

### Editor's Note by Diorella Islas and Pamela Ruiz

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Dear Readers, we are happy to publish the new Issue of the SGOC Newsletter. For this Issue, we have a special contribution from the Zonal Director of the Narcotics Control Bureau, of the Ministry of Home Affairs in India, Prem Anan Sinha, who explains Indian legal frameworks for fighting money laundry.

Our second article, by Dr Stefano Bonino is an interesting piece about the challenges of European research on organized crime, which should be taken into consideration, Moreover, there is a need for academic and public cautiousness at the moment of using information created with multiple sources of data, particularly international statistical analysis.

Last but not least, we have a contribution by Cristiano Celesia about migrant smugglers and the enforcement efforts and strategies against this type of Organized Crime in Sicily, Italy.

At this time, we are also proud to announce our first **internship program**, that has the objective to contributing to the growth of young undergrads and postgrads interested in the study of transnational organized crime. The details of this new program can be found inside this issue.

We would also like to encourage Post-Graduate students interested in transnational organised crime to write an essay and send it as a contribution to the Newsletter. Your essay will be evaluated by our editors and it could be published as part of our next issue in November..

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**Our EROC Editors are looking for some editorial assistants (proofreading and editing).**

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# Countering Transnational Organised Crime: Legislative and Administrative Initiatives to Curb Transnational Money Laundering And Black Money In India.

## BY PANAND Sinha\*

Transnational organized Crime is a huge challenge to the progress and peaceful existence of the World. Money Laundering is not only one of the many TOCs but it works as the blood and oxygen for existence of all other TOCs like Drug trafficking, Arms illicit trade, Human trafficking, piracy and Corruption. In fact money Laundering thrives on corruption. Recently tackling Money laundering has become still more important due to the rise in international terrorism. Terror financing is a related issue. To curb a crime it is important to establish a system, supported by legal provisions that ensure monetary benefits are not reaped out of illicit activities and also to curb its movement.

India has its own unique system of transferring money through unofficial channels called 'Hawala'. India is one of the fastest growing developing nations with huge international trade and due to traditionally having a system of high tax rate and strict exchange control regime it became a lucrative TOC. Various Money Laundering Techniques include:

- Establishment of front companies and issue of false invoices and letters of credit.
- Acquisition of real estate to manage and park the illicit funds.
- Use of overseas Indians' accounts to plough back black money into share markets.
- Bogus exports and imports.
- Buying properties in non-existent names and also issue of cheques to non-existent persons.
- Major part of these funds were used to pay kick backs to win over huge Government projects thus linking of corruption with Money Laundering.
- Most of the purchases are done in Cash.
- Proceeds from crimes like drug trafficking, human trafficking or illicit arms sales are received in cash and ploughed back to the system through various means listed above.

Thus there can be many techniques, motives and activities leading to Money Laundering and generation of black money that creates a parallel economy and by evasion of taxes it reduces the revenue of the government on one hand and on the other hand leads to flourishing of crime that destabilizes the society.

### Effective Legislative steps taken by India-

1. The Prevention of Money Laundering Act, 2002 ( PMLA )
2. The Benami Transaction Prohibition Act
3. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

### The Prevention of Money Laundering Act, 2002:

This is the most significant legal arrangement made in India to legally combat money laundering. It is the criminal law with officers empowered to conduct investigations to trace the assets derived out of the proceeds of crime to provisionally attach/ confiscate the same and also to arrest and prosecute the offenders found to be involved in money laundering. The most important feature is that there are 156 offences (including economic offences, cheating, drug trafficking, corruption etc) in 28 statutes which are scheduled offences under Prevention of Money Laundering Act. There were two amendments in this Act in the year 2009 and 2013 after which freezing of assets generated from various organized crime has been made easier, generated directly or indirectly, attempts to indulge or knowingly assist or knowingly as a part or actually involved in any process or activity connected with the proceeds of crime including its concealment, acquisition, possession or use and projecting or claiming it as untainted property shall be guilty of Offence of Money Laundering as per the Act. Following actions can be taken against the persons involved in money laundering.

