

Mechanisms to address organized crime in the light of United Nations Convention against Transnational Organized Crime, 2000.

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Abstract:

The emergence of diverse patterns of crime and its expansion beyond the territorial boundaries of States, often taking a new paradigm, involve a group of criminals in a well-established organization based on a self-contained structure based on systematic planning and whose objectives go beyond mere financial profit to exert influence and control over the economic and political institutions of States for the overall control of their activities.

The important document adopted to address this type of crime was the United Nations Convention against Transnational Organized Crime, which had a significant impact by defining the essential mechanisms to deal with it.

key words: Crime- organized- counter-conventional mechanisms.

Introduction:

The crime no longer retains its traditional, well-known form, which legislation has defined in order to deal with it. Developments in the social, economic and political spheres and in the world at large have led to the emergence of forms of crime. Some of them have been defined and expanded as they transcend the territorial boundaries of

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the State. Others have taken a new form by including a group of criminals under an organization based on a separate structure and in the form of a hierarchy based on which they carry out the criminal plans drawn up by the heads of such organizations.

In order to outline the criminal policy adopted to address this phenomenon in the light of the United Nations Convention against Transnational Organized Crime of 2000, we felt that some of its characteristics should be defined at the present time and the position of contemporary society on the basis of special statistics that confirm the increasing threat of both national and international organized crime. The most important aspects of the mechanisms established to deal with these crimes and their application should be described through the United Nations Convention against Transnational Organized Crime and its annexed Protocols; and the most important achievements achieved at the level of Arab-Arab and Arab-international cooperation in this regard.

In this sense, we can pose the following problem: What are the characteristics of organized crime in modern times and what are the most important mechanisms adopted by the United Nations Convention against Transnational Organized Crime?

SECTION I : The most important features of organized crime and the attitude of contemporary society :

First Requirement: Important features of modern-day crime:

The mapping of the new modern-day model of crime requires that it be viewed within its global scope, and that is (Shehata, 2002, pp. 21 -26) (Ezzedine, 1994, p. p23) :

1. To increase their organizational capacity: Organized crime institutions have become experts in the use of global technology, such as the Internet and sophisticated radio communications, primarily through the impact of economic liberalization.

2. In combination with the phenomenon of violence, this is reflected in terrorism, whose motives vary among politicians. It is often reflected in the crimes of hijacking aircraft, hostage-taking, strategic positioning and physical location. The purpose of the crime

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is to bring about great and rapid benefit and profit, regardless of the negative effects that often threaten human life and safety and international security in general, especially if gang activity and interests are intersect, leading to confrontations to the liquidation of each other through assassinations and armed violence.

3-Extension across States: The activities of these organizations have not been confined to the territory of a single State, but have crossed its borders to join across the world; the existing networks of smuggling of migrants, money, arms, drugs and the white slave trade are evidence of this. More than that, organized crime groups have taken advantage of the opportunities of globalization to engage in illegal and inevitable activities, as they use legitimate companies, especially those involved in import and export, and those that are multinational, as cover for their activities.

4-Businesses associated with organized crime often have three manifestations(Pino Arlacchi, June 2000):

- a. Illegal commercial companies such as drug unions.
- b. Legal companies that commit financial offences, such as banks that actually specialize in facilitating money laundering and tax evasion.
- c. Legal companies established in whole or in part from the funds of organized crime.

It is difficult to control the activities of these organized groups, especially if they infiltrate the centres of the governing political forces, with the participation and sponsorship of some responsible persons and provide them with hidden official protection for certain services they provide, which may be financial, personal or political. It becomes even more difficult if there is collusion between organized crime groups and between the security and police agencies, i.e. military forces in general and intelligence services, where legitimate and illegal activities are mixed, which obscures the reality of the crimes that occur.

The planning, complexity and integration of organized crime in modern times has led society to take a firm stance in controlling the

situation, even relatively, especially after the statistics on this phenomenon. What is the situation?

Second Requirement: Contemporary society ' s position on organized crime:

The gloomy picture of the phenomenon suggests that its threat, its scale and the diversity of its machinery have increased, creating a premonition of determination to address it on the basis of public responsibility for the security of society. In particular, it has been established that:

What organized crime requires every year is about US\$ 1.5 million, and what criminals earn from money laundering across the world is between US\$ 600 billion and US\$ 1,000 million.

The number of persons trafficked across international borders in 1997 was about 700,000, and international crime groups make between \$2 billion and \$4 billion each year from dumping contaminated and hazardous waste to illegal public safety (Drugs, 2012) .

And a new study showed that the Mafia still clutches companies in Italy by blackmailing their money to provide protection or providing loans at great cost, although they are out of the spotlight and the bombings and killings of famous figures have stopped.

