war crimes makes it more difficult to repair or re-establish intra-societal structures and to put survivors back to where they were prior to the violation; it is, however, a necessary step towards healing.

Third, criminals need to be held responsible, either by the classic means of (retributive) justice or by alternative means such as restorative justice.

⁶² Elmar G. M. Weitekamp et al., 'How to Deal with Mass Victimization and Gross Human Rights Violations. A Restorative Justice Approach', in Uwe Ewald and Ksenija Turković (eds), *Large Scale Victimization as a Potential Source of Terrorist Activities*, IOS Press, Amsterdam 2006, pp. 217–41.

⁶³ According to victimological researches self-blame is one of the reactions of victims after a crime in order to cope with feelings of insecurity and loss of control. By blaming themselves, the victim believes that the situation was under their control, rather than under the control of the criminal and if they had not behaved or reacted in such a way, the crime would not have happened. It is one coping mechanism through which the victim can restore their faith in two basic assumptions: first, that they are invulnerable because of their control, and second, that social life is ordered and meaningful. This reduces feelings of insecurity and the feeling that life is unpredictable. For more on this, see Arthur J. Lurigio, 'Are All Victims Alike? The Adverse, Generalized and Differential Impact of Crime', *Crime & Delinquency* (1987), vol. 33, no. 4, 452–67; Arthur J. Lurigio and Patricia A. Resick, 'Healing the Psychological Wounds of Criminal Victimization: Predicting Postcrime Distress and Recovery', in Arthur J. Lurigio, Wesley S. Skogan, and Robert C. Davis (eds), *Victims of Crime. Problems, Policies, and Programs*, Sage, Newbury Park, CA 1990, pp. 50–68; J. M. van Dijk, 'Victim Rights: A Right to Better Services or a Right to Active Participation', in J. M. van Dijk, Charles Haffmans, Frits Rütter, Julian Schutte, and Simon Stolwijk (eds), *Criminal Law in Action: an Overview of Current Issues in Western Societies*, Gouda Quint, Arnhem 1986, pp. 351–75.

⁶⁴ Weitekamp et al., *How to Deal with Mass Victimization and Gross Human Rights Violations*, at p. 219.

It is important to restore order and to bring back feelings of security, rule of law, and that 'justice has been served'.

Finally, the community that has been 'out of order' for such a period needs to restructure its rules and regain the confidence that there is some form of social cohesion or understanding between the members of that community.

As we saw, the retributive or classic model of justice that has been followed by the international tribunals does not provide for reconciliation and is therefore not instrumental for peace-building. Either due to the lack of victims' participation during international criminal proceedings or because those courts only deal with a limited number of cases and trials are remote from people's reality, victims and the community seem to be dissatisfied with such forms of justice. This means that international courts provide little space for reconciliation and peace-building.

Furthermore, due to its interest in punishment and the solution of the cases individually, a retributive approach neglects other aspects of the conflict and certain criminological questions that should be further investigated in order to avoid future conflict. The phenomenon of mass victimization, its causes, the conditions that allowed the violent conflict to happen, and the psychological and sociological reasons for people's involvement in the conflict are overlooked.⁶⁵

Among the alternatives Truth and Reconciliation Commissions (TRC) deserve to be mentioned. TRC are non-judicial mechanisms of conflict resolution with an emphasis on truth, reparation, and reconciliation. They provide a public forum of discussion for victims and offenders who can both present their views of the crime. Most importantly, victims are allowed to open up and speak about their suffering, a possibility that is recognized in the literature as a necessary step to rehabilitation.⁶⁶

Moreover, TRCs provide the victims and the offender with the possibility of communicating at the interpersonal level and to enter into dialogue. Again, this is another practice that contributes to victims' healing because bringing people together means providing a range of opportunities for dialogue and for making up emotional and material losses. The key element with TRCs is the interaction between the participants in a safe environment, focusing on acknowledging the negative experiences of the past and the emotions they have generated, deconstructing mutual stereotypes and discussing and agreeing upon models of peaceful co-existence in the future.⁶⁷ The purpose of this interaction is to contribute to the victims' understanding

⁶⁵ Ibid.

⁶⁶ Winick, *Therapeutic Jurisprudence and Victims of Crime*; Wemmers, 'Victim Participation and Therapeutic Jurisprudence'.

⁶⁷ Joanna Shapland et al., 'Situating Restorative Justice Within Criminal Justice', in *Theoretical Criminology* (2006), vol. 10, no. 4, pp. 505–32.

of the event and to give both offender and victim an opportunity to discuss their feelings towards each other, thus contributing to the healing process. Yet it is a restorative form of justice that focuses not only on the individuals' healing, but also on the healing of the community and thereby approaches reconciliation and peace-building.

There are certain examples of good practices concerning TRCs. The South African TRC established to uncover the truth about past violations of human rights in South Africa during the Apartheid regime provides examples of victims' healing. In a survey conducted with victims who have participated in the programme, many said that through the victims' hearing they were able to deal constructively with the trauma.⁶⁸ The Stolen Generations Inquiry in Australia that concerned indigenous children who were removed from their families in the mid-1960s to be raised by institutions or foster parents is also acknowledged for recommending reparation including five components: apology, guarantees against repetition, measures of restitution, measures of rehabilitation, and monetary compensation.⁶⁹

The example of the TRC in the former Yugoslavia is controversial. On the one hand, Akman highlights its positive aspects and emphasis on the victims, rather than on the criminals, as well as the fact that it enables many more victims to participate in the process of creating and establishing justice. On the other hand, the same author clarifies the risk of finding different truths and no common ground, and highlights that reconciliation can only take place when both parties show a strong will to recognize the atrocities that were committed.⁷⁰ Nikolic-Ristanovic criticizes the conception of the TRC for the former Yugoslavia. It was established without public discussion and consensus about its responsibilities and, as a result, failed to become substantially active for almost three years. It was discredited because of its fundamental idea: dealing with the past in Serbia. In the aftermath, NGOs started different activities within the same purpose but those were uncoordinated and unsystematic.⁷¹ However, Nikolic-Ristanovic believes that TRCs are still a positive mechanism for reconciliation. She suggests that they should be part of a regional process, which means TRCs or similar bodies should be established in all countries of the former Yugoslavia and cooperate in terms of exchange of victims' speeches, perpetrators' testimonies, research, and publications.

⁶⁸ J. L. Gibson, 'Truth, Justice and Reconciliation: Judging Amnesty in South Africa', *American Journal of Political Science* (2002), vol. 46, no. 3, pp. 540–56.

⁶⁹ Cunneen, 'Exploring the Relationship between Reparations, the Gross Violation of Human Rights and Restorative Justice', pp. 355–68.

⁷⁰ Akman, 'Tribunal vs. Truth', pp. 127–44.

⁷¹ Vesna Nikolic-Ristanovic, 'Truth and Reconciliation in Serbia', in Dennis Sullivan and Larry Tiff (eds), *Handbook of Restorative Justice: A Global Perspective*, Routledge, London/New York 2006, pp. 369–86.

The topic is controversial and there is still need for research. What is certain is that emotions are the essence of human beings and TRCs deal more with emotions whereas the criminal justice system excludes personal contacts during criminal proceedings and neglects the feelings of the people involved in the conflict.

'The new paradigm criminology could build is one in which a justice system becomes emotionally intelligent in all of its interactions with suspected, accused, and convicted offenders, as well as victims, their families and communities'.⁷² Thus Umbreit et al. suggest a humanistic mediation, which is grounded in a paradigm of healing and peace-making.⁷³

It is therefore suggested to invest further in the personalization of the conflict. Meetings between the victim, the offender and the community, as far as possible, should be organized in advance, with a debriefing and psychological support before and after conferencing. They may provide for truth and acknowledgment, reparation, accountability and reconciliation – all key issues for peace-building. After all, confrontation between the victim and the offender also happens during criminal proceedings. The major difference is the purpose of such meetings. In the traditional system of criminal justice the trials aim at finding evidence for conviction and punishment, whereas in the meetings of TRCs the primary goal remains restoring individuals and their communities.

Crime is more than breaking the law. Crime is more than mere damage or harm to the physical integrity or property of a person. It is also harm to the feeling of security and control that people think they have over their lives. Thus, justice should be more than punishment; justice should be restorative in a broader sense and therapeutic. It should be an instrument of healing and rehabilitation.⁷⁴

For this reason, the justice system should consider more carefully, and implement in its truth-finding processes, emotions.⁷⁵ TRCs could work in parallel with international tribunals – certainly, punishment of perpetrators is necessary and international courts have this duty – and thereby succeed in reaching a larger number of victims and providing further possibilities of

⁷² W. Lawrence Sherman, 'Reason for Emotion: Reinventing Justice with Theories, Innovations, and Research – the American Society of Criminology 2002 Presidential Address', *Criminology* (2003), vol. 41, no. 1, pp. 1–37, at p. 25.

⁷³ Mark S. Umbreit et al., 'Victims of Severe Violence Meet the Offender: Restorative Justice through Dialogue', *International Review of Victimology* (1999), vol. 6, no. 4, pp. 321–43.

⁷⁴ Wexler and Winick, *Essays in Therapeutic Jurisprudence*; Wexler, 'An Introduction to Therapeutic Jurisprudence'; Winick, *Therapeutic Jurisprudence and Victims of Crime*.

⁷⁵ Sherman, 'Reason for Emotion'; Umbreit et al., 'Victims of Severe Violence Meet the Offender'.

rehabilitation, as these objectives are rarely achieved by the international courts. One would be complementary to the other, as Akman suggests.⁷⁶

After all, victims want their voices to count and they want to be treated with dignity and respect.⁷⁷ They do not ultimately seek the punishment of the offender; instead, they are even less punitive than the general public.⁷⁸ They have other priorities and needs than asking for punishment.⁷⁹ These needs, however, are not being considered in the traditional prosecution of conventional or international crimes.

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⁷⁶ Akman, 'Tribunal vs. Truth'.

⁷⁷ Wemmers, *Victims in the Criminal Justice System*.

⁷⁸ Erez, 'Victim Participation in Sentencing', pp. 17–32; Killias, *Les Suisses Face au Crime*; Kuhn, 'Attitudes towards Punishment', pp. 271–92.

⁷⁹ Killias, *Les suisses face au crime*.

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18

Nationalist Violence in Post-Milošević Serbia: Extremist Right-Wing Youth Groups as Instruments of Intimidation of Civic-Minded Individuals and Organizations

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Soon after the demise of the Milošević regime on 5 October 2000, Serbia was faced with the appearance of an increasing number of extreme nationalist and neo-Nazi youth groups, who have been consistently using violence against those they perceive as enemies or internal traitors to the nation. Their behaviour inevitably challenges the effort to build a tolerant society. The way in which society is affected and responds to such challenge gives a good measure of the strength of Serbian democracy.