- a) *Attachment of property under Sec-5 , seizure/ freezing of property and records under Sec.17 or Sec.18.*

- b) *Persons found guilty of an offence of Money Laundering are punishable with imprisonment for a term which shall not be less than three years but may extend up to seven years and shall also be liable to be fined.*
- c) *When the scheduled offence committed is under the Narcotics and Psychotropic Substances, Act, 1985, the punishment shall be imprisonment for a term which shall not be less than three years, but which may extend up to ten years and shall also be liable to fine.*
- d) *The prosecution or conviction of any legal juridical person is not contingent on the prosecution or conviction of any individual.*

The Statement recorded before the Investigating Officer under PMLA is admissible evidence in the Court which actually proves to be very handy in ensuring conviction. Even the burden of proof is upon the persons charged with the offence of Money Laundering under Sec.3 of the Act. Even the properties involved in Money Laundering located in India, where the money laundering offence committed outside India can be ordered to be confiscated by the said Courts. Similarly, Indian agencies can attach properties involved in Money Laundering available in the contracting Countries, through Mutual Legal Assistance. India has signed MOUs with 26 countries and is thus, well equipped to tackle this offence. Further, Sec.4 of the Act provides for rigorous imprisonment of minimum 3 years which can extend up to 7 years and a fine up to Rs. 500,000 on conviction by the Court of persons who have been accused for the offence of Money Laundering. On conviction, the property frozen is liable to be *confiscated by the authorities.*

\* Prem Anand Sinha is Zonal Director of the Narcotics Control Bureau, of the Ministry of Home Affairs in India.

In India, the agency that has a mandate to enforce the Prevention of Money Laundering is called the Enforcement Directorate. The ED has a wide base throughout the country with more than 25 Regional/ Zonal Offices actively pursuing the implementation of the PMLA. The Government has expanded this organization particularly, after the huge mandate given by the 2009 Amendment in the Act. The ED has been taking up freezing and attachment of proceeds of crime emanating from various corruption cases investigated by the anti-corruption agencies in the country, attachment of property acquired from drug money, freezing of properties of major Hawala operators and various other predicate scheduled offences (156 offences in 28 statutes). In the last 5-6 years, the Enforcement Directorate has registered almost 600 cases in which properties worth approx Rs. 90 billion (\$ 1.5 Billion) were under attachment under various offences (source- ED website).

#### **The Financial Intelligence Unit (FIU-IND)**

India has joined as the 34th Member of the Financial Action Task Force (FATF) on 25th June 2010. FATF Membership is crucial to build the capacity to fight terrorism and trace terror funds and to successfully investigate and prosecute money launderers. India has also joined other groups like Asia Pacific Group against Money Laundering in 2011, The Eurasian Group (EAG) in 2010. India joined the Egmont Group in May 2007 with the FIU-IND being admitted as a Member. The Egmont Group is an international organization for stimulating co-operation among FIUs. The Sec.12 of the PMLA requires Financial Sector Entities (Banks, Financial Institutions etc.) to verify the identity of their clients, to maintain records and reports suspicious/ cash transactions (STR/ CTR) to the FIU-IND. The Director, FIU-IND is empowered to conduct enquiry and impose sanctions against financial sector entities for non-compliance with Sec.12.

The FIU-IND conducts analysis of information received under PMLA and in appropriate cases, disseminate information to relevant intelligence/ enforcement agencies which include the Central Board of Direct Taxes, Central Excise, Board of Customs, Enforcement Directorate, Central Bureau of Investigation and other intelligence agencies.

#### **The Benami Transactions (Prohibition) Act-**

A Benami (literally meaning nameless) purchase is a purchase in the name of another person, who does not pay the consideration but merely lends his name, while the control vests in another person, who does not pay the consideration but merely lends his name. Tackling such transactions become important because criminals generally manage their ill gotten money through others. A recent proposed amendment in this Act of 1988, makes it an offence punishable with Rigorous Imprisonment for upto seven years and also fine equal to 25 percent of value of the benami property. Such property would be liable to confiscation and both the parties cannot claim the property. This Law would prove to be another powerful tool in the hands of Enforcement agencies.

