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# GLOBAL TRANSNATIONAL CRIME: CANADA AND CHINA

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## ABSTRACT

This paper presents a review of the phenomena of transnational crime/organized crime (TNC/OC) as it relates to Canada and China. The paper begins by outlining the changing understanding of TNC/OC. Three issues dominate much of the current debate: issues of the breakdown in strictly 'ethnic'-based operations and the refocus of law enforcement on criminal markets; the changing perception of the structure of criminal organizations and finally, a recognition of harm as a determinant of the types of criminal activity that ought to be treated internationally with the seriousness of the more traditional organized crimes. Next, this paper identifies the key illicit markets related to Canada and China. These markets include: money laundering, drug trafficking, human smuggling and the counterfeiting of goods, cards and currency. This paper concludes with a discussion on areas of tension and opportunities for enhanced cooperation on a bilateral and multilateral basis between Canada and China. One key unresolved tension relates to China's quest for international assistance in combating corruption. China and Canada have ratified the UN Convention Against Corruption and in addition Canada is involved in four international agreements dealing with the criminal aspect of corruption – but from China's perspective these agreements were *supposed* to assist countries in their fight against various forms of corruption but are either not effective or are not implemented.

## RÉSUMÉ

Cette étude rend compte du phénomène du crime transnational/organisé (CTO) en lien avec le Canada et la Chine. On y explique tout d'abord en quoi la notion de CTO a évolué avant de dégager trois enjeux qui dominent aujourd'hui le débat sur la question : la fragmentation des activités à caractère strictement « ethnique » et le recentrage de l'application de la loi sur les marchés criminels ; l'évolution des perceptions quant à la structure des organisations criminelles ; et la reconnaissance du préjudice comme déterminant du type d'activités criminelles qui devraient être combattues internationalement avec le même sérieux que le crime organisé traditionnel. On y recense ensuite les principaux marchés illicites qui touchent le Canada et la Chine, à savoir le blanchiment d'argent, le trafic de stupéfiants, le passage de clandestins et la contrefaçon de biens, de cartes et de monnaie. On y examine enfin les sources de tension entre les deux pays mais aussi les possibilités d'une meilleure coopération bilatérale et multilatérale. L'une de ces sources de tension concerne la demande d'assistance internationale de la Chine pour combattre la corruption. Les deux pays ont ratifié la Convention des Nations unies contre la corruption, le Canada étant de surcroît partie prenante de quatre accords internationaux sur la dimension criminelle de la corruption. Mais selon la Chine, ces accords *consés* aider les pays à lutter contre diverses formes de corruption sont inefficaces ou mal appliqués.

## ABOUT THE AUTHOR

Dr. Margaret Beare served as the first Director of the Nathanson Centre for the Study of Organized Crime and Corruption, located within Osgoode Hall Law School at York University in Toronto from 1996-2006. Dr. Beare is a professor within the sociology and law departments. Her career combines academic teaching with research and policy development. Her previous research includes her book *Criminal Conspiracies, Organized Crime in Canada*; a report for the Law Commission of Canada titled *Major Issues Relating to Organized Crime* (with Tom Naylor) and in 2003 she edited a book titled *Critical Reflections on Transnational Organized Crime, Money Laundering and Corruption*. Beare had two books published by the University of Toronto Press in spring 2007: *Money Laundering in Canada: The Chasing of Dirty and Dangerous Dollars*, co-authored with Stephen Schneider, and a co-edited manuscript pertaining to police independence titled *Police and Government Relations: Who's Calling the Shots*. In 2008-09 she contributed two chapters and edited another book published by the University of Toronto Press titled *Honouring Social Justice: Honouring Dianne Martin* in honour of a colleague at Osgoode Hall Law School.

The opinions expressed in this paper are those of the author and do not necessarily reflect the views of the Canadian International Council, its Senate or its Board of Directors.

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## INTRODUCTION

This paper presents a review of the phenomena of transnational crime/organized crime (TNC/OC) as it relates to Canada and the People's Republic of China (PRC). An attempt is made to provide projections as to what might be the key continuing and/or future concerns and potential sources of problematic relationships. The paper begins with an outline of the changing understanding of TNC/OC. The paper then identifies the key illicit markets related to Canada and China, and concludes with a discussion on Canada-China relations, areas of tension and opportunities for enhanced cooperation on a bilateral and multilateral basis.

## CHANGING UNDERSTANDING OF TNC/OC

Internationally our understanding of organized crime has changed significantly over the past ten years. This section of the paper begins by addressing three issues that dominate much of the current debate on transnational or organized crime: issues of the breakdown in strictly 'ethnic' based operations and the refocus of law enforcement on criminal markets; the changing perception of the structure of criminal organizations and finally, a recognition of harm as a determinant of the types of criminal activity which ought to be treated internationally with the same attention of more traditional organized crimes.

### *The Ethnicity Dimension*

Ethnicity has always been an important aspect in how criminal organizations are studied and analyzed by scholars and targeted by law enforcement. The focus on ethnicity feeds most naturally into what has been called "the alien conspiracy perspective," and continues through most of the literature on organized crime. Organized crime operations were seen to be foreign and therefore feeding off of the right and moral opportunities of a host country. This view has given way to awareness of home-grown criminal opportunists who are quite capable of forming themselves into criminal operations. This appreciation involves a movement away from 'ethnic-bound' criminal organizations to an appreciation of diverse participants who bring either unique skills, access to exploitable markets or services, or more competitive business opportunities. The British Columbian United Nations Gang exemplifies this appreciation. This gang's name speaks to the various ethnic origins of the members. It is claimed that this multi-ethnic UN Gang originated from a group of high school friends in the Chilliwack/Abbotsford area who were linked to Asian organized crime. In addition to Asian organized crime, the gang has links to outlaw motorcycle gangs, Indo-Canadian and independent organized crime groups.<sup>1</sup> This gang is diverse in membership as well as in its involvement in criminal markets. Today it is considered a structured organization that imports and distributes British Columbian marijuana and cocaine, in addition to its involvement in side criminal activities including: weapons trafficking, marijuana grow-ops, cross border trafficking, extortion, kidnappings and the sale of heroin and crystal meth.

Obviously in some criminal organizations, ethnicity and perhaps even kin continues to form the basis for membership – and may even restrict membership. Numerous writers have outlined the following advantages of having a restrictive membership: loyalty, trust, stability and continuity of membership, ease of communication, barrier to infiltration from undercover police work, as well as 'source' and 'destination' operations for commodities that involve exportation/importation. At any one time in history due to historical, political, economic or social reasons, more criminality may occur among certain ethnic groups than among others. The ethnicity focus is present, but for reasons that relate specifically to historical events and not strictly ethnicity. In addition, earlier research offered an ethnic-succession explanation for the occurrence of ethnic-specific criminality. It was argued

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1 "Gun Dealer Supplied Arms to UN Gang," *The Vancouver Sun*, July 12, 2008. Accessed December 18, 2009, <http://www.canada.com/vancouver/news/story.html?id=4635e1f1-6656-481e-bdae-998e8c3083c2>. (Article refers to information from documents filed at the bail hearing for Jong Ca John Lee.)

that new immigrants entered a country at the bottom of the ladder, and therefore had few options to achieve upper mobility – crime was one such opportunity.<sup>2</sup>

In addition to the reasons that ethnicity could play a role in criminal organizations, Frank Bovenkerk and others<sup>3</sup> argue that rather than being categorized into ethnic slots and tarnished with the attributes that society might assign to a particular ethnicity, criminal groups and criminal individuals may exploit and construct ethnicity in various ways in order to advance their ability to be successful criminals. This exploitation may involve bragging claims that notorious criminals are relatives to use the intimidation associated with other groups sharing the same ethnicity. Hence, the ethnicity label may be applied from inside as well as outside the group.