This essay intends to contribute to a better understanding of this phenomenon, by describing it and providing an account on the way in which it has been faced by the political system, the judiciary and Serbian society as a whole. The methodology used in this research includes informal interviews with victims and human rights activists, analysis of media, Human Rights NGOs reports, monitoring right-wing groups' websites, blogs and Internet forums, as well as my own direct observation of street actions held in Belgrade during 2008.¹ This is an empirical research, but one that tries to provide new elements for an enlarged perspective towards the social and political climate in Serbia.

¹ I have excluded any attempt to interview members or representatives from such groups due to the fact that it could represent a risk to my integrity. As part of my field work, I've had the opportunity to observe in loco extremist groups' street actions, namely the riots in Belgrade following the independence of Kosovo and the daily protests after the arrest and transfer to The Hague of war crimes indictee Radovan Karadžić, in 2008. In such situations, I was faced with harassment whenever I was spotted, to which I should add the amount of hate mail posted at my blog (<http://cafeturco.wordpress.com/>), whenever I publish texts about this subject. These experiences, added to my knowledge of these groups' *modus operandi*, have contributed to my decision.

18.1 Extremist right-wing groups in the European context

The growth of neo-Nazi, fascist and extreme nationalist groups in Europe since the 1990s should be cause for concern. Such groups present a challenge to democracy, due to the fact that their existence in itself, even when it has a very reduced membership² disrupts the consensus towards moderation that democratic political actors usually favour. They 'act as a nodal point in a vast, constantly evolving, network of extremist organizations of far greater significance than the sum of its parts: the groupuscular right'.³

In the European context, we can say that far-right groups are a by-product of democracy, for two main reasons. On the one hand, the totalitarian ideals that move them were defeated by the success of the demo-liberal political model, which drastically reduced 'the "political space" available to the revolutionary right',⁴ thus pushing them into the margins of society. The need to adapt to such a situation of marginalization led to the creation of small informal groups whose main goal, sometimes hidden but tacitly endorsed, sometimes self-proclaimed, is to attack the plural character of democracy, in the name of an ideal of 'purity' of which they claim to be the protectors. On the other hand, these groups seem to be able to survive and, in some cases, thrive by benefiting from the guarantees of freedom of expression and freedom of association that democratic legal systems provide, by walking on the thin line that separates freedom of expression from illegitimate expressions of intolerance, xenophobia and racism. Indeed, the space of autonomy that demo-liberal political systems creates for the development of civic society also allows uncivic society to take roots.

Extremist right-wing groups define themselves as 'patriots' defending national independence and integrity both from outside threats and internal degeneration. However, despite claiming to defend the purity of national values against foreign corruption, their ideological programmes are themselves imported and adapted to the local environment. Indeed, despite being among the most vocal detractors of transnational integration processes, such as the European integration process and globalization, which they claim threaten national identity, these groups directly benefit from such processes.

They are very well organized in loose, highly informal and flexible structures, and tend to be closely inter-connected, both locally and at a

² Roger Griffin, 'From Slime Mould to Rhizome: An Introduction to the Groupuscular Right', *Patterns of Prejudice* (2003), vol. 37, no. 1, at pp. 28–30 also highlights the danger of downplaying the importance of the threat to democracy posed by such groups by considering them too small for concern.

³ Griffin, 'From Slime Mould to Rhizome', at p. 35.

⁴ *Ibid.*, at p. 34.

transnational level, in such a way that allows them to use to their advantage the enhanced opportunities provided by globalization, thus overcoming their gaps in size and resources by cooperating with like-minded groups from other countries and by skilfully making use of the potential that the Internet offers. They master very well the technique of networking through fluid structures; they use the differences between national legal systems to spread hate speech messages through the Internet with a great deal of impunity;⁵ and their actions are conceived to get maximum media attention, thus getting these groups a level of visibility that is highly disproportionate to their actual membership. Not only are they very skilled in networking and using the Internet to strengthen in-group cohesion, spread their hate messages and attract new members, they also tend to infiltrate other youth groups, such as football clubs' supporters' organizations, student associations and certain types of sub-cultures associated with music, therefore pushing such groups towards radicalization along ideological lines.

Their skills using the Internet, and the public perception of globalization as a potential threat to well-being and national identity, provide them with a public space to voice their anti-system rhetoric against the 'degeneration' allegedly brought by liberal values. Their opposition to liberal values is uncompromising, due to the very nature of such movements, which, being small and informal, are not dependent on public support. The fact that their existence reinforces the strength of anti-liberal political actors, namely populist right-wing parties, such as *Aleanza Nazionale* in Italy,⁶ *Fidesz* in Hungary⁷ or, in the Serbian case, the *Radical Party* and the *Democratic Party of Serbia*, makes them relevant forces, no matter how small they may be.⁸

As they define themselves as 'patriots', right-wing nationalist and neo-Nazi extremists don't usually target the bulk of society, but specific groups that they identify as a threat to the nation, such as immigrants and ethnic, national and sexual minorities. Human rights defenders are also among their targets, due to the fact that they both represent the liberal values these groups seek to destroy and that they are on the front line opposing their violent acts and threats. These groups' targets are seen by significant parts of any society as 'marginal', 'different' or 'not like us'. Therefore, it is easy for average citizens not to feel threatened. However, although extremists project

⁵ It is particularly the case of the protection granted by the First Amendment of the Constitution of the USA. Extremist websites are in most cases located in the USA, which makes it impossible to shut them down.

⁶ Griffin, 'From Slime Mould to Rhizome', at p. 42.

⁷ Cas Mudde, 'Racist Extremism in Central and Eastern Europe', *East European Politics and Societies* (2005), vol. 19, at p. 184.

⁸ See *supra*, p. 336.

their hatred on the above-mentioned groups, it is the whole of society that they are attacking. Their actions are planned in such a way as to engender passivity among average citizens, who, unless bounded together by a strong civic culture, eventually find themselves transformed into 'bystanders', either because they are indifferent to the suffering of the victims or because they fear the aggressors. Thus, if we follow the concept of human security as 'freedom from fear', that is, if we consider that 'human security is about protecting individuals and communities from any form of political violence',⁹ we cannot but recognize that such groups pose a significant threat to human security and a challenge to the process of democracy-building that should not be ignored nor downplayed. It is through this perspective that I propose to analyse the behaviour of extremist youth groups in Serbia since the fall of Slobodan Milošević in 2000.

Neo-Nazis, fascist and extreme nationalist groups exist all over Europe, but while in consolidated democracies such groups can indeed cause serious problems, by creating conflicts where they didn't exist or by feeding resentment and bigotry, in societies in transition their impact can be much more damaging. This is so because while stable consolidated democracies are sustained both by functioning institutions and by a mature civil society, which are strong enough to oppose their non-democratic ideologies and restrain their violent behaviour, in recently established democracies both pillars are yet fragile. This enables such groups more effectively to prevent or disrupt the consolidation of civic values.

In order to understand better the phenomenon of extremist right-wing youth groups in Serbia, it would be important to place it within the European context and, more specifically, within the context of post-communist countries, as well as within the context of the former Yugoslavia. However, although the radical right in a broader sense, and far right youth groups in particular, is known to be behind racist incidents and assaults against sexual minorities in several European countries, this phenomenon doesn't seem to stimulate the academic community into producing a comparative analysis that could shed light into the commonalities and specificities of this problem across different countries. As Cas Mudde, one of the few authors actively researching in this field notes, on his 2005 article 'Racist Extremism in Central and Eastern Europe', 'there is a poignant lack of reliable information on racist extremism in the region [of Central and Eastern Europe (CEE)], both academic and non academic'.¹⁰ Referring to the context of Western Europe, Roger Griffin points to the same neglect, within the scholarly community, towards the 'myriad minuscule and often ephemeral formations

⁹ I am using here the concept provided by the *Human Security Report Project*, available online at <http://hsrgroup.org>, accessed 7 November 2008.

¹⁰ Mudde, 'Racist Extremism in Central and Eastern Europe', at p. 161.

of the extreme right which have sprung up since 1945',¹¹ highlighting also the lack of an appropriate conceptual framework to deal with this problem, regretting the fact that 'is still part of academic and media common sense to assess the threat to democracy posed by small extremist formations solely in terms of their potential to gain a mass following and so become credible electoral or revolutionary forces'.¹²

An all-European study composed of case studies applying the same methodology is certainly necessary. Still, it is possible to draw some features. In his article about racist extremism Mudde highlights an important difference between the Western and the Central and Eastern European context:

'[...] mainstream political parties in CEE are less willing to speak out against racist extremism than in the West. They are also more reluctant to distance themselves clearly from racist extremist actors [...]. In addition, within the civil societies of CEE, the racist extremists are far from isolated. In various countries, influential NGOs are either racist extremists themselves or are willing to cooperate with racist extremist organizations [...] At the same time, antiracist and pro-multicultural groups remain rare and on average powerless, relying heavily on funding and support from foreign states and organizations.'¹³

Although this study didn't include the countries of the former Yugoslavia, its conclusions do fit the Serbian case. Far from being a stable democracy, Serbia is still in its early stages of democratization. The delayed transition from authoritarianism to democracy and the specific features of the process of disintegration of Yugoslavia and the wars that followed make Serbia a particularly vulnerable country. The level of isolation in which Serbs live, the weight of nationalism, the prevalent state of denial towards Serbia's responsibility for the wars in the 1990s and the popularity of conspiracy theories make Serbia a particularly fertile ground for extremist groups to grow.

18.2 Extremist youth groups in post-Milošević Serbia

While in Eastern Europe extremist groups appeared after the fall of the Berlin Wall, they only became relevant in Serbia after the fall of Slobodan Milošević. According to Griffin, whose concept of a groupuscular right is particularly relevant for this research,

¹¹ Griffin, 'From Slime Mould to Rhizome', at p. 27.

¹² *Ibid.*, at p. 28.

¹³ Mudde, 'Racist Extremism', at p. 184.