The Black Money (Undisclosed Foreign Income and Assets) and imposition of Tax Act, 2015

India has been facing the problem of stashing of black money abroad and to tackle this issue this Legislation was passed by the Government of India. Apart from other features, the most important one is Section 49 and Sec 50 of this Act provides for punishment with rigorous imprisonment for not less than six months which may extend to seven years for a person, being a resident other than non resident Indians, who at anytime during the previous year held any asset (including financial interest in an entity) located outside India as a beneficial owner and willfully fails to furnish or wrongly furnish any information which is required under the Income Tax Act pertaining to the assets.

This new Law that makes non-disclosure an offence would definitely go a long way in controlling money laundering. Further, to tackle malaise of generation and circulation of Black money and its illegitimate transfer outside India, Double Taxation Avoidance Agreement (DTAA) and Tax Information Exchange Agreements (TIEA) has been planned across nations. This would help in getting information regarding bank accounts and assets held by Indians abroad. In pursuance to this, DTAA's have come into force with 84 countries as on date and few more are in process. Also TIEA's have been signed and in operation with 14 countries namely Argentina, Bahamas, Bahrain, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Guernsey, Isle of Man, Jersey, Macau, Monaco & Liechtenstein.

Thus these legal provisions would help in equipping India to fight Money Laundering and its related offences and play a crucial role in controlling Transnational Organized Crimes.

# The Challenges of European Research

by  
Dr Stefano Bonino

The infiltration of organised crime into legitimate businesses has remained in a dim lit corner of academic research, yet constitutes a much-needed area of inquiry in unearthing the harm posed by this phenomenon to European societies and economies. Organised Crime in European Businesses (Savona, Riccardi and Berlusconi 2016) seeks to fill this gap and represents a significant addition to the existing scholarship on organised crime. The book builds upon two projects funded by the European Commission and coordinated by Transcrime: 'Organised Crime Portfolio' (OCP) and 'Assessing the Risk of the Infiltration of Organized Crime in EU MSs Legitimate Economies' (ARIEL). Together they provide an exploratory analysis of organised crime's infiltration of legitimate businesses in different European countries. Written from the perspective of a researcher that was directly involved in one of the two projects (Wall and Bonino 2015) and co-authored a chapter in the book (Wall, Chistyakova and Bonino 2016), this piece will illustrate some methodological challenges that future academic research seeking to take forward this line of inquiry should address.

The inhomogeneous experience of accessing official data across different European countries makes the endeavour of accurately and consistently representing organised crime activity within and beyond nation states, as this book seeks to do, particularly difficult. By way of example, while Italian law enforcement agencies and government share data with researchers, their British counterparts have a more rigid

'culture of secrecy' that researchers find problematic to negotiate. Alternative data sources, notably newspaper articles, are often an imperfect surrogate for official data. At best, they help to provide a blurred snapshot of criminal activity. At worst, they merely indicate news coverage of organised crime, which is influenced by factors such as the willingness (or lack thereof) of police forces to share operational details with local newspapers and reporters' aptitude for investigative journalism.

Open sources represent superficial indicators that do not show the real incidence of organised crime in a given country – a methodological problem that Police Scotland aptly pointed out last year (Marshall 2015a). The analysis of open sources requires much caution too, as unfounded generalisations can mislead academics, policy-makers, politicians and the public. In a recent article in *The Guardian*, journalist Roberto Saviano (2016) used discredited findings (Russell 2015), according to which 'Italian mafias have taken over numerous UK businesses,' to support his speculation that the UK is the most corrupted country in the world. The databases [in possession of the author] that were used to support these findings and that fed much media speculation contain only a handful of newspaper-sourced cases of Italian organised crime groups running companies in Britain. There is neither a 'takeover' of British businesses (Saviano 2014) nor a 'mafia stronghold' in Aberdeen, a claim that Scottish police quickly refuted (Crighton

2014). Whether organised crime poses a serious threat to British national security is open for debate (Campbell 2014). But it is very likely that anti-corruption officers will still find more work in Camorra-ridden Naples and in countries such as Afghanistan and Nigeria rather than in Britain.