Victimization may also occur along ethnic lines. Asian-on-Asian victimization is a significant issue in Canada, and is combined with the victims hesitating to go to the Canadian police for assistance. Asian criminals mainly target the Asian community. The Canadian UN Submission listed home invasions, extortion, loan-sharking and debt collection (associated with illegal gambling) as involving an extraordinary amount of violence and many victims, almost exclusively Asian for these specific offences. Victims were often too frightened to co-operate with police in Canada. Other criminal operations involve the cooperation of legitimate businesses that are necessary to the success of the Asian criminals. For example, it is claimed in the Canadian UN Submission (but with no substantiating information provided) that these groups frequently use intimidation and terror to obtain cooperation from otherwise legitimate businesspersons to join in schemes to launder money.<sup>4</sup>

While Asian-on-Asian crime may apply to a few specific offences such as extortion within the ethnic community, it does not apply to the larger organized criminal operations such as credit card fraud, drug trafficking and smuggling – crimes in which anyone can be victimized.

As important as the ethnic factor may be, if one focuses strictly on the ethnic members, the danger is that the larger picture will be distorted and the non-ethnic participants or facilitators (professionals and others) may remain invisible. A market-based or fluid network approach to organized crime investigation means that there are no preconceptions or ethnic 'boxes' within which data must be fitted. This approach makes both law enforcement and portraying the organized crime as a threat to the public more difficult. The motivation to be involved in criminal operations is invariably financial gain not ethnic loyalties.

## THE CANADIAN POLICE RESPONSE TO THE CHANGING STRUCTURE OF CRIMINAL OPERATIONS

The Canadian police response is ambiguous. The annual reports of Criminal Intelligence Service Canada (CISC) and the Royal Canadian Mounted Police (RCMP) traditionally described criminal organizations under ethnic categories, including bikers who were treated as a near-ethnic group. A 2004 CISC report stated that Asian Organized Crime presents a major threat in Canada because of its many widespread and well-run criminal operations. The report said Asian-based street gang violence is on the rise in several cities, and that the street gangs have connections with more sophisticated Asian organized crime groups. While scattered from coast to coast, Asian gangs were claimed to be most active in Vancouver, Calgary, Edmonton and Toronto.

Surprisingly, the 2005 CISC report was the last year a CISC report made direct mention of Asian Organized Crime, and between 2006 and 2009, the words "China" and "Chinese" do not appear in those reports. More recently their reports focus on methods of criminal operations and markets with only an occasional mention of specific countries' involvement and without the mention of specific criminal groups. This lack of content over the

<sup>2</sup> D. Bell, *The End of Ideology* (Glencoe, Illinois: The Free Press, 1962); F. Ianni, *Black Mafia, Ethnic Succession in Organized Crime* (New York: Simon and Schuster, 1974).

<sup>3</sup> Frank Bovenkerk, D. Siegel and D. Zaitch, "Organized Crime and Ethnic Reputation Manipulation," *Crime, Law and Social Change* 39, no. 1 (2003): 23-38.

<sup>4</sup> One must always question the willing versus the forced complicity of otherwise legitimate businesses, because businesses tend to consider money laundering distinct from crime and are often quite willing to participate in order to gain the commission charged for laundering services.

past several years does not, however, mean that there ceased to be Asian Organized Crime in Canada or that the police no longer targeted Asian Organized Crime.

While the police have ceased to refer to ethnic categories of organized crime, they carry-out their enforcement activities in recognition that ethnic operations still operate. Across the country, the RCMP have formed 'Combined Forces Special Enforcement Units' (CFSEU) as well as 'Integrated Gang Task Forces.' These operations are designed specifically to include police officers with an expertise pertaining to diverse language abilities and cultural experience in order to gather information on specific targeted criminal groups – including Asian Organized Crime. When the British Columbian CFSEU was established, outlaw motorcycle gangs and Asian based organized crime groups were cited as the two key criminal threats. In one specific operation the Australian Joint Asian Crime Group (JACG) worked together with a Canadian CFSEU and the US Drug Enforcement Agency (DEA) to successfully arrest 40 criminals worldwide on various drug related charges.<sup>5</sup>

Regardless of the absence of police reference specifically to "Asian Organized Crime," law enforcement cases provide evidence that Asian criminals within Canada remain active in a long list of criminal activities: credit card fraud, luxury car theft, prostitution, home invasions, staged vehicle accidents, contract killings, assaults, welfare and employment insurance fraud, drug trafficking, software piracy, loan-sharking and illegal gaming.

### ***From Structure to Fluidity of Criminal Organizations***

The following discussion detailing more fluid criminal operations is related to the debate regarding the role of ethnic groups in criminal operations. While issues pertaining to what is or is not organized crime continue to be debated, there is wider agreement that the structure of organized crime has either changed over the years or the understanding of these organizations have become more accurate. This shift is away from the idea of rigid groups to more fluid associations among the criminal organizations and there is an appreciation that the structure and possibly even the purpose may vary across criminal groups and through time.

Ten years ago, one of the first acknowledgements of this shift in law enforcement thinking regarding the nature of criminal organizations came out of Australia. The following quote is particularly significant because it originated from the police and spoke directly about the weaknesses of a focus restricted to the traditional stereotypes of organized crime. As an Australian report stated:

Cumulative analysis of intelligence...has suggested that organized crime networks are more opportunistic in nature, and fluid in structure than earlier thought, and that entry into illicit markets in Queensland has by no means been restricted to those with specific affiliations to an established group. As a result, the law enforcement community has come to recognize both the value and the limitations of the traditional stereotypes of organized crime that have dominated thinking during past decades.<sup>6</sup>

In 2001-02, the UN Centre for International Crime Prevention collected information on 40 selected organized crime groups in 16 countries and one region. From the data collected, the UN developed a typology of organized crime groups. The authors of the UN report emphasize that one of the major findings from the survey was the great diversity among the various organized crime groups, suggesting that "when we talk of transnational organized crime in a variety of localities, we are often in fact referring to very different phenomena."<sup>7</sup> The UN Report argues that an understanding of the trends in organized criminal organizations requires a study of separate *groups*, plus *clusters* of criminal groups and finally *criminal markets*.

<sup>5</sup> Australian Federal Police, "40 Arrested and \$13.7 Million of Ice and Ecstasy Seized," National Media Release, December 13, 2007.

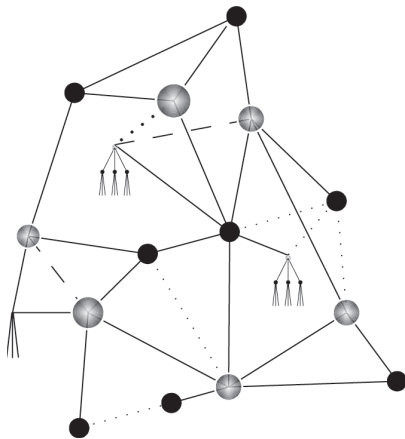
<sup>6</sup> Queensland Crime Commission and Queensland Police Service, "Project Krystal: A Strategic Assessment of Organised Crime in Queensland," June 1999. Accessed December 21, 2009, <http://www.cmc.qld.gov.au/data/portal/00000005/content/18651001141364539740.pdf>.

<sup>7</sup> United Nations Centre for International Crime Prevention, "Assessing Transnational Organized Crime: Results of a Pilot Survey of 40 Selected Organized Criminal Groups in 16 Countries," *Trends in Organized Crime* 6, no. 2 (Winter 2000): 49. The quoted report was released 2002: the date assigned to the Journal reflects the delayed publication of previous volumes.

A number of recent studies have applied social network analysis to the study of illegal market operations. In a 2008 book, Carlo Morselli examined the inner workings of drug trafficking operations and stolen vehicle networks that were targeted by various law-enforcement interventions and disruptions. He found that most criminal networks were indeed indicative of small and transient groups in that they were essentially the result of mere partnerships and resource pooling between a few well-connected participants.<sup>8</sup> Morselli concluded that research indicates that law enforcement has at best a very limited impact on illegal markets, criminal networks and violence. However, due to the important role played by supposed legitimate actors (lawyers, accountants, businesses and so on) in illicit markets, their presence may serve as a point of vulnerability to enforcement efforts.

Please see Appendix A for the replication of the 5 diagrams that were used by the UN to represent the diverse structures. Typology 5 reproduced below illustrate the 'networking' form that various criminal organizations now resemble.