[...] where conditions of extreme socio-political breakdown permitted it [...], the extreme right reverted to assuming forms of populist movements and mass-based parties reminiscent of those which emerged during the violent upheavals of inter-war Europe.¹⁴

It was the case in Serbia. The regime of Milošević can appropriately be described as 'fascist in practice, if not in self-identification'.¹⁵ Thus, there was no space available for extremist right wing movements because many of their ideas were part of the very core of the regime. As Jovan Byford highlights,

[...] in the final years of Milošević's rule, many ideas which are now propounded by the newly formed fringe right-wing groups, including conspiratorial anti-Semitism, were to be found even in the mainstream media. With this in mind, the emergence of marginal and often aggressive political organisations can be said to signal the retreat of extremism to the periphery of politics.¹⁶

The very nature of this phenomenon, characterized by its constant mutation, as new groups appear while others disappear, is a relative novelty in Serbia, and the lack of experience of the authorities and society itself in dealing with it make it difficult to fight it. However, when the lack of experience is combined with ideological bias and a wide acceptance of uncivic values, then fighting hate speech and hate crimes becomes much more difficult.

Due to the lack of comparative studies in this field of research, there is no data that supports a claim that extremist youth groups in Serbia have a wider degree of penetration than they do in other European societies, particularly with regard to groups explicitly affiliated with neo-Nazi ideology, an argument widely used in Serbia to downplay the importance of this phenomenon.¹⁷ Witnesses and news reports from violent actions in which their members have participated never mention more than two hundred participants, although in other, non-violent actions, such as debates promoted in Universities, the participation is higher. The behaviour and ideology of extremist groups also stimulates an imitation effect by non-affiliated individuals, who find inspiration to act as 'lone-wolves', engaging in sporadic activities such as graffiti spraying and other acts of vandalism,

¹⁴ Griffin, 'From Slime Mould to Rhizome', at p. 35.

¹⁵ Marko Attila Hoare, 'Fascism in Yugoslavia and its Successor States', in Richard Bosworth (ed.), *The Oxford Handbook of Fascism*, Oxford University Press, London, 2009, at p. 426.

¹⁶ Jovan Byford, 'Christian Right-Wing Organisations and the Spreading of Anti-Semitic Prejudice in Post-Milosević Serbia: The Case of the Dignity Patriotic Movement', *East European Jewish Affairs* (2002), vol. 33, no. 2, at p. 44.

¹⁷ Personal interviews with civil sector NGO activists.

and verbally or physically assaulting individuals whom extremist groups identify as threats or traitors to the nation.¹⁸

In 2005, after a serious incident in Novi Sad (which will be described below) the Serbian Interior Ministry and the Committee for Security Issues of the Parliament of Vojvodina published a list of extremist youth groups that are active in Vojvodina.¹⁹ This is the only official list produced in Serbia and it is therefore a useful source to use as a point of departure for a brief description of the most active extremist right-wing youth movements in the country.

The list identified as neo-Nazis the following groups:

- *Nacionalni Stroj* (National Alignment);
- *Krv i čast* (the Serbian section of Blood and Honour);
- Rasonalisti;
- Skinheads.

Otačastveni Pokret Obraz ('Patriotic Movement "Dignity"')²⁰ was identified as clerico-fascist.

The list also identified two ethnic Hungarian extreme nationalist groups:

- 64 Vármegye Ifjúsági Mozgalom ('Youth Movement 64 Counties', in Serbian 'Omladinski pokret 64 županije');
- Honvédi.

The common ideological features of the above mentioned groups, according to this report are

- their Anti-western nature (antizapadnjaštvo);
- nationalism;
- ideological exclusivity;

¹⁸ Gays or individuals identified as gay are frequently assaulted in Serbia, both in organized actions by extremist groups and by non-affiliated individuals who take advantage of the perceived environment of impunity regarding such actions. The same happens with members of ethnic minorities and Human Rights activists. The Internet is also an environment particularly prone to verbal assaults. Through my experience as a blogger and the observation of blogs devoted to Serbian issues I have come to the conclusion that Serbian bloggers take such threats very seriously, thus often indulging in self-censorship or opting to hide their personal identity.

¹⁹ B 92, 'Prvi zvaničan spisak neonacista' (10 December 2005), available online at http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=12&dd=10&nav_id=182260, last accessed 7 November 2008.

²⁰ *Obraz* means, literally, 'face'. It also means 'honesty' or 'dignity'. I have opted to follow the translation provided by Byford: 'Christian Right-Wing Organisations', at p. 44.

- glorification of Radovan Karadžić and Ratko Mladić as Serb heroes;
- homophobia;
- animosity toward liberal values; and
- anti-Semitism.

There is an important difference between the various extremist right wing youth groups active in Serbia: some are explicitly neo-Nazi, while others, such as *Obraz*, can be classified as Christian Far Right movements. This division can be clearly grasped by visiting these groups' websites, forums and blogs on the Internet. The iconography displayed there and the kind of language that they use clearly identifies each group's ideological affiliation. While neo-Nazis combine Nazi iconography with traditional Serbian motifs, such as the double headed eagle, but always give primacy to the Nazi iconography, the Christian groups display a type of iconography more exclusively based on traditional Serbian motifs. A closer analysis will spot the presence of fascistic influences in its aesthetics, but the traditional Serbian motifs prevail.

Another important difference between both categories of groups is that, while neo-Nazis mainly engage in violence, be that hate speech on Internet sites, graffiti, threats, physical assaults, violent street protests and so on, Christian organizations also organize events that that may be perceived as legitimate, such as cultural meetings and debates. Extremist Christian youth groups are widely present in Universities, which provide an excellent forum and recruiting site, and where these groups can rely on the support of the strongly rooted nationalist sectors within the academic elite. They take advantage of the right to freedom of expression and association to organize events that promote fascism and genocide denial, but when events that denounce fascism and promote truth-telling about the nature of Serbian nationalism and Serbia's role in the wars in the 1990s, such events are usually disrupted.²¹

In what concerns the connections between extremist groups and non-liberal political parties it is interesting to note, regarding the Radical Party of Serbia, that, while on their websites, extremist groups criticize the Radical Party, namely for its position on the Rom minority, which extremists consider too tolerant, their members are often present at street actions organized or supported by the Radicals.²² Regarding the Democratic Party of Serbia,

²¹ As a result of this, civic-minded groups tend to have difficulties in finding public spaces for their own events and even refrain from organizing them themselves. The dilemmas provoked by such an anti-liberal environment were reported to me by activists of different NGOs and are confirmed by the events, some of which are described in this paper.

²² It was, namely, the case of the rally organized in Belgrade on 29 July 2008 to protest against the imminent extradition of war crimes indictee Radovan Karadžić. BBC, 'Violence Mars pro-Karadzic Rally' (29 July 2008), available online at <http://news.bbc.co.uk/2/hi/europe/7531245.stm>, accessed 7 November 2008.

which presents itself as a moderate nationalist party, it is largely spared of criticisms by extremists, namely by the extremist Christian Orthodox movements, while the Democratic Party and especially the Liberal Democratic Party are systematically targeted.

Obraz is the most visible of the Christian organizations. Other Christian movements include *Srpski Sabor 'Dveri'* (Serbian Assembly 'Gateway'), the Students Association *Sveti Justin Filozof* (Saint Justin Philosopher), particularly present at the Faculty of Philosophy of Belgrade University; and *Nomokanon*, present at the Faculty of Law of Belgrade University. Also linked to Orthodox Christian values is Movement 1389, which made its appearance in 2007 during the period of negotiations towards the establishment of the Kosovo final status.

The names are not chosen randomly. While neo-Nazi groups mainly translate and adapt to the Serbian context denominations common to other countries, such as Blood and Honour (*Krv i čast*) or National Alignment (*Nacionalni Stroj*), Christian movements opt for names that may link them to Serbian history and religious tradition. Thus, *Nomokanon* was the name of the code of laws created in the Middle Ages by Saint Sava, the founder of the Serbian Orthodox Church; 1389 was the date of the Medieval battle of Kosovo, which is at the base of the Kosovo myth.

Besides the groups named above, other groups have often appeared and disappeared without leaving any significant trace.²³ Atomization is a desirable feature of this phenomenon, characterized by what Griffin defined as its rhizomic nature:

When applied to the groupuscular right the concept 'rhizome' throws into relief its dynamic nature as a polycratic movement by stressing that it does not operate like a single organism such as a tree with a tap-root, branch and canopy, and with a well-defined inside and outside, beginning and end. Instead it behaves like the tangled root-system of some species of grass and tuber, displaying 'multiple starts and beginnings which intertwine and connect which each other' constantly producing new shoots as others die off in an unpredictable, asymmetrical pattern of growth and decay.²⁴

²³ It is the case, for instance, of a group called *Mlada Bosna*, who in 20 February 2008 claimed to have been responsible for the attack against a supermarket belonging to the Slovenian company Merkator, in protest against the Slovenian recognition of Kosovo's independence. *Mlada Bosna* was the name of the organization responsible for the assassination of the Austrian Archduke Franz Ferdinand on 28 June 1914 in Sarajevo. *Blic*, "'Mlada Bosna" odgovorna za napad na "Merkator"' (20 February 2008), available online at <http://www.naslovi.net/2008-02-20/blic/mlada-bosna-odgovorna-na-napad-na-merkator/578309>, accessed 7 November 2008.

²⁴ Griffin, 'From Slime Mould to Rhizome', at p. 31, quoting <http://cs.art.mit.edu.au/deleuzguattarianary/r/pages/rhizomic.html> (30 August 2002).

The fact that in Serbia an ethnic concept of nation prevails, as enshrined in the Constitution itself, allows for these groups to claim being legitimate patriotic movements. This is clearly the case of *Obraz*, whose self-appointed mission is to defend Serbdom from chaos and hopelessness. On its website, we can read, on the 'About us' section, the following words: 'Brothers and sisters: Descendants of Saint Sava and the Serbian saints: To be a Serb has never been easy. Today, at the time where spiritual and national values are denied, to be a true Serb is more difficult than ever'.

Obraz adopts a language very close to the language usually employed by the Serbian Orthodox church. Its Christian orthodox inspiration can further be confirmed by the fact that *Obraz* has its own *Slava*, or patron saint, the medieval saint-king Milutin. Although its origins date back to 1993, as a movement of support of the journal of the same name, its evolution from a cultural to a political organization dates from 2000. It was also in 2000 that *Obraz* created its Internet site. It was the first Serbian far-right youth group to learn how to use the potential that the Internet offered to project its message and gather sympathizers.