The lack of quality-consistent data also risks perpetuating grandiose trans-European estimates that fail to accurately capture the everyday realities of organised crime (or other forms of criminality). This issue is compounded by the difficulties, and often the reluctance, of some academics to access the most obvious subjects of their research, namely members of organised crime groups. In the era of big data, we should not forget that Robert Park's (1920) timeless advice to get 'the seat of your pants dirty in real research' continues to produce the most insightful explorations of key social phenomena of our age. The works of Diego Gambetta (1996), Dick Hobbs (2013) and Federico Varese (2005) are just some examples of the power of ethnographic and conversational techniques to uncover the true motivations, drivers and locales of organised crime. Most importantly, they remind us that numbers do not speak, but people do. As intellectual freedom and knowledge production become more and more subordinated to an entrepreneurial culture of grant grabbing and policy-driven research, it is crucial that scholars do not abdicate the professional independence and the methodological standards that are distinguishing features of the academic trade.

\* Stefano Bonino is Lecturer in the Department of Social Sciences at Northumbria University and Fellow of the Royal Society of Arts. The views expressed in this article are those of the author and do not necessarily represent those of the Standing Group on Organised Crime

\*Conflict of Interest Statement: Stefano Bonino worked on the UK-side of project ARIEL and accessed the databases of project OCP during his employment as a postdoctoral fellow at the University of Durham in 2014-15. He co-authored chapter 7 of *Organised Crime in European Businesses*. Although his co-authorship is not formally attributed in the first edition of the book, Routledge has confirmed that it will be correctly attributed in future reprints of the book.

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## The ECPR General Conference is coming soon! 7<sup>th</sup>-11<sup>th</sup> September 2016

The ECPR's General Conference is the largest political science event in Europe, bringing some 2,000 political scientists together every autumn. The 2016 Conference will be held at Charles University, Prague, in the Czech Republic; the oldest institution of higher learning in Central Europe. One of the best preserved cultural centres of Europe, Prague is often referred to as 'Golden Prague', 'The City of a Hundred Spires' and 'The Paris of the East', and we look forward to holding the 10th anniversary of the General Conference in this beautiful city. The academic programme takes the traditional format of Sections and Panels, with over 60 Sections normally being organised, each focussing on a particular sub-field of the discipline. Each Section then contains between three and eight Panels, each addressing a specific question within the overall topic. The ECPR General Conference attracts a truly international audience crossing all sub-disciplines of political science and indeed all career stages; presenting a Paper therefore provides the opportunity to benefit from invaluable discussion and debate. Alternatively, participants can simply observe and still take advantage of the full conference experience.

For further information please visit the site: <http://ecpr.eu/Events/EventDetails.aspx?EventID=95>

## **Catching the Smugglers**

### **An Eastern Sicily Experience about the Fight to Criminal Organization Fostering Clandestine Immigration**

**By**  
**Cristiano Celesia\***

Clandestine immigration has increasingly become an issue in which organised crime groups gradually specialised their skills for exploiting the crossing. Although EU member states use to analyse the immigration issue under the social-economic point of view only (too many migrants in our cities, not sufficient places for hosting them, too much costs for their maintenance and so on), actually the focus should be pointed towards the dramatic path they face in order to reach the European frontiers and – above all – on the smugglers (and their organised groups) that “manage” this flow. However, there are some noteworthy practices carried out by national – in this case provincial – authorities that concretely operate for the identification and the dismantling of the organisations managing the crossing. It is the case of GICIC – the Group of Inter-forces for Contrasting Clandestine Immigration – created in 2006 within the Public Prosecutor’s Office in Siracusa with the aim of providing intelligence to the magistrates through the work of a composite task force (Police, Carabinieri, Finance Police, Coast Guard, Maritime Police, and others).

Despite newspapers did not change the terminology adopted in dealing with the ‘crisis’ or the ‘emergency’ (as pointed by M.T. Consoli) of disembarkations in Sicily, the reception system shows an efficient and orderly performance even during the most crowded arrivals. Dealing with disembarkations, the year 2016 reveals an increase in comparison with the 2015, and the incoming summer months look to be crowded as in the past, or more. In this context, how do the reception system and – above all – the GICIC task force work for indentifying and

catching the smugglers?