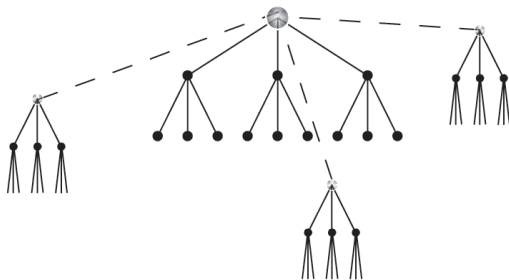
### Typology 5: Criminal network



• Defined by activities of key individuals
• Prominence in network determined by contacts/skills
• Personal loyalties/ties more important than social/ethnic identities
• Network connections endure, coalescing around series of criminal projects
• Low public profile – seldom known by any name
• Network reforms after exit of key individuals

Regardless of a possible trend toward the more fluid, network structure of criminal operations, the UN study concluded that many of the Asian organized crime groups included in the study more accurately belonged to the Typology 2 category. The aforementioned report held that these groups have a hierarchy headed by a defined leadership structure: "Day-to-day business is left to 'managers' further down the pyramid who act with a level of autonomy and are generally in control of operations in specific geographical areas."<sup>9</sup>

### Typology 2: Regional hierarchy



• Single leadership structure
• Line of command from centre
• Degree of autonomy at regional level
• Geographic/regional distribution
• Multiple activities
• Often strong social or ethnic identity
• Violence essential to activities

<sup>8</sup> Carlo Morselli, *Inside Criminal Networks* (New York: Springer, 2008).

<sup>9</sup> United Nations Centre for International Crime Prevention, "Assessing Transnational Organized Crime: Results of a Pilot Survey of 40 Selected Organized Criminal Groups in 16 Countries," 78.

While there remain various views with respect to the nature of criminal organizations, there appears to be some agreement that, almost regardless of the structure, the rigidity may have been lost or at least significantly weakened through the consequences of the expansive global markets, and faster, more reliable communication networks. The changes within criminal operations mirror changes within legitimate businesses. Even when part of a specific well-known criminal group, such as the Big Circle Boys, for example, members often operate in small, cell-structured groups or partnerships, if not independently, when engaging in illegal activities. Subsequent to the achievement of a particular goal, these partnerships often are dissolved.<sup>10</sup>

More recently, the police claim that Asian Organized Crime (AOC) operations have diversified and are now involved in other profitable criminal commodities. Their "structural fluidity and flexibility" is evidenced by the fact that those attached to AOC groups are often involved in simultaneous criminal operations with different Asian criminal groups at the same time. This feature of AOC gives rise to one of its trademarks, whereby one individual may perform the role of a chief organizer in one operation, and merely a low-level labourer in another operation. As well, there could be solid or absolutely no links to connect one operation with another. The groups are also co-operating with other organized crime groups, and thus there are fewer rivalries among them. The constant and frequent national and international travel by AOC members and associates is another fact that points to the global scope of AOC criminal activity.

Academics refer to the deterritorialized nature of crime<sup>11</sup> as new forms of communication and transportation mean that criminals may truly operate transnationally and potentially without a specific base of operations anywhere. While Canada's local law enforcement officials may need to be primarily concerned with the domestic impact of crime, what is happening elsewhere must be a part of the policy, practices and legislative considerations within any country. All countries are encouraged to be in harmony with the international community. Achieving this cross-jurisdictional harmony is not easily achieved and will be discussed with specific focus on Canada-China relations.

### ***Issues of Seriousness and Harm***

A final question regarding the concept of organized crime after considerations of make-up and structure is the issue of what criminal activities ought to be treated with the degree of international concern as is usually reserved for traditional organized crimes such as the trafficking in illicit drugs. The recognition that criminal operations can involve both legitimate as well as illegitimate players leads to an even more recent discussion that has been advanced by the European Union (EU). Beginning in 2006 there has been an ongoing debate questioning the merits of restricting international enforcement to criminality that can be classified as organized crime. What is perhaps more relevant is an appreciation that there are some crimes that are *more* serious and *more* harmful that may however not be organized in any manner that would fit a description of organized crime. Beginning in 2010 the EU's Council Decision on Europol will make Europol an EU agency and will change its mandate to include serious criminality which is not strictly related to organized crime but which requires cross border criminal investigations.

While organized crime would remain part of Europol's mandate, terrorism, trafficking in human beings, drugs, frauds and cybercrime would also be included. Europol would also be able to assist Member States with security in large-scale events and to assist with the processing and protection of sensitive data. How 'broad' to define the notion of harm and serious crime remains part of the debate. What one witnesses internationally is that some of the most serious acts that impact countries around the globe may in fact not be open to criminal or strict policing forms of enforcement. Corruption, environmental spillage and degradation, financial market

<sup>10</sup> Library of Congress, "Asian Organized Crime and Terrorist Activity in Canada, 1999-2002: A Report Prepared by the Federal Research Division, Library of Congress under an Interagency Agreement with the United States Government," July 2003. Accessed December 21, 2009, [http://www.loc.gov/rr/frd/pdf-files/AsianOrgCrime\\_Canada.pdf](http://www.loc.gov/rr/frd/pdf-files/AsianOrgCrime_Canada.pdf).

<sup>11</sup> Yvon Dandurand, Brian Tkachuk and Allan Castle. Paper presented at the International Conference on Crime and Criminal Justice in a Borderless Era, held at Ritsumeikan University, Kyoto, Japan. 1998. (no title provided)

manipulation and various state crimes may also require a broad international response.<sup>12</sup> Canada's concern with domestic AOC also includes a number of these forms of crime – that might fall short of being organized. Corruption of officials, including Canadian police corruption, international environmental concerns and of course the financial crises all serve to link Canada to China.

## CRIMINAL MARKETS

### *Money Laundering as a Criminal market: Chinese and Canadian Responses*

China and Canada have engaged in significant measures to fight money laundering – and dirty money is deemed to be a problem in both countries. Beginning in the 1980s, the literature on the phenomena of money laundering has burgeoned. There were initially very significant expectations about the impact of this revolution in crime control on organized crime which has however yielded only mixed results at significant costs. New innovations in electronic money – for example Digital Gold Currency (electronic money exchangeable for gold) – are evidence of a constantly evolving situation. The lack of results from enforcement measures has not curbed the pressure that has been exerted by international organizations such as the Financial Action Task Force (FATF).<sup>13</sup> Nations have been encouraged to join in the anti-laundering movement through implementation of a series of FATF recommendations; a process that, in recent years, has been backed-up with black-listing sanctions. The initial promise of anti-money laundering – that by going after the proceeds of crime, law enforcement will choke the life-blood out of crime – has not come to pass.<sup>14</sup> Some debate remains as to whether the real motivation was ever to take the profits away from drug traffickers but rather to make more difficult both capital flight and tax evasion. Perhaps the anti-money laundering measures were intended to do all of these things.

Despite what appears to be an unending attempt by government officials, non-government agencies and academics, it is likely that efforts to measure the extent of dirty money will continue to be mired in the immeasurability of the global money system. In the United States, Peter Reuter, in *Chasing Dirty Money: the Fight Against Money Laundering*, states:

A sustained effort between 1996-2000 by the FATF [Financial Action Task Force] to produce such estimates [of money laundering] failed. In fact, no direct estimates exist of how much money passes through the financial system, whether broadly or narrowly defined, for the purposes of converting illegal gains into a non-traceable form.<sup>15</sup>

Moreover, and as Peter Reuter also observed, all laundered money does not do the same amount of harm. Therefore, compounding the difficulty of measuring the harm associated with illicit proceeds is the additional problem of gauging its actual impact on society. While measurement of dirty money has proved to be a chimera, the rise in awareness of financial irregularities by supposedly legitimate financial actors has prompted questions about the narrow focus of money laundering.<sup>16</sup>

Any and all countries are vulnerable to being used for money laundering and what is known may bear little resemblance to the reality. However, based on John Walker's calculations China has been listed as one of the world's top five countries of origin for laundered money with the United States in the first position, followed

12 Nicholas Dorn, "The End of Organized Crime in the European Union," *Crime Law and Social Change* 51 (2009): 283-295.

13 The stated mandate of FATF is to serve as "an inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering..." In 2010 there were 34 member jurisdictions and 2 regional organizations. [http://www.fatf-gafi.org/document/52/0,3343,en\\_32250379\\_32236869\\_34027188\\_1\\_1\\_1\\_1,00.html](http://www.fatf-gafi.org/document/52/0,3343,en_32250379_32236869_34027188_1_1_1_1,00.html).

