CHAPTER 15

“LAWYERS, GUNS, AND MONEY”:
TRANSNATIONAL THREATS AND U.S. NATIONAL SECURITY

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Although the singer Warren Zevon may not have been aware, the title of his song, “Lawyers, Guns, and Money,” represents several facets of transnational threats, like cross-border crime, that comprise the international security environment in which the United States must operate. Transnational threats do not recognize the significance of borders, their effects are wide ranging with consequences in multiple nation-states, they transcend the capacity of a single nation-state to confront them adequately, and they are loosely structured, if structured at all. Transnational threats represent a type of nonconventional threat that are not directed by the actions or policies of the government of a nation-state. Such threats include actors like terrorists, drug traffickers, and organized criminal syndicates who are involved in activities like mass murder, extortion, bribery, kidnapping, money laundering, drug trafficking, human smuggling, illegal arms trading, sea piracy, theft of art and cultural objects, cybercrime, and the illicit trade of gemstones, timber, and oil. Such activities are estimated to generate a volume of financial flow on the order of $600 billion annually.¹

Moreover, these actors and actions are increasingly multifaceted. Several terror groups like Al Qaeda and Hezbollah are involved in drug trafficking and money laundering, while traditional drug smuggling groups in Mexico have evolved into “trafficking network organizations” since they are also involved in a range of smuggling activities like human smuggling and arms trafficking.² Such actors combine corporate and criminal cultures, “conducting criminal business not only with ruthlessness but also with a degree of business skill worthy of many CEOs” (chief executive officers).³

An equally important, but routinely overlooked, quality of transnational threats is that they are increasingly difficult, if not impossible, to peel away from the process of globalization. In fact, the potency of transnational threats has grown as border enforcement and capital controls have loosened and as free trade agreements have expanded. As a result, responding to them with governmental action is exceptionally thorny. Attempting to tackle transnational threats in a comprehensive manner would mean greatly reducing the efficiencies of globalization like the speed of transportation and commercial transactions—to have all ports worldwide routinely check every shipping container for illicit commodities is not feasible, while any attempts to do so would reduce a government’s capacity to provide for the economic well-being of its citizenry.

There are also other transnational threats like the H1N1 or swine flu virus and climate change that are “threats without threateners” since they do not have an agent at all.⁴ Pathogens are not “actors” on the international stage—a virus does not seek a seat in the United Nations (UN) General Assembly. Even without an actor who is responsible for these phenomena, pathogens and natural catastrophes share the qualities of transnational threats by ignoring borders, affecting multiple nation-states, transcending the capacity of a single nation-state to confront them adequately while not emanating from a structured organization. Likewise, tackling them in a comprehensive manner would significantly affect the process of globalization—screening all airline passengers for infectious disease would dramatically interfere with global transportation. And, as of this writing, no one has been able to control tsunamis, earthquakes and rising sea levels.
Facetiously labeled as “thugs, bugs, and drugs,” transnational threats are, as James Rosenau describes, “sovereignty-free” and serve to remind national security professionals that there are other issues beyond the conventional state-centered ones that can rise to high levels of national importance. The challenge is that “traditional or Westphalian states are not prepared to deal with nongovernmental dynamics operating outside the domains of state and alliance systems. Doctrine and force structures are designed around traditional concepts of overwhelming conventional force to achieve decisive victory against established state militaries.”5 While these threats are unfamiliar and responses cannot solely rely on traditional approaches, transnational threats are not immune from treatment; they must be addressed in priority of their importance to U.S. national interests just like any conventional security challenge. This chapter examines the ways that transnational threats can affect the U.S. national security agenda and demonstrates how decisionmakers will need to become more comfortable in developing complex responses to them.

TRANSNATIONAL THREATS AS DIRECT THREATS

Transnational threats are direct threats to U.S. national security. One can argue that threats like drug dealing, terrorism, organized crime, and pandemics directly challenge the authority of the U.S. Government to provide for the general welfare while protecting the U.S. homeland from events that can lead to the undermining of its territorial integrity, economic prosperity or vital institutions of government. Such a case is not difficult to make—leaders have argued that the use and abuse of hard core narcotics by U.S. citizens undermines law and order. Indeed, in 1989, President George H. W. Bush addressed the nation on prime time television, held up a bag of crack cocaine seized across from the White House days prior to the speech and proclaimed that “the gravest domestic threat facing our nation today is drugs.”6 Just a few weeks after that speech, President Bush sent the U.S. military in a major joint operation to capture Panamanian President Manuel Noriega for drug trafficking crimes. In both word and deed, President Bush elevated the battle against the drug trade to the same level as combating Soviet-inspired communism.