When a boat arrives in a port under the jurisdiction of the Public Prosecutor’s Office of Siracusa (usually the port of Augusta) immigrants are asked to remain into the ship in order to receive the approval of the doctor – the first person going on board – that after a summary observation of the patients (mainly temperature and contingent signs on the skin that may prove the presence of diseases like scabies and other similar ones) gives the approval to the GICIC task force to go on board. Usually, only few members take part to this phase – mainly, the police commissioner and the interpreter. While immigrants are still halted within the ship, they seize all the mobile phones that will be further analysed in order to see the possible presence of videos of the route they did, whether there are multimedia proofs of abuses, mistreatments, and so on. Then, GICIC members proceed with the partition of immigrants by nationality; here the delicate ability of the interpreter and of the police commissioner is particularly tested: often immigrants not eligible as asylum seekers (since the lack of particular conflicts occurring in the country of origin, or of particular persecutions: this happen – for instance – with Egyptians) try to make believe they come from countries like Palestine, in order to receive the status as refugee and in order to have more possibilities to be not repatriated. After that, each immigrant is photographed and receives a tracking number used by the Italian authorities for the data set. Paying sharp attention to the lingual inflection, dialects, somatic features relative to race, physical characteristics and other

distinctive traits, GICIC members divide immigrants by nationality, avoiding to be misled by cunning immigrants. During this delicate process they keep an eye out in order to catch some behaviours that may prove the presence of the smuggler still on the ship; sometimes, the same immigrants (conscious victims of the smugglers) reveal something on this point, especially if the smuggler has been particularly cruel during the crossing. If the GICIC members consider someone as a smuggler or at least someone inside the trafficking organization, they catch the person that will be further interviewed and possibly arrested (with different punishments depending on his willingness in collaborating with the security forces or not). When the GICIC members conclude their composite and delicate work on the ship, they give the authorisation to the disembarkation (the whole process is thoroughly described by C. Giudici in her book *Mare Monstrum – Mare Nostrum*). All immigrants are promptly provided with shoes (often slippers), clothes (if necessary) and food; the GICIC can already send some immigrants to the Centres for Identification and Expulsion – CIEs – (in particular those who do not have reasons or requisites to be considered refugees), and it can also arrest the presumed smuggler. Here, the GICIC concludes its work and the baton passes to the Prefecture which will divide the arrived immigrants in the centres of first reception present in the Italian country, and the reception system continues its course.

According to the evaluation provided by the Finance Police about disembarkations in 2015 in the province of Siracusa, there have been

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\* Cristiano Celesia graduated (MA) at the University of Catania last November in the course on Global Politics and Euro-Mediterranean Relations with a dissertation on clandestine immigration and civil society's role in Sicily. His main research interests deals with immigration, civil society, EU politics and policies, humanitarian aid.

149 disembarkations (22.898 immigrants arrived) with 158 smugglers arrested. GICIC also works for the requisition of the clandestine boats and the contingent outboard motors. Of course the investigation continues beyond the single disembarkation event: the identification of an organisation abetting clandestine immigration is a complex task that cannot be completed with the capture of the trafficker of the day which is only a

piece of the whole picture.

In conclusion, it is the ongoing experience of GICIC in matured in ten years of work, thanks to a heterogeneous team that became inspiration for the authorities of other provinces dealing with the same issue: the 'Modello Siracusa' quoted in some conferences, articles and books, an example of noteworthy practice carried out in a small centre of Eastern Sicily.