18.3 Some illustrative cases of extremist groups' actions

The first public appearance of an extremist group after the fall of Milošević happened in November 2000, when a group of *Obraz* members disrupted a meeting of the Writers Union of Serbia, where a group of liberal intellectuals were trying 'to challenge the authority of the much compromised Union's nationalist leadership'²⁵ The members of *Obraz* explained their presence in this meeting by 'the need to supervise the activities of the Jewish lobby'²⁶ thus, as Byford points out,

[...] equating the impending liberal reform at the Union with the Jewish conspiracy. Considering that Jews did not play a role in this meeting, the reference to the 'Jewish Lobby' can be said to reflect the figurative use of the adjective "Jewish" as interchangeable with "liberal"²⁷

In February 2001, graffiti with Nazi symbols appeared in the walls of the Belgrade synagogue. Until then, according to Byford, anti-Semitism existed

²⁵ Byford, Jovan: 'Anti-Semitism and the Christian Right in Post-Milošević Serbia: From Conspiracy Theory to Hate Crime', *Internet Journal of Criminology* (2003), at p. 15.

²⁶ *Danas*, 'Whose is *Obraz*' (20 November 2000), cited by Byford, 'Anti-Semitism', at p. 15.

²⁷ Byford, 'Anti-Semitism,' at p. 15.

in Serbia mainly as a vague abstract idea fed by the prevalence of conspiracy theories. This act opened a new trend in anti-Semitism in Serbia.²⁸

The definitive entry of extremist youth groups into the public sphere happened at the Gay Parade in July 2001. Its participants were attacked by a group composed of more than a hundred radical Christian extremists. Dozens of participants were seriously injured, as well as some policemen.²⁹ *Obraz* justified such action 'by claiming to be protecting Serbian "national interests" from the treacherous and perfidious new political establishment'.³⁰

In this event, the headquarters of the Social Democratic Union was ransacked. This followed a series of attacks against its leader, Žarko Korać, including graffiti spraying in the walls of the faculty of Philosophy to which he belongs and various threats, mainly in Internet forums. The fact that Korać is a Jew and a liberal-minded politician obviously made him a 'valuable' target. As Paul Hockenos noted in his study of the rise of the right in post-communist Eastern Europe, 'for ultra-nationalists, the Jews represent everything that is anti-national, and in Eastern Europe, that also implies Western democracy. In this sense, anti-Semitism is an ideological construct that goes hand in hand with the isolationist philosophy of ethnic nationalism'.³¹

Since the disruption of the Gay Parade in 2001, organized groups of nationalist extremists have consistently used violence as a form of intimidation toward political opponents, civic-minded groups of citizens and neglected minorities. Violent actions are not their only events. They are very close to nationalist circles within the Academia and the Serbian Orthodox Church, where they find support for other types of events, apparently less damaging, but that contribute to maintaining the uncivic values connected to Serbian nationalism and transmit them to younger generations.

Extremist right movements are particularly interested in making themselves present in the University, where they regularly organize events.

It was the case, for example, of the Assembly of the Orthodox National Youth, organized in 2001 at the University of Belgrade, a meeting held for the first time since 1944. Organized by *Dveri* and *Sveti Justin Filozof*, it was attended by students and Orthodox priests and thus sanctioned by the Serbian Orthodox Church. The Assembly called for reconciliation between the followers of Dimitrije Ljotić, Milan Nedić and Draža Mihailović, that is, between the followers of the quisling regime established by the Nazis in Serbia during the Second World War and the followers of the Chetnik movement.

²⁸ *Ibid.*, at pp. 9–16.

²⁹ Institute for War and Peace Reporting, 'Belgrade Gay-Bashers' (4 July 2001), available online at http://iwpr.net/?p=bcr&s=f&o=248798&apc_state=henibcr2001, accessed 7 November 2008, 40.

³⁰ Byford, 'Anti-Semitism', at p. 16. On its website, *Obraz* presents the disruption of the gay parade as one of its most outstanding achievements.

³¹ Paul Hockenos, *Free to Hate: The Rise of the Right in Post-Communist Eastern Europe*, Routledge, New York 1993, at p. 281.

This particular event had the additional advantage of providing an excellent occasion for these movements to differentiate themselves from the Milošević regime, which ‘made no attempt to rehabilitate elements of the Serbian quisling or Nazi-collaborationist legacies’.³²

It was also the case of an event organized by *Nomokanon* at the Law Faculty of the University of Belgrade in 17 May 2005. An earlier bid to organize the meeting under a title celebrating the tenth anniversary of the ‘liberation of Srebrenica’ had been refused, so the event consisted in a so-called tribunal organized under the title of ‘The Truth about Srebrenica’.³³

On 9 November 9 2005, a new movement made its first public appearance, in the Faculty of Philosophy of The University of Novi Sad. On this date, which corresponds to the anniversary of the Night of the Long Knives, a debate organized by the Anti-Fascist Action of Novi Sad to discuss the fascist threat in Serbia was violently disrupted by 25 members of *Nacionalni Stroj* dressed with T-shirts showing the image of Radovan Karadžić and the emblem of the JSO (Unit of Special Operations), a now disbanded special police unit created by Slobodan Milošević, which, during his regime, functioned both as his personal pretorian guard and as a paramilitary force, and whose members executed the assassination of Prime Minister Zoran Djindjić in 2003. They entered the room, blocked the way out and physically assaulted the participants. The police arrested some of the members of *Nacionalni Stroj*, and its leader Goran Davidović, also known as ‘Führer’, was condemned to one year in prison for violating the legal provisions on hate speech. According to the information I have been given, he still has not served his sentence due to impending legal procedures.³⁴

Earlier, in March 2005, posters signed by *Nacionalni Stroj* had appeared in Belgrade asking for a boycott of the TV and Radio station B92, one of the most liberal of Serbia’s media, which had played an important role opposing the Milošević regime. A Star of David was used to identify B92. Once again we find an identification between liberalism and alleged Jewish conspiracies.³⁵

At this point, it is important to point that the division between neo-Nazi troublemakers and Christian youth organizations is mostly of a tactical

³² Hoare, ‘Fascism in Yugoslavia’, p. 429.

³³ B92, ‘Srebrenica u Beogradu’ (17 May 2005), available online at http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=05&dd=17&nav_id=168589, accessed 7 November 2008. For a detailed description of this event, see Helsinki Committee for Human Rights in Serbia, *Human Security in an Unfinished State, 2005 Annual Report*, Belgrade 2006, pp. 314–15.

³⁴ BBC Serbia, ‘“Nacionalni stroj” pred sudom’ (9 January 2006), available online at http://www.bbc.co.uk/serbian/news/2006/01/060109_stroj_ns.shtml, accessed 7 November 2008.

³⁵ B92, ‘Antisemitske i parole protiv B92’ (22 March 2005), available online at http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=03&dd=22&nav_id=164838, accessed 7 November 2008.

nature, as if different groups were to fill different 'market niches'. This claim can be corroborated by the fact that when, in 2007, the neo-Nazi group *Nacionalni Stroj* announced a rally in Novi Sad for the birthday date of Heinrich Himmler, which was forbidden by the police, *Obraz* stepped in in solidarity with *Nacionalni Stroj* by convoking a 'walk' for the same date and location.³⁶ The 'walk' was then announced on the White Supremacist website Stormfront:

A Serbian patriotic gathering will be held in the city of Novi Sad on 7 October 2007. European patriots from Greece, Romania, and Slovenia will join their Serbian comrades in protest against the attacks on Serbia and Serbian people. If you are nearby and can attend, you are invited.³⁷

In response to this, a group of anti-fascist citizens convoked an anti-fascist rally to be held in the same day at the same place. They were then violently attacked by neo-Nazis. Police intervention is considered to have been very ineffective.³⁸

Ethnic minorities are particularly targeted by extremist violence. Roma, Albanians, Croats, and non-Serbs in general are victims of violence in various degrees, from verbal assaults and graffiti spraying on their houses and property, to physical assaults, some of which have resulted in murder. Such was the case, for instance, of the murder of a ten-year old Roma boy, Dušan Jovanović, by skinheads in 1997.³⁹

18.4 Extremist youth groups as threats against civic culture

One of the favourite targets of extremist youth groups are liberal-minded NGO activists. The Humanitarian Law Fund, led by Nataša Kandić, and the Helsinki Committee for Human Rights in Serbia, headed by Sonja Biserko, are particularly targeted. This takes us back to the question of the role of extremist groups in undermining the democratization process. In post-Milošević Serbia, there is a political and social environment in which the aggressors' behaviour tends to be relativized and their targets presented

³⁶ B 92, 'I Obraz najavio šetnju 7. Oktobra', (28 September 2007), available online at: http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=09&dd=28&nav_id=265474&nav_category=11.

³⁷ <http://www.stormfront.org/forum/showthread.php/serbian-march-7-october-2007-420492.html>, accessed 7 November 2008.

³⁸ B92, 'Incident in Novi Sad, Gendarmerie Arrest Neo-Nazis' (7 October 2007), http://www.b92.net/eng/news/crimes-article.php?yyyy=2007&mm=10&dd=07&nav_id=44364, accessed 7 November 2008.

³⁹ Belgrade Centre for Human Rights, *Human Rights in Serbia 2007*, Belgrade 2008, at p. 280. His murderers were convicted to ten-year sentences, but he benefited from early release due to good behaviour.

as extremists of the opposite sign.⁴⁰ Although hate speech is banned by law, this is seldom enforced, even when hate speech is published in the media.⁴¹

In 2005, a group of eight NGOs submitted a proposal to Parliament to adopt a Declaration on the Commitment of the state of Serbia to Take all Measures to Protect the Rights of Victims of War Crimes, and Notably of Srebrenica Genocide Victims. The proposal, supported by the Civic Alliance and the Social Democratic Union, was rejected, with the abstention of the Democratic Party.⁴² The government, then headed by Vojislav Koštunica, directly accused the NGOs of undermining the strategy of 'voluntary surrender' set by the government. In a media campaign, these NGOs were then accused, not for the first time, of being illegitimate, anti-democratic and anti-Serbian. Such a campaign reveals a lack, or a serious unwillingness, to understand the nature and role of NGOs in democratic societies.

Because they are so systematically attacked by the nationalist political and cultural elite and the media, a wave of suspicion surrounds the activities of the NGO sector, especially affecting the credibility of civic-minded individuals and groups among normal citizens. The effect is that these civic-minded groups and individuals are seen as extremists of the opposite sign if compared to the right-wing extremists. Not only are they discredited, but this kind of reasoning also allows individuals and groups who openly deny genocide and apologize for Serb nationalism to present themselves as 'moderates'.

