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# Introduction:

## Counting clouds and measuring organised crime

*Petrus C. van Duyne*

If we were to ask a man, standing motionless in a meadow looking up at the sky what he was doing and if he answered: “I am counting the clouds”, we would think him a bit peculiar. Clouds come, disappear, fuse, split up or become a fog. What is the point in counting them? As this is a harmless exercise, we would be inclined to leave the eccentric in peace. However, if we were to come across a functionary in a police head quarters or in Europol working through a pile of police reports to determine the extent of organised crime, few of us would think this an eccentric undertaking. But what is the difference?

If it may be that there is little difference between the weird cloud counter and the many organised crime counters, then we face a most interesting social phenomenon. Of course, not one concerning the lonely cloud counter but conall those educated professionals who are collectively engaged in assessing the organised crime phenomenon. This involvement has acquired a history of its own: in the USA at least since the Kefauver Committee of 1950<sup>1</sup>; in Europe since the 1980s and in international organisations at least since the Naples world conference of 1994.<sup>2</sup> Let us say that organised crime as a recognised ‘phenomenon’ is with us for between half a century (USA) and two decades (Europe). Given this long-term involvement, we would be justified in expecting there to be more than ‘organised crime cloud counting’ and a solid body of knowledge instead.

How solid is the state of the (knowledge) art today? The ‘serious’ organised crime literature is vast, though the amount of strictly empirical

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<sup>1</sup> This was an historical event which started with local concerns about interstate crime. It was almost hijacked by Senator McCarthy, who did not succeed and instead indulged himself in hunting domestic communists (Abadinsky, 1991:469).

<sup>2</sup> Unfortunately the ceremony of this event was marred when two gentlemen in black walked into the conference tent to notify the chairman, Mr. Berlusconi, that public prosecutors had initiated a criminal investigation against him.

research is modest.<sup>3</sup> Aside from its volume, to what extent does the research literature shed light on (a) the nature of the purported phenomenon and (b) on its extent? That depends in the first place on the methodological quality of the research and particularly on the definition on which it is based. If there is no unity of definition or if it fails to delineate unambiguously what the research or assessment is about, the findings are hard to compare. The resulting reports all portray their own cloudy skies. Together they may yield a fascinating collage, but they are far from determining the existence of something, let alone *measuring* its extent. And if this is true, then threat assessments which are assumed to be derived from preceding descriptions have no basis either.

Therefore, the comparison with the cloud counter is not so far-fetched after all. However, there is a difference. Organised crime studies are usually also about estimations of the dimensions of threats. In terms of our metaphor, they are about *threatening* dark clouds looming over society, not only nationally, but in the current common parlance, 'transnationally'. For the organised crime discourse this threat connotation is more than an undertone. It leavens the whole debate, in the political arena as well as in the more analytical setting of academic research. Researchers are not only charged with the task of determining the extent and nature of 'organised crime', but they are also expected to give their authoritative 'scientific' opinions about the nature of the threat (a task which most accept without demur). If only they would restrict themselves to 'organised crime cloud counting' their endeavours could be met with methodological scrutiny (Van Duyne and Van Dijck, 2007; Black et al., 2000). But by additionally accepting the task of threat assessment they engage in the interpretation of clouds as *threatening*, as thunderstorm clouds, or clouds with thunder *potential* as a risk assessment (Vander Beken, et al., 2004). This is carried out despite the continuous and widespread disagreement about the definition of the intended phenomenon itself in the first place. Thus, while European policy makers and researchers have decided energetically to pursue 'Organised Crime Threat Assessment' (OCTA)<sup>4</sup>, the basic question 'What does a threat assessment of something undefined mean?' remains unanswered. From the perspective of measurement methodology this constitutes a basic neglect of elementary research principles. What do the authors of this volume tell us on this and related issues?

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<sup>3</sup> Most empirical research is based on either police or court files or interviews with law enforcement agents. Interviews with criminals are somewhat rarer (but not exceptional) and so are studies based on participant observation (Von Lampe, 2004a).

<sup>4</sup> Council of the European Union, 14959/1/01, CRIMORG 133, Brussels, 10 December 2001.