According to a study by a group representing retailers, organized crime costs the commercial sector in Italy about Euro60 billion (\$58.65 billion) per year. The figure includes direct costs to pay for protection, high loans and indirect costs such as theft, security and other expenses.

The study added that about eight billion euros went directly into the pockets of the mafia. Some 160,000 shops and small companies also pay money to organized crime gangs in exchange for protection (Journal, Mafia blackmailing billions of euros from Italian companies.)

The dire criminal situation in contemporary society has led those concerned with protecting human beings from this phenomenon to become more interested in developing scientific planning to influence all the factors involved or to assist in organized crime by

harnessing the various criminal and social sciences and advanced technological technologies in order to achieve the objective of establishing national and international security plans that will prevent and combat organized crime. Through these plans, a general criminal policy is being developed on which to put new forms of crime under siege. What is this policy? How can they be applied? And on what level would that be?

Third Requirement Criminal action strategy against organized crime:

Preface on the first requirement and the issues to be addressed.

The States of the world have recognized that organized crime is no longer an isolated problem that any State can tackle or address in isolation from other States. They must unite their efforts to develop at least a common criminal policy on which States can rely and abide by their rules, reducing the proportion of such crime or at least narrowing it to prevent it from escalating and exacerbating its dangers.

This unified criminal policy is not limited to the enactment of penal legislation and the strengthening of penalties, but rather to the strengthening of international cooperation in the judicial and operational fields, the establishment of preventive measures to deal with the most serious forms of organized crime, which each State is supposed to adopt and the implementation of the scheme designed to facilitate its application, namely, the determination of mutual assistance between States in the legal and judicial fields, and even at the level of law enforcement agencies.

This policy, with its objectives, requires, as we have previously pointed out, careful planning, because the Criminal Action Strategy requires (Aouji, lessons in criminal science, 1987, p. 204....)

1- Precisely define the objective of this strategy in order to achieve the objectives of the general criminal policy. It is strategic action that facilitates the implementation of the policy.

2- Provide accurate and reliable information about the objective, the circumstances surrounding it and the means to overcome what might interfere with the achievement of this objective.

-3 Full knowledge of the possibilities available or required to achieve the desired objective, as these are the effective instruments in achieving them.

4- Full knowledge of the human energy available and the requirements for its qualification to be able to manage strategic action. Decision-making, decision-making and oversight of such implementation require competence and capacity in the human component.

5. To establish a special budget that includes expenditures for equipment, administrative and personnel expenses, as well as compensation and reserves for emergency response.

6. Develop a timeline and progress plan for achieving the primary or sub-goals and identify means of continuously assessing achievements.

Compliance with these requirements alone is not sufficient for the success of the criminal policy to counter organized crime because the application of the criminal action strategy requires certain techniques and, to the extent that these techniques are as diverse as they are in terms of the desired objective, these techniques may not be equally available to all States, so that the full understanding of and adherence to contemporary criminal policy remains subject to the realities of each State. Therefore, can we find concrete and realistic applications of this policy that States can adopt? Or is it just a fantasy that hasn't yet found a way to apply?

SECTION II : Applications of modern criminal policy in the fight against organized crime:

We see some aspects of the vision we have developed in the previous element of the United Nations Convention against Transnational Organized Crime, which was adopted and ratified in November 2000 and which is now in force. <On Monday, 8 March 2004, the purpose of this Convention is to promote cooperation in the prevention and control of transnational organized crime more effectively>.>

The criminal policy adopted in accordance with the Convention can be divided into:

1. Legislative policy.

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2. Judicial policy.
3. Operational policy.

In addition, some preventive measures and mechanisms have been put in place to strengthen international cooperation

In response to organized crime, the national crime is briefly described below.

First Requirement: Legislative policy: The United Nations Convention has defined the legal model of organized crime and has carefully defined the area in which it can be applied, taking into account the sovereignty of Member States over their territories pursuant to the principle of non-interference in the internal affairs of States in accordance with articles >2 - 4, 6 >>.

Pictures of the physical element of organized crime, in particular the case of criminal participation or participation in an organized criminal group, and the initiation of organized criminal activity have been thoroughly addressed under article 5,8>>.

The Convention established liability of legal persons for participation in offences characterized as serious, and it was emphasized that such liability could be criminal, civil or administrative, as the case may be, without prejudice to the criminal liability of natural persons who had committed the offences. Articles 10 and 11> require each State to ensure that such persons are subject to effective, proportionate and deterrent criminal or non-criminal sanctions.

Second Requirement: Judicial policy: Once the Convention has established the principles of sovereign equality and territorial integrity of States and non-interference in the internal affairs of other States, each State has the right to jurisdiction in accordance with < A15A9,11,12,16/P13 >>.