14 M.E. Beare and S. Schneider, *Money Laundering in Canada: Chasing Dirty and Dangerous Dollars* (Toronto: University of Toronto Press, 2007).

15 Peter Reuter and E. Truman, *Chasing Dirty Money: The Fight Against Money Laundering* (Washington DC.: Institute for International Economics, 2004), 9.

16 Michael Levi, "Suite revenge? The Shaping of Folk Devils and Moral Panics about White-Collar Crimes," *British Journal of Criminology* 49 (2009): 48-67.

in order by Italy, Russia and China. The top five countries of destination for laundering money are the United States, Cayman Islands, Russia, Italy and China.<sup>17</sup>

## CHINA'S RESPONSE

China recognizes that money laundering is one criminal activity where international cooperation is critical. Without effective international cooperation, there will be no realistic chance of defeating or significantly curbing money laundering.<sup>18</sup> Beginning in 2001 the People's Bank of China set up a special anti-money-laundering task force charged with the unified leadership and deployment of anti-money-laundering operations throughout the Chinese banking system. On April 27, 2002, the Bank of China convened an international conference on countermeasures to money laundering and regulation examination. This conference was aimed at cooperation with other countries or international organization to search for effective methods to deal with the increase in money laundering in the international society. China was officially admitted to the Financial Action Task Force in 2007.<sup>19</sup>

Some Chinese researchers despair that their anti-laundering mechanisms will have any impact on reducing the flow of money (obtained via corruption) out of China. In 2001, more than 4,000 corrupt officials, including bank officials, fled China with US\$600 million in illicit money.<sup>20</sup> In the first half of 2005, 570 managers and heads of bank branches were convicted of corruption or fraud. Chinese officials claim that bank directors, executives and loan officers are involved in most of the largest bank frauds in China. Insider frauds are deemed to be responsibility for 80 percent of bank frauds. The involvement of bank officials, perhaps especially the large number of senior bank officials, renders their anti-laundering provisions powerless. Here we see a link between what had been imposed to fight more traditional organized crime now being seen as a required enforcement tool against criminal behaviour that undermines the financial system of the country – and is in that sense perhaps 'more' serious than some recognized organized crimes. In 2008 the Ministry of Public Security in China referred to bank fraud as being "one of the most challenging areas of economic crime."<sup>21</sup>

## CANADA'S RESPONSE

In February 2008 the FATF published the *Mutual Evaluation on Anti-Money Laundering and Combating the Financing of Terrorism regime of Canada*, (hereafter called The Evaluation).<sup>22</sup> While various areas were noted where improvements could and should be made, Canada's current money laundering legislation, policies and practices appear to meet the main FATF recommendations. The FATF noted that drug trafficking was the source of much of the money that is laundered in Canada. The evaluation was quite critical of Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). More recent legislative and organizational changes are assumed to enhance the performance of this agency.

Other than signs of the greater use of internet payments and the cross border movement of gold bullion, *The Evaluation* noted that the number of money laundering cases investigated and prosecuted in Canada have remained fairly constant over the past three decades. This finding has been supported by two studies, published in 1990 and 2007,<sup>23</sup> that analyzed RCMP files with RCMP files that had been closed between 1993 and 1998.

17 J. Walker, "Modeling Global Money Laundering Flows – Some Findings," 2000. Accessed December 21, 2009, <http://www.johnwalkercriminotrendsanalysis.com.au/ML%20method.htm>, quoted in M.E. Beare and S. Schneider, *Money Laundering in Canada: Chasing Dirty and Dangerous Dollars* (Toronto: University of Toronto Press, 2007).

18 Song Yang, "Money Laundering in China: A Policy Analysis," *Journal of Contemporary Criminal Justice* 18, no.4 (2002): 370-380.

19 Hongming Cheng and Ling Ma, "White Collar Crime and the Criminal Justice System: Government Response to Bank Fraud and Corruption in China," *Journal of Financial Crime* 16, no. 2 (2009): 174.

20 Ibid.

21 H. Wu, (paper presented at Speaker's Statement for ministry of public security news Conference on 2007 National Public Security Situation, Beijing, January 2008). Quoted in Ibid., 167, 174.

22 FATF, *Mutual Evaluation on Anti-Money Laundering and Combating the Financing of Terrorism Regime of Canada* (Paris: FATF/OECD, 2008).

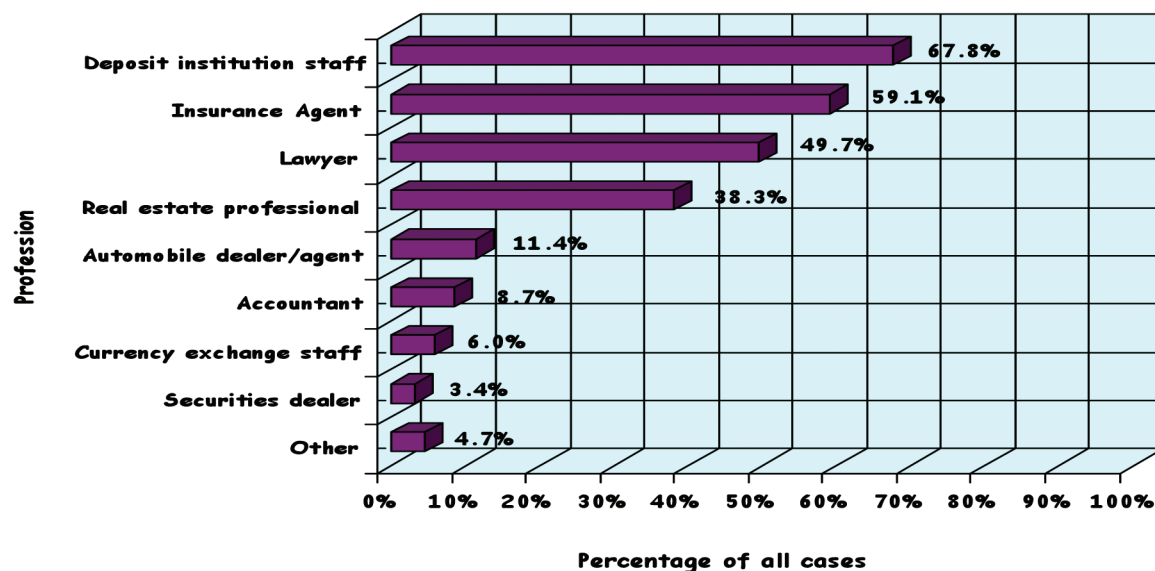
23 M.E. Beare and S. Schneider, *Tracing Illicit Proceeds – Money Laundering in Canada* (Ottawa: Solicitor General of Canada, 1990); and M.E. Beare and S. Schneider, *Money Laundering in Canada: Chasing Dirty and Dangerous Dollars*.

The objective of these studies was to see among other things what impact there had been as a result of the anti-laundering legislation, the training given to the banks and other businesses dealing in cash and the publicity surrounding the threats caused by money laundering. Basically the types of laundering cases were near identical across the two studies. The various government and policing interventions appear to have little impact on the laundering schemes. While virtually all financial-based exchanges could be manipulated in such a way that laundering could occur, serious launderers will want a scheme that can be used in an on-going basis. The reports found that certain sectors of the business and financial economy are particularly vulnerable to laundering or used to facilitate these schemes. This list includes:

- deposit taking institutions
- currency exchange houses
- securities markets
- real estate
- incorporation and operation of companies
- miscellaneous laundering via big purchases such as vehicles, boats, planes, gems, jewellery and so on
- white-collar professionals, such as lawyers and accountants
- insurance sector
- travel agencies and
- legalized gambling – casinos, track schemes

Both in Canada and in China much of the profit from illegal operations now seems to be invested in the legitimate economy. AOC as well as other criminal operations have become adept at money laundering and hold substantial properties in Canada and elsewhere. For example, British Columbian police officials believe that AOC are involved in some tourist ventures and have significant investments in Canadian real estate and other legitimate enterprises. Many of these operations require the assistance from legitimate service providers such as accountants, lawyers and occasionally government officials.