## **The disorganisation of measuring**

The broader framework within which this impossible undertaking takes place has been set out by the combined research team of *Tilburg University*, the *Freie Universität Berlin*, the *University of Ghent*, *Durham University* (later replaced by *London School of Economics*) and the *University of Tartu*. Within the European Commission's 6<sup>th</sup> Framework Programme<sup>5</sup> the research team set out to survey the huge number of definitions and conceptualisations of organised crime. They applied a meta-theoretical classification to the existing literature to get hold of the breadth of the diversity of approaches to the conceptualisation and to assessment 'organised crime'.

Needless to say, that this was a huge undertaking. The organised crime literature is vast consisting of thousands of titles, expanding daily. Apart from that, many authors are not very explicit in the way they use concepts, assuming that 'we all understand what we mean when we talk about organised crime'. This suggests some kind of common 'discourse family' engaged in the same language game (I will discuss that later). Therefore, after surveying their predecessors' (failed) attempts to create some order in the conceptual chaos surrounding the study of organised crime –whether by designing models, creating typologies of components of definitions– the authors refrained from piling another typology or definition on top of the existing ones. Instead, they analysed a substantial sample of the European and international organised crime literature (66 titles) to determine how it is conceptualised. Their classification 'tool' consisted of what they called 'basic dimensions': individuals, structures, activities or systemic conditions.

The outcome was as disorganised as 'organised crime' can be. Not much conceptual order could be discerned. For example, the concept of 'criminal structures' was found to be used in terms of market relationships, groups, networks or all of them. In addition, the clarity is often obscured by the loose and imprecise way in which the key words are used. The four basic dimensions of organised crime form no coherent pattern connected to other aspects, like type of crime, instruments or causes. Worse, there is considerable arbitrariness in the ways categories are used. For example, on the one hand, 'organised crime' is portrayed as 'business' (as in the case of drug trade), but on the other hand, it is connected to predatory crime which is a rather anti-business affair.

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<sup>5</sup> Research project: Assessing Organised Crime. Testing the feasibility of a common European Approach (CIS8-CT-2004-501767).

The authors formulate their opinion about the state of the knowledge diplomatically, indicating “a lack of common theoretical understanding”. Given the nature of the conceptual juggling and the careless mixing up of concepts –frequently non-delineated and therefore fuzzy– one may rather speak of a fundamental lack of scholarly discipline (Van Duyne and Van Dijck, 2007). There is not a scientific debate between identifiable ‘schools’ or certain streams or a thoughtful building on predecessors. Of course there is no lack of citations. But after this customary quotation ritual and display of wide reading, authors follow their own course. Because they use the same or similar words, it looks as if they are talking about the same subject. Still, each stares at a cloud formation of his own.

This isolated cloud staring is not a strange scholarly trait. *Barbara Vettori* of the Catholic University of Milan provides an intriguing account of the study that was undertaken to develop a body European Union ‘organised crime statistics’ to measure organised crime (‘EUSTOC’). The general idea is that a proper survey of the organised crime situation in Europe will contribute to more harmonised and effective policy making. As every criminologist engaged in international comparative studies knows, this is not a sinecure. The disciplinary requirements necessary to make such an instrument work are strict and once put into place it must be maintained continuously. A watered down statistical data base is a nightmare for every researcher. And what does Dr. Vettori convey to us?

It goes without saying that there are no statistics without definitions of phenomenon as a whole, its component parts and all of its accompanying features. No bird flu definition, no bird flu statistics. Bird flu is very much dreaded, so we know much about it. What about the dreaded ‘organised crime’? Yes, there is a ‘politically agreed-upon definition’ of organised crime.<sup>6</sup> The emphasis is on ‘politically agreed-upon’, because as an *empirical* definition it does not cut much ice. This aspect is not discussed, perhaps because in the European context questions about validity are rarely raised. Whether or not the ‘agreed-upon’ definition is a valid one, the author sharply observes that member states in the EU only partly adhere to it. And if they do so they apply it in such varying ways that the results are incomparable nonetheless. Sometimes the deviation is a conscious policy decision, in other cases deviation simply slips in. This nonchalance contrasts strongly with the rhetoric surrounding the organised crime debate.

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<sup>6</sup> For a rough selection of the organised crime definition literature: see: Maltz, 1990; Dobovšek, 1996; Van der Heijden 1996; Fijnaut et al. 1998; Levi, 1998; Finckenauer 2005. For a detailed overview of OC definitions, visit the website maintained by Klaus von Lampe, <http://www.organized-crime.de/OCDEF1.htm>.