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### Call for papers for the special issue:

#### “The Discursive Representation of Globalised Organised Crime: Crossing Borders of Languages and Cultures”

The first monographic issue of the I-LanD Journal will be centred on the discursive representation of organised crime across languages and cultures and will be edited by Giuseppe Balirano (University of Naples L’Orientale), Giuditta Caliendo (University of Lille) and Paul Sambre (KU Leuven). Contributors wishing to submit a paper within this issue should contact the editors by sending their abstract (maximum 300 words, references excluded) as a word document by September, 15th. The attachment should not contain the author’s name and affiliation but should be accompanied by an email including such personal information and sent to:

[gbalirano@unior.it](mailto:gbalirano@unior.it)

[giuditta.caliendo@univ-lille3.fr](mailto:giuditta.caliendo@univ-lille3.fr)

[paul.sambre@kuleuven.be](mailto:paul.sambre@kuleuven.be).

The topics include but are not limited to:

- Linguistic dimension of globalised crime syndicates.
- Discursive and/or multimodal representation of crime and criminal identity/identities.
- Translation and (possible) harmonisation of legal definitions of Mafia-related crimes across languages, cultures and legal systems.
- English as a Lingua Franca in the representation of crime in the Media landscape.

Linguistic Fields include but are not limited to: (Critical) Discourse Analysis, (Critical) Genre Studies, Corpus Linguistics, Specialised Discourse, Translation Studies, Audio-Visual Translation, Multimodality, Multimodal Discourse Analysis.

#### Important dates:

- Submission of abstracts: September, 15th 2016
- Notification of acceptance/rejection: October, 5th 2016
- Submission of chapters: March, 5th 2017
- Submission of proof to contributors: April 2017
- Publication of the special issue: May 2017

## Recommended literature

### 'Ndrangheta: The Glocal Dimensions of the Most Powerful Italian Mafia

Authors: Anna Sergi and Anita Lavorgna

Publisher: Palgrave Macmillan

Year: 2016

This book provides an interesting analysis of one of Italy's most renowned mafias, the Calabrian 'Ndrangheta. It creates a historical recollection and considers different factors and aspects that help in the understanding of this organization, including its characters and different behavioural patterns of the organization.

### EU Borders and Shifting International Security: Technology, Externalization and Accountability

Editors: Helena Carrapico and Raphael Bossong.

Publisher: Springer

Year: 2016

In the middle of the immigration crisis, this book addresses the management of the European borders, including the public and security policies, and their effectiveness. Particularly, it explains the expansion in the use of security technologies, and the use of third parties and outsourcing for improving security. This book provides an interesting analysis about different factors of the immigration policies in Europe.

### Handbook of Scientific Methods of Inquiry for Intelligence Analysis

Author: Hank Prunckun

Publisher: Scarecrow Press

Year: 2010

This book explains the different methodologies of intelligence analysis explaining its differences with academic methodologies. Moreover, this book could help in the evolution of academic security research methodologies, particularly those related to organized crime, since it represents a new perspective from intelligence analysis, different from that used in criminology.

## Make your contribution to the recommended literature

If you are the author of a book or want to recommend an interesting piece of literature about organized crime, please contact us for more information or send your contribution to our Managing Editors.

## News and events!

### Internship applications now open!

If you are a student who is passionate about security and wants to get closer to the Newsletter, the Standing Group and its members, don't hesitate to apply for our internship program.

We are looking for Undergrad or Post Grad students who are willing to learn about the SGOC and help us in different ways. The Internship is online and the activities are related to helping our team in the management of our website and our social media.

If you are interested in participating in our program please send your CV and a cover letter to [ecpr.sgoc@gmail.com](mailto:ecpr.sgoc@gmail.com)





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**Managing Editor** – Diorella Islas, University of Bath Idil20@bath.ac.uk

**Managing Editor** – Pamela Ruiz, CUNY University paruiz@jjay.cuny.edu

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## Make your contribution!

For the newsletter we are looking for short original articles (1,000-1,500 words) on different organised crime-related issues.

These contributions can stem from your ongoing research or from summaries of published material, which you might wish to circulate among the organised crime research community. You may also contribute to the content of the newsletter by sending us any announcement of conferences, workshops, and literature references that could be of interest to this field.

**The Next Issue of  
the ECPR-SGOC  
Newsletter will be  
published in  
November 2016**

Deadline for articles is  
**September 30<sup>th</sup>, 2016.**

Please send your contribution  
to our Managing Editors:  
Diorella Islas and Pamela Ruiz.

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