#### Professionals that came into contact with the proceeds of crime



The above chart pertaining to the involvement of 'professionals' in money laundering from the 2007 analysis of the RCMP cases is particularly revealing and illustrates the involvement of legitimate officials in facilitating money laundering.<sup>24</sup> While deposit taking institutions were the dominant point-of-entry of illicit money into the Canadian financial system, the cases revealed the difficulty of detecting dirty money rather than the corruption of bank officials, although some officials were part of the criminal operations. Criminals mainly used insurance agencies to buy insurance to protect their ill-gotten goods although again, a few cases involved insurance as the laundering mechanism.

Lawyers fell into three camps: criminals involved directly in laundering schemes, naïve or negligent providers of a service and unknowing facilitators.

### ***Drugs as a Transnational Criminal Market***

Very few markets are exploited by only one or two criminal organizations. If a profit is to be made, there may be competition for market control. However, there has been an increasing willingness for criminal organizations and networks to work cooperatively. Virtually all of the main criminal groups are involved in the illicit drug market, which, alongside extortion, are perhaps the most lucrative enterprises engaged in by Asian criminals. The information on the role of AOC groups in illegal drug trafficking is outlined in some detail in the 2002 CISC Annual Report:<sup>25</sup>

AOC groups across the country remain extensively involved in the large-scale importation and trafficking of drugs, particularly heroin, cocaine and ecstasy. As approximately 95 percent of the heroin smuggled into Canada originates in Southeast Asia, AOC traffickers, and increasingly, Fukinese-based criminal groups, dominate the heroin trade in Canada. All major heroin seizures in Canada in 2001 involved Asian-based crime syndicates. Southeast Asian heroin typically enters the country through Vancouver, Toronto or Montréal international airports and major B.C. marine ports. A portion of this heroin is then smuggled to the U.S. criminal groups, composed of individuals of Chinese descent who operate on both sides of the border and control distribution.<sup>26</sup>

While there is much law enforcement documentation on the role of the Outlaw Motorcycle Gangs (OMGs) in the marihuana trade, however, as of 2004, the DEA reported that in the United States, the threat of marihuana smuggling across the Canada-US border posed by Vietnamese and other AOCs has surpassed that posed by OMGs. These AOC groups are highly organized and transport large quantities of marihuana across the border into the United States.<sup>27</sup>

As was previously noted, the 2008 CISC Annual report no longer names specific ethnic criminal operations; however, the report notes that China is a major producer and exporter of active pharmaceutical ingredients, several of which are precursors that are required in the production of illicit drugs.<sup>28</sup> The report quotes ROTH, a research firm, which claims the Chinese pharmaceutical industry involves over 5,000 producers and 8,700 distributors. Together these producers and distributors pose a considerable risk of diverting the precursors into illicit markets.

<sup>24</sup> Ibid., 135.

<sup>25</sup> As there are few sources of intelligence with respect to AOC groups and their involvement in the illegal drug trade, the information in this section is extracted from the following report, with specific page references where appropriate: CISC, "CISC 2002 Annual Report on Organized Crime in Canada," 2002. Accessed December 21, 2009, [http://www.cisc.gc.ca/annual\\_reports/documents/2002\\_annual\\_report.pdf](http://www.cisc.gc.ca/annual_reports/documents/2002_annual_report.pdf).

<sup>26</sup> Ibid., 10.

<sup>27</sup> "Canada-United States Border Drug Threat Assessment," October 2004. Accessed July 2, 2010, <http://www.publicsafety.gc.ca/prg/le/oc/fl/us-canadian-report-drugs-eng.pdf>.

<sup>28</sup> CISC, "08 Report: On Organized Crime," 2008. Accessed December 21, 2009, [http://www.cisc.gc.ca/annual\\_reports/annual\\_report\\_2008/document/report\\_oc\\_2008\\_e.pdf](http://www.cisc.gc.ca/annual_reports/annual_report_2008/document/report_oc_2008_e.pdf) 21.

While Canada may suffer from some of these diverted precursors that are produced in China, likewise China, according to the RCMP, has become a destination country for methamphetamine produced in Canada. The 2008 CISC report claims that the majority of the members of the Canadian group who are involved in this production are located in British Columbia with several large labs also in Ontario and Quebec.<sup>29</sup>

## HUMAN SMUGGLING AND TRAFFICKING IN PERSONS AS CRIMINAL MARKETS

### *The UN Convention Against Transnational Organized Crime and its Three Protocols*

By 2003, both Canada and China<sup>30</sup> had signed and ratified The UN Convention Against Transnational Organized Crime and its three protocols on trafficking in persons, smuggling of migrants and firearms. This Convention acknowledges the victimization of vulnerable populations in the illegal migration business. The "Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children," is meant to facilitate international cooperation. Governments signing the agreement make a commitment to "criminalize trafficking, protect its many victims, and prevent future trafficking."<sup>31</sup>

## ASIAN ORGANIZED CRIMINALS INVOLVEMENT IN ILLEGAL MIGRATION

Most countries including Canada and China have organized crime groups that are involved in the smuggling of illegal commodities such as drugs, guns and/or people. One of the most profitable commodities with the lowest risk in terms of likelihood of being caught and length of sentence if conviction is the trafficking in aliens.<sup>32</sup> A complete service may be offered to these illegal aliens: transportation, documentation, transit accommodation and often even guided crossings. Some alien smuggling operations epitomize the sophisticated end of criminal operations. In addition to the illegal act of smuggling, there is the exploitation of those who pay or are indentured in exchange for being transported and smuggled into a foreign country.

The trafficking of people may be accompanied by the smuggling of other commodities. A paper presented by Rebecca Tailby to the Australian Federal Police spoke of the combination of narcotics and trafficking in humans either as a cost-effective method of utilizing transport or as an employment scheme for the use of illegal immigrants as employees in the narcotics distribution system.<sup>33</sup> It is claimed that a significant portion of the Chinese who enter Canada illegally move through Canada into the United States either overland across the borders or through the Akwesasne Mohawk territory into northern New York State.<sup>34</sup>

According to the RCMP,<sup>35</sup> established Chinese criminal infrastructures facilitate the smuggling of large numbers of Chinese migrants into North America. Organized crime groups based in the PRC orchestrate mass illegal Chinese migrant smuggling operations, often in cooperation with one another. These global criminal

<sup>29</sup> Ibid., 26.

<sup>30</sup> The People's Republic of China makes a reservation with regard to Article 35, paragraph 2 of the Convention and consequently is not bound by this article's provisions. Article involves the settlement of disputes and potentially results in the dispute being referred to the International Court of Justice. See: United Nations Treaty Collection, "[Status of] United Nations Convention Against Transnational Organized Crime," 2000. Accessed September 12, 2009, [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en).

<sup>31</sup> Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report," *Trends in Organized Crime* 6, no. 2 (Winter 2000. Available June 5, 2002): 32-43.

<sup>32</sup> M. Beare, "Illegal Migration: Personal Tragedies, Social Problems, or National Security Threats?" *Transnational Organized Crime* 3, no. 4 (Winter 1997): 11. See also the more recent research by Sheldon Zhang, *Chinese Human Smuggling Organizations: Families, Social Networks, and Cultural Imperatives* (California: Stanford University Press, 2008).

<sup>33</sup> Rebecca Tailby, "People Smuggling: An Australian Perspective" (paper presented at the Australian Federal Police College, June 28, 2000).

<sup>34</sup> Glenn Curtis, S. Elan, R. Hudson and N. Kollars, *Transnational Activities of Chinese Crime Organizations* (Federal Research Division, Library of Congress, 2003).

<sup>35</sup> Royal Canadian Mounted Police, "Canada / US Organized Crime Threat Assessment," November 17, 2006. Accessed December 21, 2009, <http://www.rcmp-grc.gc.ca/oc-co/octa-mlco-eng.htm>.

networks are believed to engage in a variety of ancillary criminal offenses, including visa fraud, to support their primary profit making activity.