Third Requirement: Operational policy: The Convention, having given States the right to apply their domestic laws designed to deal with organized crime, set out some operational aspects, both with regard to the disposition of confiscated proceeds of crime or property<A12+13+14>, and with respect to extradition and transfer of sentenced persons. The texts of those articles emphasized the need to

take into account agreements and treaties in respect of States if no treaty was concluded, the United Nations Convention could be considered as the legal basis, particularly with regard to extradition.

With regard to the mechanisms for international cooperation to combat organized crime, the Convention mentioned a part of it in accordance with article 18 on mutual legal assistance in investigations and judicial proceedings. This provision establishes certain controls that should be observed in Member States to the extent possible and even more so allows States to establish joint investigative bodies <A19+20+21> and to rely on special investigative and prosecutorial techniques.

Some measures have been decided to strengthen cooperation with law enforcement agencies and to make it possible for each State Party in certain cases to change the adjustment of the penalty by mitigating it, especially for persons who provide substantial assistance in the investigation or prosecution of offences under this Convention<A26>>.

The Convention has shown some forms of law enforcement cooperation, both in relation to contacts between the authorities, organs and competent services of Member States in order to facilitate the safe and rapid exchange of information and in relation to the coordination of administrative and non-administrative measures taken as appropriate for the purpose of early detection of offences covered by this Convention<A27>.

Articles 28-29 emphasized the need to collect, exchange and analyse information on the nature of organized crime in consultation with the scientific and academic communities in order to develop analytical expertise on organized criminal activities and called for the improvement of the training programme for personnel of their law enforcement agencies, including prosecutors, investigating judges, customs officers and other officials charged with the prevention, detection and combating of organized crime.

In article 30, the Convention provided for measures to assist its implementation through international cooperation in economic development by providing financial, material and technical assistance to some States, among others aimed at reducing opportunities for

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organized criminal groups to participate in legitimate markets with the proceeds of crime.

The Convention had been supplemented by additional protocols, all of which aimed at countering some forms of organized crime, including the Protocol against the Smuggling of Migrants by Land, Sea and Air.

With regard to inter-State cooperation, the International Criminal Police (INTERPOL) is making significant efforts in this area; with regard to Arab-Arab and Arab-international cooperation, the Council of Arab Ministers of the Interior has made significant achievements in the area of the encirclement of organized crime "although the security situation has not yet been generally controlled"(Amira, 38)

The organization by the General Secretariat of the Council of various conferences and meetings and participation in numerous Arab and international meetings dealing with subjects of common interest, as well as the follow-up and implementation of a number of laws, strategies and plans approved by the Council, which constitute a significant instrument for consolidating and strengthening the joint Arab security action process.

Among other activities, the most notable can be recorded in this area:

1. The Arab Security Strategy, which was prepared by the Secretariat-General and approved by the Council of Arab Ministers of the Interior in 1983, is aimed at achieving Arab security integration, guided by the Islamic Shariah, combating crime in all its old and new forms in Arab society and purifying it from all kinds of behavioral deviations, as well as preserving the security of the Arab nation, its institutions, bodies and public facilities and protecting it from aggressive attempts at home and abroad, as well as preserving the security of the individual in the Arab world and ensuring the safety of his person, his freedom, his rights and his property.

2. The first two security plans (I and II) were adopted by the Council of Arab Ministers of the Interior on 1986/2/5 A. The first five-year Arab security plan aimed at strengthening security cooperation among Arab States, coordinating joint action in response

to the threat of organized crime and linking security agencies in Arab States by taking advantage of the scientific and technical resources available at the Naif Arab Academy for Security Sciences, as well as enabling them to familiarize themselves with the sophisticated techniques used to detect criminals. From another perspective, the plan focused on enhancing the security awareness of the Arab citizen.

The Council of Arab Ministers of the Interior adopted the second Arab Security Plan, which is currently being implemented. Its main objective is to strengthen cooperation between Arab security agencies and to combat crime in all its old and new forms, in particular terrorist crimes, all manifestations of terrorism and all manifestations of violence, and to develop the organs of the Council of Arab Ministers of the Interior in order to safeguard the security of the Arab citizen and guarantee his safety, freedom, rights and property, thereby increasing the awareness of the Arab citizen and increasing his contribution.

In the fight against crime, the modernization of Arab security agencies, the development of their working methods based on scientific planning and the investment of modern technology.

3. The Arab Strategy for Combating the Illicit Use of Narcotic Drugs and Psychotropic Substances was adopted by the Council of Arab Ministers of the Interior at its fifth session, held in Tunis in 1986, which aims to achieve the greatest degree of Arab security cooperation to combat the illicit use of narcotic drugs and psychotropic substances, to eliminate illicit cultivation of the plants that produce them and to replace them, and to establish strict control over the sources of narcotic substances in order to minimize their illicit supply and demand.