The terrorist attacks of September 11, 2001 (9/11) demonstrated the dramatic increase in the lethality of violent nonstate actors. By utilizing the benefits of globalization—the internet, electronic banking, air travel, student visas—less than two dozen individuals were able to kill thousands of U.S. citizens and cost the U.S. economy billions of dollars. These series of attacks on a single morning revealed the catastrophic potential of terrorist groups’ acquisition and use of a weapon of mass destruction.

Transnational organized crime syndicates are also a direct threat to U.S. national security since they challenge state power from beneath—they assume the role of the state at local levels by enforcing their own code of conduct, entering into illegal contracts and using violence to guarantee their private interests.7 The result is the diminishing of legitimacy and authority of core governmental institutions. Mafia violence of the Al Capone era should not be confused with the “rapid growth and global reach that appear to have given transnational organized crime an unprecedented capacity to challenge states.”8

Beyond the drug trade, terrorism, and organized crime, the outbreak of a pandemic in the United States would arguably pose a direct threat to the welfare of the American population. Although sustained and efficient human-to-human transmission of avian influenza has not yet taken place, its occurrence could result in over 140 million deaths worldwide and staggering economic losses.9 The most recent near human pandemic was the SARS outbreak in Asia between 2002 and 2003. While not directly threatening the U.S. population, it did demonstrate the potential for a pandemic to undermine the authority of a government. This outbreak had a 7 to 15 percent
mortality rate and created fears in the Chinese government of a “Chinese Chernobyl” that would create the conditions for a popular outcry against the government to force greater openness.

TRANSNATIONAL THREATS AS INDIRECT THREATS

There is not universal agreement that transnational threats should be labeled a direct threat and placed high on the national security agenda. Although they can certainly challenge core U.S. interests, transnational threats create indirect effects that complicate, but do not have the potency to destroy the American homeland, wipeout the economy, or exterminate the writ of the U.S. Government. As such, they can only create second order effects that, while significant, do not jeopardize America’s ability to continue to exist as a nation-state.

Arguably, the drug trade and transnational criminal groups are indirect threats to U.S. national security. Criminals and drug smugglers generally seek to evade government authority rather than to directly confront it. While certain criminal groups, like the Russian mafiya, are exceptionally violent, they do not seek to replace the authority of the U.S. Government with their own. Corruption of public officials and law enforcement do undermine the authority of the government while drug use and associated criminality can be deleterious to public health and civil order. The extent of organized crime and illegal activities penetrates legitimate institutions of government, society, and the economy can be quite damaging. Drug trafficking alone requires the participation of members of legitimate professions—chemists, lawyers, accountants, realtors, and bankers. Such widespread involvement can jeopardize fundamental elements of the American way of life based on transparency and accountability of vital institutions.

Geo-strategically, transnational threats do have the ability to destabilize other nation-states that are key to U.S. interests. Drug violence in neighboring Mexico has risen sharply since the 1990s, includes former members of the Mexican military, and has spilled over into U.S. cities and towns along the border. Drug violence continues to plague Colombia, a country pivotal to the stability of Latin America. Russian organized crime has penetrated multiple levels of Russian society and has spread to a variety of nations. Such criminality threatens a central pillar of U.S. foreign policy—the expansion of democracy. One observer of the rise of transnational crime was forced to ask: “Can democracy be promoted in countries in which criminal networks are the most powerful political players?”

While the United States may be able to fend off the more serious consequences of transnational threats, more fragile countries are much more susceptible to greater damage. Research on civil wars and armed conflict in the 1990s revealed that “the pursuit of criminal agendas by warring parties is often difficult to distinguish from other objectives, supposedly of a more ‘political’ nature, that are commonly assumed to be driving conflict.” Such protraction of conflicts creates regional instability, exacerbates human rights abuses, and allows for the development of “brown areas” that are isolated from the power of legitimate governmental authority. The result may be a failed state that serves as a sanctuary for additional criminal activity and political violence. Such a state has been raised to the level of a direct threat due to its ability to harbor international terrorist groups. As President George W. Bush’s first National Security Strategy put it, “America is now threatened less by conquering states than we are by failing ones.”