Among all other groups, Chinese “snake heads” (smugglers) have perhaps the most notorious reputation as human smugglers. The characteristics of sophisticated operations include:

- well equipped forgery workshops to create the essential documents, visas and stamp marks;
- the ability to modify their operations to adapt to changing risks – different routes, entry schemes and conveyances;
- operation centres, accommodations and hideouts in transit countries and potential transit countries;
- the economic wealth for substantial bribes and the best technology;
- the contacts and networks required to secure the assistance of corrupted officials;
- diversification of criminal activities – smuggling is combined with other organized crime illegal commodities and services;
- an ability to use violence to obtain the payments or services from the illegal migrant within the destination country (or country of origin if smuggling is unsuccessful) and
- the skill and experience to exploit the willing/known/complicit features of legitimate society.

The choice of conveyance used in human smuggling operations results in different smuggling activities. If air travel is used, the smugglers have to be adept at obtaining/creating false, stolen or bought passports and other documents. The number of aliens that can be smuggled at any one time is somewhat limited and the “client” has to be briefed on how to act and what to say; or (and more likely) networks of officials have to be bribed.<sup>36</sup> Law enforcement officials speak of the ruthlessness of some of the smugglers who are prepared to sink boatloads of would-be migrants rather than be arrested during the smuggling process. When land or air travel is used, one cannot over emphasize the sophistication of the fraudulent document operations – not only in terms of the technology but also the expertise of knowing which countries require what documents and how various combinations of documents and countries can be used for maximum profit.

A 2008 book by Sheldon Zhang focuses on the smuggling rather than the trafficking of illegal immigrants. Zhang clarifies any confusion between these terms by using the United Nations distinction that refers to smuggling when the movement involves the willing participation of the illegal migrant rather than the involuntary participation as implied by the term “human trafficking.”<sup>37</sup> He notes that while conditions may not be as promised, the original transaction was a consensual one as compared to trafficking which is seen to be a violation of human rights.

While other researchers have interviewed those who have been smuggled, Zhang’s research involves interviews with the actual smugglers themselves. Zhang found that there were three basic prerequisites to a transnational Chinese smuggling organization: the need for an existing market demand, a tight social network and an opportunity to build a relationship between the illegal immigrants and the snakeheads. The network consists of snakeheads, who work with other snakeheads – who in turn work with other snakeheads. This network represents a significant discrepancy between the police, public and political rhetoric of the rigidity of organized crime. Rather, Zhang portrays these smugglers as viewing themselves as colleagues, not as a part of a sophisticated organization. The snakeheads who were interviewed by Zhang emphasized the ‘casual and sporadic nature of their business activities.’ The ability to fill certain roles, which occasionally require both skill and contacts, determined where a person fit within the operation. Some participants serve by: recruiting clients; recruiting US passport and green card holders for use of their documents and recruiting of eligible bachelors

<sup>36</sup> For a more detailed discussion of why the smuggling of humans via ocean-going cargo ships is a more attractive option for the criminal groups coordinating this operation, see M. Beare, “Illegal Migration: Personal Tragedies, Social Problems, or National Security Threats?” 31. Beare’s analysis also highlights some of the challenges involved in this method of smuggling, with specific reference to an Australian example involving the 139 PRC nationals on the *Min Pu Yu*.

<sup>37</sup> Zhang, *Chinese Human Smuggling Organizations*, 22.

for fraudulent marriages. Other participants prepared documents for business delegations, fraudulent marriages or students and trainee visas. Even other participants arranged the photo substitutions in identity cards, such as passports for instance. In small operations, the snakehead handled everything for select clients.

Passports are valuable documents and Canadian passport have been considered vulnerable both from theft and forgery. Of concern has been the large number of Canadian passports that have been reported lost or stolen. During the 1970s, for instance, 50 blank passports were stolen from the vault of the Canadian Embassy in Vienna.<sup>38</sup> In 2007, 37,650 passports were reported lost or stolen, compared to 24,792 in 2005. A memo that was circulated at Passport Canada in 2007 warned staff to double-check applications for new passports when the old document is reported missing:

Lost and stolen passports are extremely valuable to criminal organizations to facilitate and perpetrate illegal/ clandestine operations such as human trafficking, smuggling, money laundering and terrorism.<sup>39</sup>

While traditional approaches taken by the police to organized crime preferred to see rigid family or ethnic based hierarchical structures, the picture that emerges of the snakehead operations in Zhang's study is of networks, loyalty, good service and fluidity. The structure, to the extent that there is one, is an amorphous rather than a godfather-type of hierarchy. Even the 'big snakeheads' spoke only of a network consisting of friends and contacts.<sup>40</sup> Similar to the findings from Ko-lin Chin's 1999 book *Smuggling Chinese*,<sup>41</sup> the snakeheads view themselves largely as philanthropists who help people or ordinary business persons who wanted to make money. The snakeheads saw their work as doing good by providing a valuable service and making money, which was seen as a source of pride for families as long as the business was conducted honourably, that is to say, not demanding additional money from the illegal immigrants upon arrival and no physical abuse.

### ***Clients: "Victims" or "Criminals"?***

All criminal smuggling operations are not identical and are not equally exploitive to the migrants. Some criminal groups who operate through word of mouth and community ties provide services and assistance similar to *guanxi* networks.<sup>42</sup> Likewise, the reverse may also be true. Depending on where the immigrant originates and the circumstances of the migration, the sole support, obtained at an exorbitant price, may be the support from criminals who traffic in human cargo. Difficulty arises in the migrant's payback to the smugglers. Police estimate that the cost of gaining illegal entry to North America from Asia is between \$30,000 to \$40,000. For women this price may mean a lifetime in the sex industry. For men it may mean a career as a criminal.

### ***Counterfeit Goods, Cards and Currency***

AOC groups are distinguished by a high level of criminal entrepreneurship. These groups use both personal relationships and specific business and technological skills to maximize profit.<sup>43</sup> The market in counterfeit goods is an illicit market that makes use of these sophisticated skills and networks. Police across Canada have reported

38 "One of those documents, traced by the registration number, turned up a year later in Nicosia, Cyprus. It was left behind by a member of a Mossad team that had detonated explosives under the hotel bed of a sleeping Palestinian guerrilla leader, killing him instantly." See The Canadian Encyclopedia, "Canadian Passport Abuse," Accessed December 21, 2009, <http://www.thecanadianencyclopedia.com/index.cfm?PgNm=TCE&Params=M1ARTM0011418>. Canada has recently introduced biometrics in the use of passports with the help of digitized photos. The future passports may contain a chip that holds a picture of the person and personal information such as name and date of birth. Passport Canada began a pilot project in 2009 for special and diplomatic passport applicants.

39 "Passport Theft in Canada Increasing Dramatically," *The Canadian Press*, May 15, 2008. Accessed December 21, 2009, [http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20080515/passport\\_theft\\_080515/20080515](http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20080515/passport_theft_080515/20080515).

40 Zhang, *Chinese Human Smuggling Organizations*, 108.

41 Ko-Lin Chin, *Smuggling Chinese: Clandestine Immigration into the United States* (Philadelphia: Temple University Press, 1999).

42 'Guanxi' has various definitions and meanings but pertains to the idea of personalized networks of influence, and is a central idea in Chinese society. Guanxi refers to the personal connection between two people in which one is able to prevail upon another to perform a favor or service.

43 Royal Canadian Mounted Police. "Canada / US Organized Crime Threat Assessment."

to CISC on the role that Asian criminals play in these types of sophisticated markets. Their loosely organized operations allow for different parts of the group to have different responsibilities. Some members of the criminal networks operate within a particular area of expertise and/or serve a specific function.