If the imprecise application of the imprecise definition leads already to uninterpretable statistical outcomes, the underlying methodology of database building is sufficient to render vain all hopes of developing any reliable organised crime statistics. Databases are based on counting units: no counting units, no statistics. What do member states do? The author provides us a penetrating insight on this point. Member states use *offence* based or *offender* based systems or a combination of both. An offence based system weighs the ‘seriousness’ and ‘complexity’ of the crime and subsequently concludes it must be ‘organised crime’, *because* it is serious and complex. The offender based system starts the circle of reasoning from the other end: suspects ‘known’ to ‘commit organise crime’. Hence the crimes committed by these suspects is ‘organised crime’. So, we can choose between offence or offender based circular data collection, or a mixture of the two circular reasoning systems. At least, the circle will be round. If databases can be built on these principles at all, one may wonder how useful they will be for the purpose of comparative analysis.<sup>7</sup>

An aspect of database building is defining the variables that denote the distinctive features of the criminal activities or offenders. These range from ‘person variables’ (like age, gender, martial status), previous convictions, modus operandi to external relationships etc. Many variables are common, but that does not entail comparability. Variables (with the same name) may be coded differently, while the data collection techniques may be different too. In simple research terms: lists of identically worded variables but with different ‘code books’ (if present at all) yield different databases. In that case there is nothing to compare, because statistically these are different statistical ‘populations’.

The author optimistically concludes by putting forward a list of improvements, which would certainly make sense, if only that stubborn definition problem could be solved. Thus far this has not happened, despite all the political resolutions aimed at doing just that.

## **Financial and economic crime problems**

Though the existence of organised crime is usually presented as an obvious fact, albeit one that is somewhat difficult to assess as soon as more clarity is

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<sup>7</sup> A proper database can easily be built on (a) offenders *and* (b) offences. Actually, most databases of money-laundering are based on suspects and suspected transactions.

required and a proper methodology is applied, the organised-crime status of financial and economic crime has always been an unclear and uneasy matter. Even when we do not add the adjectival clause 'organised crime', financial and economic law breaking is fraught with conceptual difficulties. The director of the Czech Institute of Criminology and Social Prevention, *Miroslav Scheinost*, leads us through this hazy economic crime landscape. From a legal and law enforcement perspective it is an 'old landscape' and one would have expected that most of the difficulties would have been sorted out by now through a process of legal and conceptual 'maturing'. However, Scheinost's elaboration destroys this illusion. Though economic crime has a longer legal and criminological history than 'organised crime', there is much conceptual disorder in this field. This is as foggy as 'organised crime' which makes the counting job just as meaningless. Despite this, it is remarkable that in the area of economic crime there is no definitional controversy, nor anyone who proclaims to have coined the only correct definition as 'organised crime thinkers' are sometimes prone to do (Maltz, 1990; Fijnaut et al., 1998; Finckenauer, 2005). Economic crime researchers recognise the ambiguous nature of any economic crime definition and move forward to more important matters like selecting and defining a topic for research.

Selecting economic crime research topics is not just a methodological issue. Surrounding the research topic are broader social and economic issues, that turn economic crime research into something more than the processing of tables of official statistics. While in the area of 'organised crime' the authorities succeed in evoking some kind of 'threat feeling' (however imprecise), this does not work to the same extent field of economic crime field. It depends on what is at stake. If the authorities intervene in market relations by making coveted goods more expensive, customers have other things to worry about than 'organised crime'. It requires little imagination to see that tripling the prices of coveted consumer goods, like tobacco in the UK or alcohol in Norway, does not contribute to depicting the related smugglers as 'organised crime' bogeymen (Johansen, 2005). Nevertheless, as soon as such criminal entrepreneurial activities are upgraded to the category of 'serious crime', it is also qualified as 'organised crime'. The author's discussion of organised crime and economic crime, trying to clarify the distinction between them, may convince the reader that the attempt to differentiate the two is as successful as keeping clouds apart. At certain moments one can say: 'Yes, they are apart' and at the next moment they fuse again.

If all these conceptual endeavours fail to bring clarity to the distinction between economic and organised crime, the fight economic crime should not suffer from this. This should especially not be the case at the European level,