TRANSNATIONAL THREATS AS ENABLERS OF DIRECT THREATS

Another way to conceptualize transnational threats is to view them as enablers to more direct threats to the U.S. national security interests. In other words, adversaries can take advantage of the illicit global economy to earn money for their activities that challenge U.S. actions or work in collusion with criminal groups to procure expertise and material to attack the United States and its
citizens. Participation in the international drug trade is especially empowering for many warring
groups that the United States confronts.\textsuperscript{13} The drug trade is seductive for many groups since it can
be used as a weapon against the United States as well as a generator of profit. Reportedly, Hezbol-
lah imports raw materials for heroin and cocaine production into Lebanon and sells the finished
products to the United States and Western Europe as a way to continue its campaign against Israel
and the West.\textsuperscript{14} The Taliban has engaged in heroin trafficking as a way to promote its insurgency
against North Atlantic Treaty Organization (NATO) forces. The result was that, in September 2006,
it became statistically as dangerous for an American service member to serve in Afghanistan as
it was in Iraq.\textsuperscript{15} Al Qaeda ran a number of criminal schemes to keep their operations financially
viable. One member of Al Qaeda is wanted on federal charges for trafficking methamphetamine.

Rogue states can also be empowered by linking themselves to the illicit global economy. The
North Korean regime is actively engaged in the production, distribution, and sale of drugs as part
of government policy coordinated by Central Committee Bureau 39. In fact, North Korean military
personnel have been used to smuggle drugs for nearly 30 years.\textsuperscript{16} North Korean infiltration craft
(manned by North Korean Special Operations Forces) have often been found in Japanese waters
since the late-1990s engaged in “drug drops.”\textsuperscript{17} North Korean uniformed personnel have report-
edly been involved in the transfer of illegal drugs both off the coasts of Japan and Taiwan.\textsuperscript{18}

**TRANSNATIONAL THREATS AS STRATEGIC DISTRACTIONS**

Transnational threats and their effects may also be viewed as strategic distractions; they appear
as exaggerations that pose nowhere near the same level of danger as conventional threats. By fo-
cusing so much attention to them, some argue policymakers overstate the threat at the expense of
focusing limited time, attention, and resources on more pressing issues like rising powers, rogue
states, and the competition for oil. There is also the danger of a self-fulfilling prophecy—raising
transnational threats like terror groups or criminals to high levels of importance legitimizes these
actors on the global stage in ways that they may not have been able to do themselves with their
own resources or actions. Even “threats without threateners” become problematic for national
security professionals. Placing pandemics on the security agenda has meant a more active role for
the U.S. Department of Defense (DoD), a role that is added to an already crowded agenda for the
U.S. military.

To hold the view that transnational threats are distractions is not to argue that they are unim-
portant, but that they should not be seen as residing in the province of national security. They are
not in the realm of “high politics.” They belong where they always have, be they in the arena of
law enforcement (for terrorism, drug trafficking), private business (for money laundering), or the
scientific community (in the cases of pandemics and climate change). Corruption and crime are
not so ingrained or widespread as to cripple U.S. vital functions; the United States routinely scores
low as a country in corruption indexes and the level of drug use and rate of drug related crimes
has not significantly risen in the years the Office of National Drug Control Policy has been keeping
records. Money laundering has not significantly eroded public confidence in U.S. financial insti-
tutions or the economy itself. Pandemics and the effects of climate change have been effectively
managed by the current configuration of the institutions of government.

**RESPONSES TO TRANSNATIONAL THREATS**

However one chooses to prioritize transnational threats, responding to them requires a high
level of interaction among a variety of actors in the United States and the international arena.
Be they viewed as direct threats, indirect threats, enablers or distractions, transnational threats require that responses be as complex as the threats to produce meaningful results. Ironically, since transnational threats seemingly undermine the sovereignty of states, confronting them will mean that the U.S. national security community must more fully integrate and harness the elements of its own national sovereignty—diplomacy, information, military, economics, financial, intelligence and law enforcement (DIMEFIL).

Since these threats are enmeshed in the process of globalization, the speed at which they move means that governments are always playing catch-up. For example, the multifaceted nature of criminal networks permits them to rapidly adapt to many of the countermeasures used by governments. Human trafficking is on the rise and uses many of the same routes and techniques as drug trafficking—one reason is that jail time for smuggling a person into the United States is less than for smuggling a load of marijuana. The legal system has not caught up to the practice, meaning that the risk is lower, but the profit is roughly the same and, therefore, the incentive is greater. Even seemingly innocuous laws that were designed to mitigate some of the damages the global economy can inflict also serve to empower transnational activities. After the signing of an agreement among several Pacific nations to place limits on tuna fishermen to avoid capturing dolphins in their nets, Chinese organized crime was able to take advantage of excess room in the holds of Taiwanese fishing vessels to smuggle people from Fujian (the Chinese province closest to Taiwan) to other vessels bound for the United States and other countries. Migrants became the new commodity.