The CISC has been involved in intelligence gathering on AOC involvement in counterfeiting, and their 2002 Annual Report indicated that AOC groups remain extensively involved in the production and distribution of counterfeit materials, including credit cards, software, CDs and DVDs. The CISC 2008 Annual Report confirmed that AOC primarily from China dominated the market for illegal import of counterfeit goods into Canada.<sup>44</sup> Canadian law enforcement agencies predict that the quality of these items, that allows them to pass for authentic goods, plus the increasing use of the internet for sales, will result in a growing illicit market. This CISC Report states that police point to the "fraudulent online stores, unregulated e-pharmacies and the loosely monitored auction and classified ad sites."<sup>45</sup>

Plastic credit cards provide numerous prospects for organized and opportunistic criminals. A British study of 186 plastic card fraudsters found that 89 percent were of ethnic Chinese origin.<sup>46</sup> In Canada, the Big Circle Boys are dominant in this market. The CISC 2002 Annual Report outlines the Canadian-wide involvement of Asian criminals in counterfeiting operations. According to this Report:

AOC groups in Toronto, particularly the Dai Heun Jai, continue to be responsible for the majority of manufactured counterfeit credit cards and exert considerable control over the counterfeit card industry in Canada. Like other AOC groups, the Dai Heun Jai have criminal networks nationally and internationally, both within and outside of AOC groups. AOC groups have been known to work with East European-, East Indian- and Nigerian-based organized crime groups in the counterfeit card industry.<sup>47</sup>

As reported in the CISC Report, on January 12, 2001, Canadian authorities uncovered one of the largest counterfeit credit card operations in Canadian history. Police located an "entire operational credit card factory," which had been in operation in Vancouver residences since 1994, and had the potential for fraud estimated at over \$200 million dollars. Authorities determined that equipment for the factory had been brought in from California, and that information skimmed from legitimate credit cards was being transferred to Vancouver by fax and subsequently sold to the counterfeit credit card factory. Twelve people with connections to the Big Circle Boys subsequently were charged with multiple offenses.

According to an indictment in a similar case, credit card fraud schemes typically operate in the following manner:

Various 'skimmers' utilize 'skimming devices' to collect credit card account numbers at their job locations without authorization. They then forward the devices to various middlemen, who in turn deliver the account numbers to a counterfeit card manufacturer, who sells the finished cards to other middlemen. The manufacturer typically obtains counterfeit credit card stock from a supplier. After the counterfeit credit cards are produced, other middlemen typically sell the counterfeit cards to 'shoppers,' who use the cards to make fraudulent purchases at various retail outlets or on the internet. At times, the middlemen also provide shoppers with fraudulent pieces of identification that complement the counterfeit credit cards.<sup>48</sup>

Credit card fraud problems are also growing in China. In Shanghai, the Shanghai People's High Court tried four cases for credit card fraud in 2003, and 44 in the first seven months of 2005. One of the explanations appears to be the increasing use of credit cards:

<sup>44</sup> CISC, "08 Report: On Organized Crime," 31.

<sup>45</sup> Ibid.

<sup>46</sup> T. Newton, *Organised Plastic Counterfeiting* (London: HMSO, 1995).

<sup>47</sup> CISC, "CISC 2002 Annual Report on Organized Crime in Canada," 12-13.

<sup>48</sup> "Trio Accused of International Credit Card Fraud," *Business Journal*, March 8, 2005.

During the late 2003, several domestic banks, including China Construction Bank and China Merchants Bank, started intensive marketing activities promoting credit cards. To attract customers, some banks lowered the criteria or simplified the procedures for assessment.<sup>49</sup>

Apparently to win more customers, some banks allowed their branches to issue cards, or even outsource their sales business, making it possible for a client to obtain more than one credit card from the same bank by applying at a number of different outlets.

### PART 3: TENSIONS AND OPPORTUNITIES FOR BILATERAL AND MULTILATERAL COOPERATION

As this paper has outlined, Canada and China are signatories to a number of multilateral agreements. The UN Convention Against Transnational Organized Crime and the FATF, that targets money laundering and terrorist financing, are perhaps the two most important organizations in terms of transnational/organized crimes. China's participation in both of these bodies indicates a significant progress in terms of its willingness to co-operate internationally for the prevention and control of international crimes.

According to Hongming and Ling, China has signed 70 agreements and memoranda of understanding with 42 foreign jurisdictions, pertaining to police cooperation, information exchanges, case investigations and illicit proceeds retrieving.<sup>50</sup> Twenty-five treaties between Canada and China are listed on the Canada Treaty Information website, including a Mutual Assistance in Criminal Matters Treaty (MLAT) with Hong Kong, a special administrative region of the PRC as well as a separate MLAT with the PRC.<sup>51</sup>

China and Canada have also ratified the UN Convention Against Corruption which was supposed to assist countries in their fight against bank corruption and money laundering. Under these signed agreements foreign governments who have signed on to the agreements are to assist foreign jurisdictions with law enforcement requests. As of 2008 only one corrupt banker had been repatriated back to China, and this was from the United States. Even though Canada has ratified four international agreements dealing with the criminal aspect of corruption,<sup>52</sup> these agreements do not appear to assist Canada's response to China.

One of the main sources of tension between Canada and China remains the absence of an extradition treaty between them. From China's perspective, their efforts to combat domestic corruption is hampered by Canada, which can be viewed as a haven for fugitives. Newspapers within China claim that there are approximately 800 Chinese suspects wanted for economic crimes who are abroad. Perhaps the most notorious is Mr. Lai Changxing who fled to Canada in 1999 and was granted a work permit in Canada in 2009.

China accuses Lai of smuggling over \$10 billion in goods with the protection of corrupt government officials. Canada has rejected China's requests that Lai be extradited on the basis that Canadian policy forbids deportation to any country where the individual might be executed or tortured. China did provide Canada with what was seen to be a rare diplomatic assurance that if found guilty, Lai would not be executed. However, the possibility of torture remains a Canadian concern. Newspapers in China hope that developed countries can "discard political bias and ideological differences" in order to get suspects returned for justice.<sup>53</sup>

49 Hu Yuanyuan, "Banks Urged to Get Tough with Card Fraud," *China Daily*, April 12, 2006.

50 Cheng and Ma, "White Collar Crime and the Criminal Justice System," 174.

51 *Canada Treaty Information*. <http://www.treaty-accord.gc.ca/Disclaimer.asp?>

52 Canada's Experience with the Implementation of International Conventions Against Corruption Seminar on International Cooperation on Anti-Corruption Including Fair Investigation Practices, June 5-6, 2006, Beijing, P.R. China, paper presented by Lisette Lafontaine Senior Counsel For the China Programs of the International Centre for Criminal Law Reform and Criminal Justice Policy. These agreements are: the OAS Inter-American Convention Against Corruption, which came into force on March 6, 1997; the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which came into force on February 15, 1999; the United Nations Convention Against Transnational Organized Crime, which came into force on September 29, 2003 and the UN Convention Against Corruption, which came into force on December 14, 2005.

53 See for example: "China Seeks Conclusion of Extradition Treaties," *Associated Press*, May 29, 2007; "Five Fugitives Hiding in Canada, China Says," *The Globe and Mail*, 2007.

In addition to the ideological difference across jurisdictions, there appears to be the additional problem that some of these extremely serious offenses in China are not covered by the various conventions since the Chinese government labels some forms of bank fraud as to be non-organized crime. This label speaks to the need perhaps to take harm rather than traditional organized crime categories into account when international agreements are being drafted.

Another issue appears to relate to Chinese criminal law. According to Hongming and Ling, criminal law in China does not allow for a trial in the absence of a criminal defendant. Without a conviction, a civil forfeiture action cannot be filed in China. Therefore absconded suspects have not been convicted and without the conviction and without the forfeiture order, it is difficult for foreign governments to assist with the recovery of stolen assets. For example, Canada's law provides for mutual legal assistance in the recovery of property confiscated by order of a court of criminal jurisdiction.

Different political systems, varied priorities and diverse values will continue to require careful negotiations between and among countries before a truly global approach to combating transnational crimes can be realistically anticipated.