Here we have to mention that the effect that the lack of a strong rejection of extremist movements by the Serbian elite provokes. Research on politically motivated hate crimes indicates that the motives behind the crimes 'reflect ideas, norms and values that are embedded in and constitutive of specific political ideologies and even of society as a whole'.⁴³ There is a wider environment that, in a certain sense, allows for extremist violence to happen. When a media campaign against a specific individual or group

⁴⁰ After the incidents in October 2007 in Novi Sad, Nenad Čanak, leader of the League of Social Democrats of Vojvodina, which supported the anti-fascist rally that was attacked by neo-Nazis, was accused by Miloš Aligrudić, leader of the Democratic Party of Serbia deputies' club (the party headed by then Prime Minister Vojislav Koštunica), of being an extremist and its party of being equivalent to Nacionalni Stroj. He added that 'he could hardly wait for the formation of the Constitutional Court, so that it could consider whether the activities of some political parties are unconstitutional and whether they should be forbidden'. Helsinki Committee for Human Rights in Serbia, *Self-Isolation: Reality and the Goal, 2007 Annual Report*, Belgrade 2008, at p. 304, citing *Danas* (9 October 2007).

⁴¹ Yucom, *Report on Discrimination in the Media*, Belgrade December 2006.

⁴² Helsinki Committee for Human Rights in Serbia, *Human Security in an Unfinished State*, at p. 46.

⁴³ Byford, 'Anti-Semitism', p. 17.

is being orchestrated, that sends a message to the extremists that they read as a promise of impunity. Consequently, headquarters and members of civic-minded organizations are subjected to harassment, threats and even physical assault.

This was clearly the case with the recent attacks against the Helsinki Committee for Human Rights and its director, Sonja Biserko. Not only has Biserko been subjected to a wave of personal attacks in the media, including the publication, in the Serbian tabloid newspaper *Kurir* of a letter written by Milorad Ulemek 'Legija', the former leader of the JSO and currently serving a prison sentence for the murder of Prime Minister Zoran Djindjić,⁴⁴ but both the Helsinki Committee headquarters and her own house have received the visit of unwanted guests. On 30 September 2008, the building of the Helsinki Committee was visited by about one hundred members of Movement 1389, which, since the arrest and extradition to the ICTY of war crimes indictee Radovan Karadžić, has organized a daily rally on Republic Square, Belgrade, to protest against such a move.⁴⁵ Police intervention and security measures on the part of the Committee prevented their entrance in the premises, but a swastika was daubed on the building door. Five days later, Biserko was threatened in her own apartment building by two unknown men.⁴⁶ This was not the first time that such incidents had happened. It is not difficult to find posts on extremists' forums on the Internet where personal data and Ms Biserko's home address are displayed, along with calls for lynching against her.⁴⁷

Situations like this reveal the kind of obstacles Serbia is facing in its transition towards democracy. There is continuity between the present and the Milošević regime, in regard to the prevalence of nationalism and uncivic values in Serbia, particularly among the intellectual elite and the political parties. There is, on the part of the Serbian nationalist elite,

⁴⁴ Ulemek called Biserko a 'maggot' who had 'attacked my Church, my army; she attacked everything that I love, honour, respect and value. She attacked everything for which I am ready to give my life to protect in order to protect that which I love', available online at <http://www.kurir-info.rs/clanak/vesti/kurir-06-10-2008/prozivka-podguzne-muve>, accessed 7 November 2008.

⁴⁵ *E-novine*, 'Kukasti krstovi za Helsinški odbor, Prvi Polovi Medijskog Linča' (30 September 2008), available online at <http://www.e-novine.com/sr/srbija/clanak.php?id=17404>, accessed 7 November 2008. The daily rallies hardly manage to get more than a few dozen participants, as I had the opportunity to witness in September and October 2008. On previous occasions, other civic-minded NGOs were also visited by protesters. This was the case with NUNS, Serbia's Independent Association of Journalists, and the Humanitarian Law Fund.

⁴⁶ B92, 'Pretnje Sonji Biserko' (5 October 2008), available online at http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=10&dd=05&nav_category=11&nav_id=322066, accessed 7 November 2008.

⁴⁷ In my research I found several such posts, corresponding in time with the wider media campaigns, including posts dating from September 2008.

who still dominate the Academy and the media, a complete inability to self-distance and a strongly rooted culture of intolerance against anyone who may criticize or question their version of Serbia's history and national identity. This inability also reveals itself in the way the Serbian population deals with the legacy of the 1990s, a decade marked by extreme nationalism and war. In post-Milošević Serbia, denial and relativization are the dominant tendencies, in regard to facing the recent past and assessing the legacy of war and nationalism, while, as Vladimir Petrović points out, 'many people are aware of what really happened, but have no regrets. On the contrary, they regret that the crime was not brought to the end'.⁴⁸

When the most important institutions in Serbia, such as the government, the Serbian Orthodox Church and the academic circles, deny or relativize genocide, it sends a message that confirms the image of civic-minded people as traitors to the nation. This creates an oppressive environment where freedom of expression is under attack, either because the targets are either intimidated or discredited, and thus cannot reach more than a small audience of like-minded people. This pressure towards isolation targets not only political opponents. It also affects freedom of expression in art and induces a tendency towards self-censorship. Extremist groups also take artistic events and artists as relevant targets.

In 2006, a group of political extremists tried to interrupt the screening of the film *Grbavica*, a film about Esma, a Muslim woman from Sarajevo who was raped during the war by Serbs, and her daughter Sara, born of that crime. The film was shown in Belgrade in a single session, which was disrupted by a group of people wearing T-shirts with the images of Ratko Mladić and Radovan Karadžić, who entered in the auditorium and chanted 'Srbija Srbija', a situation that deeply disturbed the Bosnians and ashamed the Serbs present.⁴⁹

In February 2008, shortly before Kosovo declared its independence, the opening session of an exhibition in Belgrade with paintings by Kosovo Albanian artists was invaded by *Obraz*, who destroyed a work by Kosovo ethnic Albanian artist Dren Maliqi, which portrayed the image of Adem Jashari, one of the leaders of the Kosovo Liberation Army, killed in 1998, and whom the Albanians consider to be a national hero. The exhibition was then cancelled.⁵⁰

⁴⁸ Vladimir Petrović, 'Kulturni model koji se reprodukuje', *Helsinkiška Povelja* (January–February 2008), no. 115–16, at p. 22.

⁴⁹ *Vreme*, 'Film – "Grbavica" Jasmile Žbanić: Grbavica u Beogradu' (9 March 2006), available online at <http://www.vreme.com/cms/view.php?id=445693>, accessed 7 November 2008.

⁵⁰ *Osservatorio Sui Balcani*, 'L' "Eccezione" che Belgrado non ha visto' (27 June 2008), available online at <http://www.osservatoriobalcanti.org/article/articleview/9778/1/49/>, accessed 7 November 2008.

In July 2008, *Obraz* disrupted the body-art performance of by Gabrijel Savić Ra 'Disanje-hodanje-dodir', which included a nude. The incident occurred during the International Festival of Avant-garde Art 'Umetnost u akciji' (Art in Action), in the Students House of Culture in Belgrade.⁵¹

During 2007, there was a visible increase in extremist Christian and neo-Nazi groups' activities. This increase may be connected with the nationalist mood that dominated the country in the period that coincided with the negotiations towards the determination of the final status of Kosovo, which failure was followed by Kosovo's Declaration of Independence and recognition by several countries, including the USA and most European Union member states. With the independence of Kosovo, there was a clear convergence among Serbian nationalists, which included political parties represented in parliament as well as extremist right-wing youth groups. It was this convergence that made possible the degree of violence of the riots following the government-organized *Kosovo je Srbija* rally of 21 February 2008.

On 21 February 2008, a few days after Kosovo declared its independence, Belgrade opened the news journals on TV all over Europe and beyond. What was supposed to be a peaceful demonstration by the citizens of Serbia of their rejection of the idea that Kosovo had become an independent state, and a sign of grief by the loss of what was perceived as 'the heart of the nation' had in fact become a violent demonstration of rage and anger, in which destruction was brought to the heart of Belgrade. It is not uncommon that big political protests degenerate into violence. In fact, it is rather common that extremist movements and opportunistic, loosely organized informal groups take advantage of such protests to engage in vandalization and looting.⁵² However, vandalization and looting in Belgrade were not unavoidable side effects, but rather part of the desired outcome of the rally itself. This event, in which the US embassy suffered an arson attack, resulted in the death of one of the rioters, several injured, huge material destruction and a major blow to the international image of Serbia as a democratic country.

Paradoxically, this event marked, in my opinion, the limits of the intimidation strategy on which I have tried to shed some light. Schools and Universities had the day off and so did the civil servants. Buses were organized all over Serbia to bring protesters to Belgrade, and public transport was free of charge. It is highly probable that many of the young boys and girls that participated in the looting that followed the rally thus had their first opportunity to travel by themselves to Belgrade. These were the same

⁵¹ B92, 'Ekstremisti Obraza napali izvođača' (4 July 2008), available online at http://www.b92.net/info/vesti/u_fokusu.php?id=26&start=60&nav_id=307029, accessed 7 November 2008.

⁵² We can, for instance, invoke the case of the big protests organized in France against the creation of specific working contracts for young people (CPE, Contrat Premier Emploi).

methods used by Milošević in his rise to power through the period of the 'Anti-Bureaucratic Revolution'. Organized with the purpose of becoming the biggest rally ever in Serbia, the *Kosovo je Srbija* rally was attended by a number of protesters that is estimated between 150,000 and 300,000, while during the 'Anti-Bureaucratic Revolution', protest rallies had up to one million participants.

Although most of the participants did behave in a non-violent way, during the whole day an atmosphere of violence and intimidation dominated Belgrade, with groups of teenage boys walking around the city centre shouting racist slogans expressing their willingness to slaughter Albanians, skinheads driving their shiney motorbikes in the city's main streets, and Chetnik paraphernalia being sold and displayed. The rally provided an excellent opportunity for Serbian extremist groups to gain some visibility and present themselves as true patriots ready to defend the nation. The rally itself was in fact a call for lynching against civic-minded opponents, with the famous cinema director Emir Kusturica accusing human rights activists of being 'mice' 'hiding in mouseholes'.⁵³

The police and other security forces, including private security companies that had been guarding sensitive points during the whole day and the previous days, left those spots unguarded at the crucial moments and only intervened later, after the damage had already been done. Only the deployment of the Army prevented the rioters from attacking the headquarters of the independent radio and television broadcaster B92 and the Belgrade Mosque.

The independence of Kosovo provided the conservative and nationalist forces in Serbia with their last opportunity to force Serbian society to reject the European option and to perceive self-isolation and a strategic partnership with Russia as the sole viable solution for preserving the dignity of Serbia. The rally and the subsequent riots were therefore a great act of intimidation whose targets were not the government of Kosovo or its citizens, nor the international community, but Serbian society itself. Some days later, the Prime Minister resigned and early elections were called.