4. Information plan and publications on narcotic drugs and psychotropic substances. The Secretariat-General of the Council prepared the consolidated Arab information plan to combat the phenomenon of narcotic drugs, which was designed to meet the needs and aspirations of specialized Arab agencies in the field of information awareness of the dangers of the phenomenon and its various effects. The Council approved the plan in early 1994. The

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Secretariat-General also prepared the consolidated Arab black list of traffickers and smugglers of narcotic drugs and psychotropic substances. It continuously revised it and provided it to the Arab States. It also prepared the consolidated Arab manual on narcotic drugs, which is constantly being amended and updated and provided to the Arab States. The Secretariat-General issues quarterly and annual reports and statistics on drug issues and prepares studies on the extent and dimensions of the phenomenon.

5. The Arab Convention for the Suppression of Illicit Traffic in Narcotic Drugs and Psychotropic Substances was adopted by the Council of Arab Ministers of the Interior in early 1994, which was prepared by the Secretariat-General.

That was after the drug threat had increased and in order to deal effectively with the problem of the abuse of narcotic drugs and psychotropic substances was a common and shared responsibility.

6. The Arab Counter-Terrorism Strategy was adopted by the Council of Arab Ministers of the Interior in early 1997, which aims to strengthen cooperation among Arab States in preventing and combating terrorism as well as the security of the individual in the Arab world and promoting respect for human rights. The Strategy also aims to strengthen cooperation with States and international organizations in combating terrorism.

The policy established by the United Nations Convention continues to require the support of international expertise, especially since its implementation has only recently been initiated and its results have not yet been reflected in the siege of organized crime in general, national and international. Can the nations of the world open themselves to each other in this particular area without fear of certain consequences that might be incurred by them and their domestic policies?

Conclusion :

1. **Enhanced International Cooperation:** The convention encouraged enhanced cooperation between member states in

combating organized crime through the exchange of information and expertise, facilitating extradition and mutual legal assistance.

2. **Development of National Legislation:** The convention prompted member states to review and update their national legislation to include more effective measures against organized crime, including stricter penalties for organized crimes and improved investigation mechanisms.
3. **Enhanced Preventive Measures and Security Protocols:** The convention contributed to enhancing preventive measures and security protocols in member states to prevent organized crime, including improving border controls and strengthening internal security.
4. **Addressing New Forms of Crime:** The convention included measures to deal with new and complex forms of organized crime, such as cybercrime and money laundering.
5. **Focus on Human Rights and Justice:** The convention emphasized the importance of respecting human rights and applying the law in a manner that ensures justice and fairness, by setting controls to ensure that the use of force is not arbitrary or a violation of rights during the fight against crime.
6. **Improved Training and Capacity Building:** The convention supported training programs and capacity building for security and judicial bodies in member states, which led to improved efficiency in handling organized crimes.

These outcomes of the implementation of the convention have contributed to strengthening international efforts to combat organized crime and have enhanced global security and stability.

Here are the translated suggestions and mechanisms for enhancing the implementation of the United Nations Convention against Transnational Organized Crime and combating organized crime:

Key Suggestions:

- 1. Enhance International and Regional Cooperation:**
 - Establish regional cooperation centers for information and resource exchange.
 - Develop joint training programs on investigations and combating organized crime.
- 2. Update National Laws and Legislation:**
 - Amend national laws to include clear definitions of types of organized crimes.
 - Create legal frameworks to facilitate international cooperation and mutual legal assistance.
- 3. Improve Technological Infrastructure:**
 - Utilize advanced technology for border monitoring and tracking criminal activities.
 - Develop shared criminal information databases among nations.
- 4. Promote Awareness and Training:**
 - Launch awareness campaigns to educate the community about the dangers of organized crime and how to report it.
 - Provide ongoing training for law enforcement and judicial bodies on the latest crime-fighting techniques.
- 5. Cooperate with the Private Sector:**
 - Partnerships with banks and financial institutions to combat money laundering.
 - Collaboration with technology companies to combat cybercrime.

Key Mechanisms to Combat Organized Crime:

- 1. Monitoring and Oversight Mechanisms:**
 - Establish special units to monitor the implementation of the convention and assess national and regional performance.

- Use modern border surveillance systems to detect criminal activities.
- 2. Judicial and Legal Cooperation Mechanisms:**
- Establish multilateral agreements for judicial extradition and exchange of suspects and evidence.
 - Facilitate procedures for joint investigations among countries in organized crime cases.
- 3. Support and Funding Mechanisms:**
- Provide financial resources through the United Nations or international donors to support national crime-fighting programs.
 - Establish funds to support less developed countries in enhancing their security and judicial capabilities.

Implementing these suggestions and relying on these mechanisms can effectively contribute to the activation of the convention's provisions and address the challenges of transnational organized crime.

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