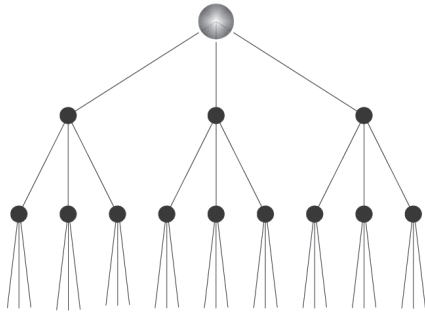
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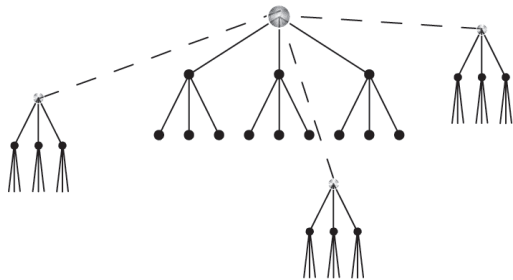
## APPENDIX A

### Typology 1: Standard hierarchy



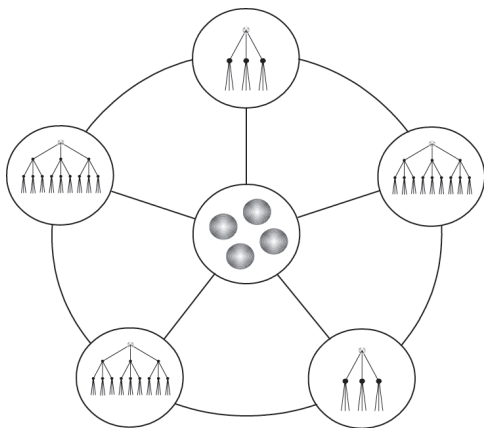
• Single leader
• Clearly defined hierarchy
• Strong systems of internal discipline
• Known by a specific name
• Often strong social or ethnic identity
• Violence essential to activities

### Typology 2: Regional hierarchy



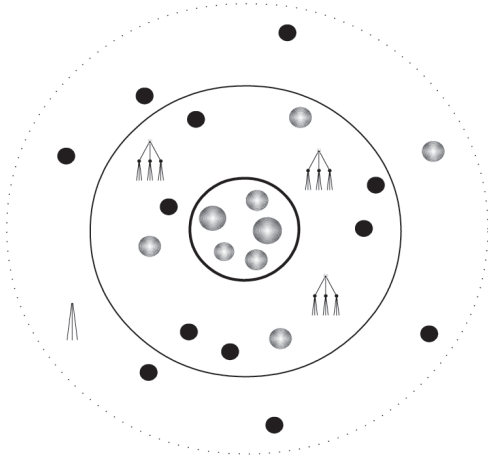
• Single leadership structure
• Line of command from centre
• Degree of autonomy at regional level
• Geographic/regional distribution
• Multiple activities
• Often strong social or ethnic identity
• Violence essential to activities

### Typology 3: Clustered hierarchy



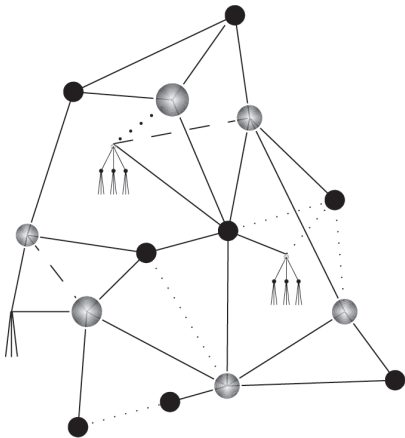
• Consists of a number of criminal groups
• Governing arrangement for the groups present
• Cluster has stronger identity than constituent groups
• Degree of autonomy for constituent groups
• Formation strongly linked to social/historical context
• Relatively rare

**Typology 4: Standard hierarchy**



• Core group surrounded by a loose network
• Limited number of individuals
• Tightly organized flat structure
• Small size maintains internal discipline
• Seldom has social or ethnic identity
• Only in a limited number of cases known by a specific name

**Typology 5: Standard hierarchy**



• Defined by activities of key individuals
• Prominence in network determined by contacts/skills
• Personal loyalties/ties more important than social/ethnic identities
• Network connections endure, coalescing around series of criminal projects
• Low public profile – seldom known by any name
• Network reforms after exit of key individuals

## THE CIC CANADA-CHINA RELATIONS PROJECT

Bilateral relations between the governments of Canada and the People's Republic of China are a matter of strategic interest to Canada. Recent changes in the frequency of high-level visits, the effective style and content of bilateral communications and perspectives held about each country by various sectors of each other's society all suggest that the Canada-China relationship has changed significantly in recent years. Yet China remains vitally important to Canada for a variety of reasons and in a variety of sectors. Political and diplomatic cooperation on issues of direct bilateral concern and also on issues of global import remains critically important. Commercial and trade ties linking Canada with the world's third largest and fastest growing economy are of obvious importance. Cultural and civil society ties, including immigration patterns and the ancillary effects they generate, are also important. In these and other matters, the Canada-China relationship will likely grow in importance in the years to come. While the diversity of links between Canada and China militates in favour of giving due attention to a multiplicity of commercial, academic and civil society links, bilateral cooperation at the federal/central government level remains important.

In keeping with CIC objectives to advance research and dialogue on international affairs issues of importance and interest to Canadians, the CIC Canada-China Relations Project has focused on supporting research and analysis toward building a policy framework for Canada's relationship with China. The project's activities have been developed along three thematic areas that reflect issues of common concern: a) Chinese domestic institutional and normative contexts for engagement; b) Economic relations; c) Collaboration on global issues such as environment, health and security.

- a) Domestic Context for Engagement: The Canada-China relationship can be most effective when it is grounded on complementarity of interests, which in turn requires mutual understanding of domestic normative and institutional conditions in both countries. Canadian initiatives with China, ranging from WTO compliance and business regulation to human rights, can be effective only if they are designed and implemented in light of China's domestic conditions, ranging from popular norms to governmental structures and policy priorities. Similarly, China's success in nurturing productive relationships with Canada will require appreciation of Canadian domestic conditions. The papers for this thematic area were commissioned and directed by Professor Jeremy Paltiel of Carleton University.
- b) Economic Relations: Economic relations between Canada and China are critically important. Economic relations include bilateral trade and investment relations, and also extend to local effects of economic conditions and behaviour. In the trade area, Canada's strengths match up extremely well with China's needs. In trade and investment relations, efforts to promote normative and institutional accommodation in China for Canadian business objectives are consistent with Chinese development policies and also serve important Canadian interests in the areas of good governance. As well, national economic behavior by the two countries in response to changing economic conditions at the global, regional and local level have important effects on the Canada-China relationship. The papers for this thematic area were commissioned and directed by Yuen Pau Woo, President of the Asia Pacific Foundation of Canada.
- c) Collaboration on Global Issues: The importance of China's responsible participation in systems for addressing global policy concerns in areas such as environment, health and security cannot be overstated. Yet China's participation in the global community can be distorted by its responses to apprehension and competition from other global actors, particularly the United States, the European Union and Japan. Canada has a significant role to play in supporting China's responsible participation, not only through direct bilateral programming but also through our capacity to deploy good offices, legitimation and other soft power resources both bilaterally and globally. The papers for this thematic area were commissioned and directed by Professor Brian Job of the University of British Columbia.

The papers here presented in connection with the CIC Canada-China Relations Project offer informed, nonpartisan recommendations for a variety of stakeholders in Canada, including the government and private and public sector institutions and individuals, with a view toward furthering the development of healthy long-term relations between Canada and China. While historical and current conditions may result in disagreement as to how best to manage the Canada-China relationship, China's importance to the world requires our attention. We hope that the papers presented here can further the process of understanding and effective engagement that will strengthen the foundation for productive relations for the long-term interests of both countries.

**Dr. Pitman B. Potter**

*Chair*

*CIC China Working Group*

The Canadian International Council (CIC) is a non-partisan, nationwide council established to strengthen Canada's role in international affairs. With local branches nationwide, the CIC seeks to advance research, discussion and debate on international issues by supporting a Canadian foreign policy network that crosses academic disciplines, policy areas and economic sectors.

The CIC features a privately funded fellowship program and a network of issue-specific Working Groups. The goal of the CIC Working Groups is to identify major issues and challenges in their respective areas of study and to suggest and outline the best possible solutions to Canada's strategic foreign policy position on those issues. The CIC aims to generate rigorous foreign policy research and advice.

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