Since the general elections that followed resulted for the first time in the victory of the pro-European option, there are some signs that something is changing in regard to the behaviour of extremist youth groups.

In July, the attempt to provoke riots in Belgrade, following the arrest and extradition of Karadžić to The Hague, was answered with the deployment of a significant number of police forces in the streets of Belgrade, and the

⁵³ Kusturica's statement can be viewed on You Tube: <http://uk.youtube.com/watch?v=luNR7mKtuq8>, accessed 7 November 2008. I was in Belgrade during the rally and participated in it. Informal interviews with Human Rights activists, both before and after the events confirm the climate of intimidation that was induced on that occasion. Many feared for their safety and left the city or, at least their houses, fearing physical assaults.

police severely suppressed violent protests during a rally on the day Karadžić was extradited. The extradition in itself is a good example of the need of the current government to give signs of its commitment to a pro-European path. In regard to the judiciary system, the recent condemnation of Red Star hooligan Uroš Mišić to a 10-year prison sentence for the attempted murder of a police officer on 2 December 2007 during a match between Red Star and Hajduk Kula, may be a sign that finally such acts of violence are starting to be seriously tackled, though it is too early to tell.

Another sign of change on the part of the government came with the decision to ban the march that had been called for Belgrade for 11 October 2008. There was fear that the incidents of October 2007 in Novi Sad would be repeated. The government tried to prevent another rally organized by anti-fascists, in order to avoid clashes but, not being able to convince its organizers to call it off, the government deployed an impressive police force, which effectively prevented any incidents and made 34 arrests.⁵⁴

18.5 Conclusions

Politically motivated violence perpetrated by extremist youth groups represents a serious challenge to the democratization process in Serbia. The impact of extremist right-wing youth groups in Serbia is particularly problematic due to the fact that Serbia still has a very weak civil society, while uncivic values are strongly rooted, after decades of authoritarian rule. In Serbia, civic values fail to offer the degree of 'social' cohesion that consolidated democracies have, and that usually provide an important immunity against authoritarian tendencies that may emerge even in the most democratic societies. Moreover, the specific legacy of the 1990s, a decade in which Serbia plunged into nationalism and was involved in four wars, provides extremist youth groups with a powerful symbolic apparatus that allows them more easily to lend credibility to their claim of being the bearers of true Serb patriotic values. While there is no reliable data that allows us to say that, in comparative terms, the degree of penetration of extremist right-wing youth groups is deeper in Serbian society than in other post-communist European countries, the specific context of Serbia creates special conditions for these groups to thrive.

Strengthening civic values in Serbian society is, in the long run, the best antidote to the influence of the radical right. That requires the mobilization of much wider sectors, whose adherence to such values has been reluctant, due to their inability or lack of will to face and refute the legacy of the recent past. Moreover, the very fact that extremist groups have successfully contributed

⁵⁴ B92, 'Anti-Fascist Rally without Major Incidents' (11 October 2008), available online at http://www.b92.net/eng/news/politics-article.php?yyyy=2008&mm=10&dd=11&n_av_id=54145, accessed 7 November 2008.

to a climate of intimidation and marginalization directed against the small core of civic-minded groups and individuals creates additional obstacles to the flourishing of civic values.

The government and other legitimate institutions have a crucial role in this process, as civic culture 'does not just spring forth out of nowhere; it is nurtured by institutions'.⁵⁵ In this sense, recent measures against such groups give some ground for hope in regard to the political will to tackle the problem. The impressions that I collected during the interviews I have conducted for this research also point in that direction. As an NGO activist from The Youth Initiative for Human Rights told me: 'Now we know that if we organize events, we can trust the police.'

But although the increasing repression of politically motivated violence by the police is obviously a good sign, there still remain crucial issues that need to be addressed. The most urgent is the level of hate speech in the media, and the degree of impunity regarding it, which reflects a wider problem of lack of transparency in the media sector. Another very important problem is the disproportionate influence that extremists have in the Universities, which provides them with enhanced opportunities to influence students while liberal-minded students have a much more difficult life and find it much harder to organize events. A certain climate of impunity within the University needs to be tackled.

The transformation of Serbia into a stable democracy demands an environment in which normal citizens, artists, political activists and civil society feel safe enough to exercise their right to freedom of expression. This is more important than free Schengen Visas, and it is something that doesn't depend on foreign political actors, but on the political elite in Serbia.

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⁵⁵ Sabrina Ramet, *The Three Yugoslavias, State-Building and Legitimation 1918–2005*, Indiana University Press, Bloomington 2006, at p. 21.

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Conclusion: The Impact of Transnational Terrorism and Organized Crime on the Peace-Building Process in the Western Balkans

Wolfgang Benedek

1 Introduction

What is the relationship between transnational terrorism and organized crime and what is its impact on the peace-building process in the Western Balkans, where the international community is so strongly engaged? How does organized crime and corruption affect (civil) society and the state? What are the prerequisites for sustainable peace? These are some of the essential questions that the contributions to this collection have undertaken to answer.

The Balkans are sometimes portrayed as a hotbed of crime, as a black hole of law enforcement, which allows ample space for criminal groups sometimes linked to terrorist organizations. The long-term consequences of the biggest war in Europe since World War II can indeed be felt in the Western Balkans until today in the field of security of the state and, even more so, of human security, of the security of its citizens. However, there are many misconceptions and a lack of proper understanding, which prevent a stronger impact of the measures taken by the international community, in particular the European Union.

There is a need to clarify the nature of criminal organizations and of crime as such in the region and learn more about the relationship between organized crime and terrorism. The much discussed report of the UN Office on Drugs and Crime in Vienna shows that there has been a significant decline in ordinary crime, making the Western Balkans in some respects safer than Western European cities. However, the problem of organized crime and corruption remains.¹ The UN report does not look at terrorism

¹ United Nations Office on Drugs and Crime, *Crime and its Impact on the Balkans and Affected Countries*, Vienna 2008.

or its relationship to organized crime at all, which raises the question of its actual relevance.

From a methodological perspective testing the hypothesis of a 'terror-crime nexus'² for the Western Balkans and beyond by a review of literature showed that the state of the art was not so conclusive. While some hold that 'the interaction between terrorism and organized crime is growing deeper and more complex all the time',³ in particular with regard to the methods employed, others point to different motives which pose limits on this interaction.⁴

In the case of the Western Balkans the key to the problems of today lies in the wars fought between 1991 and 1995 in Croatia as well as in Bosnia and Herzegovina and later on in Kosovo in 1998/1999. The linkages developed during the wars between criminals and the state in order to secure its survival, as it is described best by Andreas,⁵ continued in different ways after the peace agreements and still explain an important part of the realities of the peace-building process today. A similar development can be observed with regard to Islamist structures in the case of Bosnia and Herzegovina. This raised the question of a proper assessment of the topic from different points of view, which has been the purpose of a three-year research process involving 16 institutions from the European Union and the Western Balkans. The main results or the state of the art in the field have been combined in this publication.

The main purpose of this book is to contribute to a better understanding of the linkages between transnational terrorism and organized crime and their impact on the peace-building process in the Western Balkans. In order to achieve this objective the topic has been analysed by experts from different disciplines like international law, criminal law, criminology and political science using a multi-disciplinary approach.

The main areas of research identified framed the contents of three annual conferences held in Ljubljana, Sarajevo and Belgrade respectively. Research concentrated on the connection between transnational terrorism and criminal organizations in the Western Balkans region, the influence of terrorism and organized crime on state and (civil) society and the impact of transnational terrorism and criminal organizations on the peace-building process in the region, The main research question – related to the relevance

² See Tamara Makarenko, 'The Crime-Terror Continuum: Tracing the Interplay between Transnational Organized Crime and Terrorism', *Global Crime* (2004), vol. 6, no. 1, pp. 129–45.

³ Luise I. Shelley and John T. Picarelli, 'Methods and Motives: Implications of the Convergence of International Organized Crime and Terrorism', *Police Practice and Research* (2002), vol. 3, no. 4, pp. 305–18.

⁴ See Dejan Anastasijevic, 'Getting Better? A Map of Organized Crime in the Western Balkans', in this volume.

⁵ See Peter Andreas, 'The Clandestine Political Economy of War and Peace in Bosnia', *International Studies Quarterly* (2004), vol. 48, pp. 29–51.

of the crime-terror nexus for the peace-building process in the Western Balkans – proved to be less fruitful than the more general question of the impact of criminal groups on the state and their consequences for the peace process in the region. The role of the international community, in particular the European Union, which invests heavily in the peace-building process, was an area intensely studied. This led to a number of surprising results, including findings of a lack of cohesion, but also of a proper understanding of the local situation.

The contributions to the book address the questions of the size of the problem of transnational terrorism and organized crime and whether the priorities of the international community are in line with the needs perceived on the ground. They also deal with the relationship between the international community and the local institutions, in particular the state, as political or as law enforcement institution and whether the priorities and agenda of the international community respond to the real threats as perceived by the citizens in the Western Balkans. Moreover, the question of civil society and how it can be strengthened in its role is investigated.

In looking at the problems at stake, there is a need for a wide focus including often neglected aspects like the role of victims' rights, the healing of traumas produced by the conflict or the frustration of the youth isolated from Europe by the current visa regime, disillusioned by unemployment and partly open to nationalist right wing ideologies that create new challenges for the peace-building process.

The question of how to best reach research results in a field that is characterized by a scarcity of empirical data and the dominance of international experts who often neglect the security needs of local citizens raises several conceptual and methodological issues, which are addressed in the first part of the book.

2 Conceptual and methodological issues

The methodological emphasis of the book is placed on the interdisciplinary exchange, on a dialogue between scientists and practitioners, who were present in large numbers at the annual conferences, as well as on a critical review of available data for example from international research foundations. One of the objectives of the project was a mapping of (European) research in the field, which was done and published on the website of the project.⁶ For example, the question of what could be considered as a terrorist incident appeared to be seen quite differently on the ground by experts from

⁶ See European Training and Research Centre for Human Rights and Democracy (ed.), 'Human Security, Fighting Terrorism and Organized Crime: (Normative) Decisions of International Organizations Related to Terrorism and Organized Crime', Working

the region and in the local context. In this context it should be noted that the political rather than geographical concept of the Western Balkans is not accepted by all as useful. Croatian experts, for example, prefer the concept of Southeast Europe.⁷

A major conceptual innovation was the introduction of the concept of human security, which gains its attraction from going beyond the state and focusing on the security of the human being. In most cases, the individual is the main victim of terrorism and organized crime. The human security approach allows for a deeper and more holistic analysis as it is also concerned with the root causes of terrorism and organized crime as well as with a larger scale of threats ranging from threats to personal security to threats to economic security.⁸ For the purposes of the research, the specific human security needs in the post-conflict situation of the Western Balkans were identified as relating to the legacy of war, transition and globalization, but also to the so-called 'European perspective'.