For leaders of America’s armed services, transnational threats appear especially frustrating; for a number of reasons cited above they are resistant to one of America’s strongest instruments of power—military might. For example, it is difficult to wage war on a product (for example, drugs) or phenomenon (for example, terrorism). After all, an adversary should be able to fight back. While the U.S. Government is waging a war on drugs, drugs are not fighting a war against the U.S. Government; and this is not because drugs declined to participate, but because drugs are not the sort of thing that could. Transnational threats are also frustrating for policymakers and strategists because there does not seem to be a point at which they can be said to be vanquished. Policymakers and strategists are more comfortable defining a particular goal or end-state for U.S. action. “It would not make sense to say, ‘at the moment we are fighting fascism (or poverty or drugs), but we hope at a future time we’ll be on better terms with fascism (or poverty or drugs) and the reason for fighting it will have gone away.’” Furthermore, as previously mentioned, tackling any particular transnational threat in a comprehensive way would be debilitating to the global order; “to declare war on [all] organized crime would in these conditions be more tantamount to writing a suicide note than embarking on a crusade.”

Although transnational threats are frustrating, elusive, and resilient, national security professionals are not powerless in the face of them. Such threats must be met with innovative, flexible and sustainable strategies. Depending on the specific transnational threat, the coordinated use of the elements of national power should be targeted to go after an organization, a product, a process, or a combination. Traditional approaches that focus purely at the level of the nation-state and holding a government responsible for transnational threats is of limited utility. While sovereignty implies the ability of a government to control affairs within its boundaries, some nation-states are more capable than others. As one scholar put it, “Afghanistan is not Sweden with bad roads.” While options like Foreign Internal Defense and nation-building should not be dismissed, adopting a broader perspective has greater strategic advantages. Adversaries must be viewed as “adaptive competitors” in ways that conventional adversaries are not. Adaptive competitors “address
problems, change practices, and create identities in response to knowledge and experience, sometimes improving their performance and aiding their bureaucratic survival.” As such, they are able to exploit seams and respond more flexibly than traditional nation-states.

To tackle adaptive competitors, strategists must make them face disincentives like lessening demand, lowering profit margins, and raising risks. As such, a central feature any policy or strategy to deal with transnational threats will be cooperation in building new networks to track, monitor, and trace specific organizations, illicit markets, and global trends. Organized crime is not invincible. In fact, each time a criminal cartel has been attacked with the right resources, legal tools, and political determination, it has been defeated; the most important accomplishment has been to challenge and destroy the myth of invincibility among criminal cartels.

When it comes to threats without threateners, cooperation is still required. Networks of multinational, multilayered and established actors need to be put in place to prepare to mitigate the effects of pandemics and climate change. National public health systems are relatively new to human social organizations—it was only during the early-20th century that cities became self-sustaining and did not have to rely on healthy bodies coming from the countryside to replenish their populations. The global public health system is even younger and inherently more fragile, yet the tools of globalization can aid in strengthening this system. In many ways, efforts to combat the H5N1 bird flu pandemics were successful in tracking and tracing suspect poultry and taking action to cull flocks. These efforts have not led to any “cure,” but containment proved to be possible given the cooperative efforts of several actors in the international arena.

Maneuvering through an international security environment that is volatile, uncertain, complex and ambiguous means working through such diverse entities as the World Bank, World Health Organization, Interpol, and multinational corporations in a coordinated way will become the norm for policymakers and strategists when confronting transnational threats. The national elements of power must be used in multinational, multilayered, and sustained ways, and those charged with creating policy and strategy must develop the “kind of competitive intelligence that is now pervasive in the business world.” Transnational threats will continue to bedevil U.S. national security, as will designing successful policies and strategies to mitigate their effects. Such are the challenges for decisionmakers, military officers, and national security professionals in the era of globalization.

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7. Treverton, p. 43.


20. This formulation was adapted from a discussion on the War on Poverty in Simon Keller, “On What is the War on Terror?” in Timothy Shanahan ed., Philosophy 9/11, Chicago, IL: Open Court, 2005, p. 54.

21. Ibid.


25. Naim, p. 239.