Organized crime and terrorism affect all three dimensions of human security, that is, violence, human development and human rights and therefore can serve as a useful framework of analysis. The concept of peace-building goes beyond human security as it seeks to identify structures that can strengthen peace.⁹ Not surprisingly, there is no established policy of human security in the Western Balkans as long as the situation on the ground demands a comprehensive security approach with a strong focus on human rights as offered by the human security concept. In its activities and support provided, the European Union is in fact pursuing such an approach, but does not, for political reasons, employ this terminology. By contrast, UN organizations, like UNDP, have occasionally referred to the concept.¹⁰

The main institution in charge of providing security, however, is the state and therefore its lack of political will or capacity to do so in the post-conflict situation of the Western Balkan has been an important focus of research of the contributions to this volume.¹¹

Paper Series, available online at <http://www.humsec.eu/cms/index.php?id=341>, accessed 1 September 2009.

⁷ See, in particular, Hans-Jörg Albrecht and Anna-Maria Getoš, 'Research Terrorism and Organized Crime in Southeast Europe', in this volume.

⁸ See Wolfgang Benedek, 'The Human Security Approach to Terrorism and Organized Crime – Post-Conflict Situations', in this volume.

⁹ See Svetlana Djurdjevic-Lukic and Vojin Dimitrijevic, 'Human Security and Peace-building', in this volume.

¹⁰ See, for example, Ivan Krastev, *Human Security in South-East Europe*, UNDP Special Report, Skopje 1999.

¹¹ See, in particular, Denisa Kostovicova and Vesna Bojicic-Dzelilovic, 'Human Security in a Weak State in the Balkans: Global and Transnational Networks', in this volume.

3 The connection between transnational terrorism and organized crime in the Western Balkan region

There are some data that suggest the existence of 'terror-crime nexus' also for the Western Balkans. The example of the Albanian mafia and the Kosovo Liberation Army appears to come close to this claim. However, there is a problem of lack of sufficient evidence for the terror-crime nexus, and there is a problem of definitions of terrorism and organized crime, which makes achieving reliable results even more difficult.¹² Additionally there is the danger of blurring the distinctions, which might serve political purposes, but not scientific research.¹³

A case study looking at the Austrian implementation of international conventions with regard to money laundering, which is supposed to be one of the main connecting points between terrorism and organized crime, also found that there is a danger of blurring concepts with regard to money laundering and the financing of terrorism. Generally, a move from sanctioning money laundering to preventing future offences, from 'a sanction paradigm to a prevention paradigm' can be seen.¹⁴

With regard to the study of criminal and terrorist organizations, a 'network approach' has proved to be of particular relevance. This approach looks at the 'nodes' and group structures and relationships, explaining their resilience to countermeasures and their role as 'spoilers' of the peace process as they benefit from the weaknesses of fragile states. Again the facts are found not to be so clear, in particular, when it comes to the convergence of crime and terrorist groups. The various links inside the networks and between them call for more research.¹⁵

In addition, actors of 'dark networks' sometimes enjoy their roles as problem-creators and problem-solvers, a phenomenon that has been described extensively by Peter Andreas. His account of the links developed between politics and crime during the siege of Sarajevo explains a lot about the creation of connections and linkages, which remained transformed after the war.¹⁶

¹² See Maarten van Dijck, 'Discussing the Definition of Organized Crime: Word Play in Academic and Political Discourse', *Humsec Journal* (2007), no. 1, pp. 65–90, available online at <http://www.humsec.eu/cms/index.php?id=354>, accessed 1 September 2009.

¹³ See Christopher Daase, 'Terrorism and Organized Crime: One or Two Challenges', in this volume.

¹⁴ Marianne Hilf, 'Money Laundering and Financing of Terrorism: Legal Distinctions', in this volume.

¹⁵ See Georgios Kolliarakis, 'Networks and the Study of Criminal and Terrorist Organizations', in this volume.

¹⁶ Peter Andreas, 'The Longest Siege: Humanitarians and Profiteers in the Battle for Sarajevo', in this volume.

Another form of linkages developed during the war concerned the support for the defence of Sarajevo and the new state of Bosnia and Herzegovina by Islamic networks and humanitarian organizations, some of which also had links to terrorist groups. The case study of Bosnia by Lyubov G. Mincheva and Ted Robert Gurr tries to show how an alliance of convenience in the pursuit of ideological objectives has developed, which is taken by the authors as an example of linkages between trans-state terrorism and crime networks resulting from the war in Bosnia and Herzegovina. They also claim that trans-state Islamic advocacy networks have used Bosnia as a 'gateway' for militants moving between Europe and the Middle East. The political-criminal linkages among Bosnian Islamists are described as exclusively ideologically driven, while in the Albanian/Kosovan case they are characterized as 'political-criminal hybrids'. However, the Bosnian government on the instigation of the international community has taken strong measures against these links like the deportation of mujahideen suspected of involvement,¹⁷ which has raised issues of fair trial.

In the studies by local experts like Dejan Anastasijevic and Anna-Maria Getoš, the relationship between organized crime and terrorism, the 'crime-terror-nexus' in the Western Balkans has been found to be of lesser importance than expected, while Iztok Prezelj still sees a larger potential. He shows that while the smuggling of weapons has decreased, the efforts by governments and the international community to collect small arms, which are considered a typical threat to human security, have largely been unsuccessful and that any major political and security destabilization could immediately revert the otherwise positive trend in the field of small arms and light weapons.¹⁸

There is, however, consensus on the problem of obtaining reliable data, due to the lack of local capacity and research to properly register and assess incidents as to whether they are of a criminal or terrorist nature. International data collections seen through local eyes appear not always fully reliable and international studies come to quite divergent results. This is shown with the help of a comparison between the UNODC Report on Crime and its Impact on the Balkans and the EU – and Council of Europe – supported CARPO Regional Project Situation Report on organized and economic crime in South-Eastern Europe,¹⁹ with the latter painting a much more dramatic picture. Because of this lack of reliable data, there are

¹⁷ Lyubov G. Mincheva and Ted Robert Gurr, 'Unholy Alliances: Evidence on Linkages between Trans-State Terrorism and Crime Networks: The Case of Bosnia', in this volume.

¹⁸ Istok Prezelj, 'The Small Arms and Light Weapons Problem in the Western Balkans', in this volume.

¹⁹ See Council of Europe, European Commission, *CARPO Regional Project, Situation Report on Organized Economic Crime in South-Eastern Europe*, Strasbourg 2007; and UNODC, *Crime and its Impact on the Balkans*. See also Hans-Jörg Albrecht and Anna-Maria Getoš, 'Researching Terrorism and Organized Crime in Southeast Europe', in this volume.

a lot of estimates. Also a look at the Corruption Perception Index produced by Transparency International shows large, partly unexplainable differences between consecutive years, that is, in the case of Bosnia and Herzegovina.²⁰ However, the general corruption trend in most countries of the Western Balkans points upwards, which can either be due to a growing sensitivity of people or, more likely, to the fact that with the transition towards the market economy and because of state structures that do not yet function properly, economic crime and corruption have increased.

According to the findings of Albrecht/Getoš and Anastasijevic the risk of the Balkans serving as a safe haven for international terrorist activities is low. Like Christopher Daase, they point to a political instrumentalization of allegations of terrorism and organized crime. They also deplore a lack of knowledge how organized crime operates. This issue is squarely addressed by Anastasijevic, who draws a map of organized crime in the Western Balkans.²¹ He addresses the root causes for the success of organized crime, which he identifies in economic problems like unemployment that create a recruiting pool for organized crime.

There are different types of organized criminals, those who are just concerned with making money and the so-called patriotic criminals, who share links with the political elites and are mainly responsible for the half-hearted reforms of the security sector, which – in several states – has been criminalized in the past. Ethnicity is rarely a major issue in organized crime although it does play a role. The main forms of transnational organized crime are found to be trafficking in drugs and human beings, either for prostitution or migration, but also economic crime related to privatization and money laundering can be found. These are facilitated by weak states with poorly functioning law enforcement systems, which result in impunity for well-connected criminals.²²

Consequently, the main concern is strengthening the rule of law and the state in order to meet its obligations, that is, by developing and implementing national anti-drug and anti-crime strategies.²³ This leads to the second part of the research: the influence of terrorism and organized crime on the state and society.

²⁰ See Transparency International, *Global Corruption Barometer*, http://www.transparency.org/policy_research/surveys_indices/gcb, accessed 1 September 2009; Cornelius Friesendorf, Ursula C. Schroeder, and Irma Deljkic, 'Bosnia and the Art of Policy Implementation, Obstacles to International Counter-Crime Strategies', in this volume.

²¹ See Anastasijevic, 'Getting Better?', in this volume.

²² *Ibid.*; see also Bojan Dobovsek, 'Transnational Organized Crime in the Western Balkans', *HUMSEC Journal*, Working Paper Series, at <http://www.humsec.eu/cms/index.php?id=341>, accessed 1 September 2009; and Věra Stojarova, 'Organized Crime in the Western Balkans', *HUMSEC Journal* (2007), no. 1, pp. 91–114, available online at www.humsec.eu/cms/index.php?id=354, accessed 1 September 2009.

²³ See Anastasijevic, 'Getting Better?', in this volume.

4 The influence of terrorism and organized crime on the state and society

The question of the influence of terrorism and organized crime on the state and society proved to be of major relevance. There was general concern about the influence of organized crime in certain states in the Balkans, while the relevance of terrorism was found to be minimal in this respect. In the words of Anastasijevic, 'transnational terrorism failed to gain a foothold in the Balkans', mainly because it was rejected by the locals, who are more concerned with ethnic identification than with ideology or religious belief.²⁴ The research also looked at the question how gender influences the perception of terrorism as a threat.²⁵

However, the criminal involvement with the state is generally considered as the major problem and challenge for the state and (civil) society. The links created between the state and criminal networks in times of emergency, as shown by Andreas, survived the conflict and were transformed and entrenched, in particular in the security sector. This creates major challenges for human security, because of the weakness of the state in the Western Balkans, as described by Denisa Kostovicova and Vesna Bojicic-Dzelilovic. State weakness in the Western Balkans is a result of both the post-Communist transformation²⁶ and the post-conflict situation, where 'conflict entrepreneurs' have successfully adapted to new opportunities, that is, from 'crony' privatization to economic crime. They are not interested in complete state failure, but rather in more or less remote control of the state.²⁷

There is a variety of non-state actors involved as shown by Ulrich Schneckener, who provides a useful systemization of these groups²⁸ often acting as 'spoilers' of the peace process.

Penetration of the state is facilitated by blurred distinctions between the formal and informal economy.²⁹ As they are often useful to parts of the governments they do largely enjoy impunity.³⁰ Although criminals are

²⁴ Ibid.

²⁵ See Sarah Ben-David and Keren Cohen-Louck, 'Fear of Terrorism: Coping Paradox and Gender', in this volume.

²⁶ See Shahrabanou Tajbakhsh and Anuradha Chenoy, Cambridge University Press, *Human Security: Concepts and Implications*, Routledge, London 2007; and Marc Morje Howard, *The Weakness of Civil Society in Post-Communist Europe*, Cambridge University Press, Cambridge 2003.

²⁷ See Kostovicova and Bojicic-Dzelilovic, 'Human Security in a Weak State in the Balkans', in this volume.

²⁸ Ulrich Schneckener, 'Dealing with Armed Non-State Actors in Peace- and State-Building, Types and Strategies', in this volume.

²⁹ Kostovicova and Bojicic-Dzelilovic, 'Human Security in a Weak State in the Balkans', in this volume.

³⁰ See Anastasijevic, 'Getting Better?', in this volume.

often known, they are considered as 'untouchable' as shown by Friesendorf, Schroeder and Deljkic in their case study on Bosnia and Herzegovina. As a result of adjustment to opportunities, economic crime is considered as having a more serious impact on the stability and prosperity of the state than any other forms of crime identified above.³¹

However, state weakness also results from constitutional shortcomings and the lack of regional stability as demonstrated by Lada Sadikovic, again using Bosnia-Herzegovina as an example. The so-called Dayton Constitution has left the central state without competences essential to serving its citizens. In a laborious process and with the help of the international community a re-centralization is taking place in order to strengthen major state functions, that is, in the field of security and law enforcement. However, ethnic interests so far prevail over common interests and citizens are losing their confidence in the potential of the state. In addition, the state is threatened by unresolved issues in its relationship with neighbouring states, Serbia and Croatia, which maintain special relations to the ethnic groups within Bosnia and Herzegovina, providing them with passports etc. and undermining efforts to develop a sense of national cohesion of the peoples of Bosnia and Herzegovina. This has resulted in a comparative weakness of democratic institutions and of the rule of law in Bosnia and Herzegovina making it a fruitful soil for criminal groups, in this way also undermining regional security.³²

A similar situation exists in Kosovo and to a lesser extent in Macedonia, where territorial disputes and unresolved minority issues limit the effective functioning of the state and thus create open spaces for criminal activities often linked with governmental structures in the field of security, but also in other fields like the economy in general.

Another phenomenon, which is related to the post-conflict situation of the weak state, is the growing nationalist violence of extremist right-wing youth groups, who are disillusioned with the state and use its weakness to intimidate civic-minded individuals, a phenomenon which was found to be particularly disturbing in Serbia.³³ The victims are political opponents and minorities and the intimidation results in the curtailing of freedom of expression and in the undermining of the democratization of Serbian society. Civil society, which is generally weak in the Western Balkans is a major target of these elements of 'uncivilized society'.

³¹ Cornelius Friesendorf, Ursula C. Schroeder, and Irma Deljkic, 'Bosnia and the Art of Policy Implementation', in this volume.

³² Lada Sadikovic, 'Bosnia and Herzegovina in the Western Balkan System of Security', in this volume.

³³ Sarah Correia, 'Nationalist Violence in Post-Milošević Serbia, Extremist Right-Wing Youth Groups as Instruments of Intimidation of Civic-Minded Individuals and Organizations', in this volume.

This leads to a number of questions, including how best to address the problems identified, how to strengthen the peace-building process in the Western Balkans and what role civil society on the one hand and the international community on the other hand can and should have in this process.

5 How to strengthen the peace-building process in the Western Balkans: Challenges for the state and the international community

Developing strategies to strengthen the peace-building process presupposes finding answers to the question of how to address the problems identified and how to contribute to processes and structures conducive to peace. Several interlinked measures exist. They should be addressed starting from a narrow approach to be widened by introducing a human security perspective.

Traditional measures like security sector reforms, judicial reforms, anti-corruption measures and international and regional cooperation are well known and uncontroversial. Their main problem is in the implementation. As shown by the studies of Anastasijevic and Cornelius Friesendorf et al., in particular, the various national action plans on fighting crime and corruption generally lack serious implementation through legal measures as well as adequate human and financial resources. Where it is taken seriously, regional cooperation has been relatively successful, such as in the field of human trafficking in Croatia. Why the various strategies and reforms have not been effective is closely related to weak state structures and vested political and criminal interests against strengthening the state.

In this context additional efforts need to be made to establish systematic and reliable data collection systems and strengthen local scientific capacities. This would also prevent using estimates for political purposes in order to justify the priority of certain programs over others.

However, strengthening the state and its institutions is not sufficient as there is also a need to strengthen civil society to play its role.³⁴ This requires a more enabling political and legal environment for civil society by the state, which often considers it as a rival or opposition only. The international community, on its side, needs to refrain from using civil society only for its agenda and instead support activities that address local priorities. These include an emphasis on the root causes of criminal activities such as trafficking. While numerous projects target trafficking *per se*, only few look at its socio-economic root causes. Civil society is often seen by the local population as elitist. There needs to be larger local ownership, both for the agenda and the work of non-governmental

³⁴ See Kostovicova and Bojicic-Dzelilovic, 'Human Security in a Weak State in the Balkans', in this volume.

organizations, which have the potential to become respected local think tanks or professional associations concerned with the needs of the citizens.³⁵

The role of the international community, in particular the EU, is crucial. To ensure that strategies and reforms are implemented the international community and the EU as the main actor in particular should keep engaged in several ways: by providing assistance and expertise, by insisting on regional cooperation and by prioritizing anti-corruption measures and reforms of the law enforcement institutions like the judiciary. National and regional stability can be best promoted by a combination of conditionalities and an opening up of a European perspective. Economic progress is key for success since an environment of economic problems and unemployment creates instability and thus a fertile ground for corruption and crime.

But the international community has a problem of legitimacy, in particular if it does not live up to its own standards of accountability that it is eager to establish in the Western Balkan countries. This might even evolve to a situation, as explained by Nicholas Dorn, in which the way the fight against corruption and organized crime is deployed has negative consequences for human rights and democratization. Dorn's basic argument is that corruption and extortion have to be fought while respecting human rights, as otherwise perpetrators will be victimized and not lose their legitimacy. By sanctioning politicians suspected of corruption by dismissal from office without fair trial, the negative effects on human rights and democracy may outweigh the positive ones. One should not forget that the sanctions by the international community during the wars in the Balkans have benefited mainly criminals and corrupt politicians, while the population at large was suffering. Due process and accountability by the international community when it holds power are therefore considered to be crucial for strengthening good governance and capacity-building on the national and local levels. NGOs are criticized for calling for such kinds of measures and providing justification for them. The good intentions of the international community become twisted when it pursues human rights objectives by breaching human rights itself. This calls for proper criminal prosecution and due process, which are crucial for the larger peace process.³⁶

Another important but often neglected aspect of strengthening the peace process is the participation of victims in the criminal justice system. As Alline Pedra Jorge-Birol shows from international and regional experiences the neglect of the victims' needs of recovering control over their lives and becoming empowered again is not adequately addressed by the present system of transitional justice, which can easily result in a secondary victimization

³⁵ See Wolfgang Benedek, *Civil Society and Good Governance in Societies in Transition*, Belgrade/Graz, 2006.

³⁶ Nicolas Dorn, 'The Corruption of Human Rights: A Problem of Good Intentions', in this volume.

or retraumatization. The criminal justice system is more concerned with sanctioning than healing the suffering of the victim, who, on the level of the International Criminal Tribunal for the Former Yugoslavia (ICTY) is also largely excluded from participation.³⁷

However, punishment is not the main concern of the victim. For compensation, the victim has to refer to national justice systems, which often offer no practical solution. Therefore, the effects of retributive justice on the peace-building process in the Western Balkans are considered to be very limited and a more restorative approach to justice is required. As an alternative, the approach of truth and reconciliation is suggested, which is found to be more conducive to accountability, reparation, and reconciliation, which are crucial for peace-building. Both approaches could also be pursued in a complementary way. As a matter of fact, there have been repeated efforts to establish truth and reconciliation commissions in the Balkans, either on a national or, preferably, on a regional basis.³⁸

Summing up, the Western Balkans have their own specificity of terrorism and organized crime. In the past, there was a tendency to overstate the threat of terrorism by the international community based partly on international research results, often opposing the findings of local research, leading to an overemphasis on terrorism prevention. The main problems today are endemic corruption and economic crime, partly linked to organized crime. The linkages between organized crime and state structures, which to a significant part were formed during the wars of the 90s, are still maintained by transnational criminal networks and result in criminalized political economies. The main responsibility for dealing with the problems of crime and corruption lies with the state, which needs to be strengthened in this respect in order to meet its obligations toward its citizens. The post-conflict and transitional situation is an obstacle to counter-crime strategies and security sector reform as they run against vested interests that benefit from state fragility in order to capture part of the security sector, the economy, or the media. Civil society has an important watchdog role in this process, which is being supported by the international community. It needs to be revitalized in the struggle for good governance, rule of law and human rights in order to improve human security. However, because of criminal interests or political and ethnic divisions the reform processes often lack efficiency and proper results. Here the European Union is called upon to use its 'soft power'. Human security and sustainable

³⁷ Alline Pedra Jorge-Birol, 'Victim's Participation in the Criminal Justice System and its Impact on Peace-Building', in this volume.

³⁸ See the projects by Jakob Finci, 'Why do we need a Truth and Reconciliation Commission? Association of Citizens, Truth and Reconciliation', <http://www.angelfire.com/bc2/kip/engleski.html>, accessed 1 September 2009; and Nataša Kandić, 'Regional Initiative for Investigating and Disclosing the Facts about War Crimes and Other Gross Human Rights Violations Committed in Former Yugoslavia (RECOM) Initiative', Humanitarian Law Center, <http://www.hlc-rdc.org/>.

peace need a wider approach and an international community, which is ready to live up to the standards it promotes in the Western Balkans.³⁹

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³⁹ See Anastasijevic, 'Getting Better?', in this volume and Dorn, 'The Corruption of Human Rights', in this volume.

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