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Introduction

The threat posed by organised crime is a dominant concern for many citizens, communities and legislators in late-modern societies. Its centrality in political discourse and the fear it engenders in the public derive from the increase in rates of certain types of criminality, and the menacing depiction of criminal associations presented in the media and through popular culture. Organised crime, involving the systematic provision by criminal enterprises of illegal goods or services, or the planned group perpetration of certain grave crimes motivated by profit, seems to be worsening: gun-related crimes and the trafficking of illicit goods and even people grow more common, while homicides motivated by feuds between drug traffickers or rival gangs have moved from infrequent aberrations to regular occurrences. In addition, organised crime groups are seen as ever more sophisticated, and as assisted by modern technologies which provide rapid and impenetrable communication techniques and conceal the movement of assets and contraband. This compounds the widely held view that such offences merit robust and innovative legal reactions.

The inherent nature of organised crime – the ruthlessness of the actors, their illicit accrual of vast wealth, the pernicious effects of their actions for victims and witnesses, and the potential corruption of the political and judicial systems – is seen by policy makers as warranting radical legal responses. In essence, the dominant narrative in political and media circles is that the present criminal justice system, in particular the normal schemes of procedure and sentencing, is incapable of dealing with crime of this form and extent, and that some of the traditional processes actually preclude effective investigation or prosecution. It is believed that the police are constrained in attempting to detect crime and in subsequent investigations, and that the prosecution faces overwhelming obstacles if any such case reaches the courts. Moreover, the sentencing model in place is regarded as insufficiently punitive towards serious and organised criminals and as ineffective in terms of preventing further such offences. There is a perception that this renders organised criminals essentially immune from punishment. Overall, the prevailing attitude in the political sphere is that the justice system pays scant regard to the imperatives of crime control and public protection in relation to the danger posed by organised crime, and is entrenched unjustifiably in an anachronistic due process paradigm which is concerned excessively with the rights and liberties of the suspect or offender.

Thus, in the United Kingdom (the UK) and Ireland, the powers of the State and its agents have been modified during investigation and at trial, given these limitations of the justice system in its traditional guise. In a bid to improve the abilities of the State, alterations have been made to laws, policies and practices at all stages of the criminal process. Moreover, provisions have been enacted which reach beyond the traditional confines of the criminal process into the arena of civil law to address organised crime more effectively.

In the UK and Ireland, new substantive offences have been created. Considerable modifications have been made to the rules relating to police investigation: surveillance powers are considerable and used widely, and detention periods have been extended. In addition, procedural rights have been altered: the right to be tried before a jury has been eroded; the right to cross-examine witnesses has been diluted; previous inconsistent statements are admissible as evidence, and the evidence of accomplices and participants in witness protection programmes may now be relied upon. After conviction, robust and sometimes indeterminate sentences may be imposed, in addition to numerous ancillary orders. Moreover, the tactics adopted by the State have extended beyond the criminal process, with the establishment of agencies which may recover assets believed to be the proceeds of crime in civil proceedings, in addition to pursuing actions under taxation legislation.

In examining the legal reactions to organised crime across the different jurisdictions of the UK and in Ireland this book may impart a false coherence[1] to both the concept of organised crime and to the statutory measures introduced to deal with it. Though its conceptual boundaries may be questioned, organised crime as a phenomenon, however defined or conceived, has prompted considerable political concern and concomitant legislative reaction. While conceding and then analysing the nebulous nature of this type of crime, the primary focal point of this book is on the legal reactions to this type of criminality in a number of neighbouring common law jurisdictions, whether it is viewed as a determinate type of crime, or a rhetorical description, or a fluid yet useful label.

As Levi and Maguire note, only intermittently have law enforcement operations against organised crime been devised as part of a systematic reduction strategy.[2] In a similar vein but on a broader level, the legal responses in the UK and Ireland are not systematic or cohesive. Indeed, given the contested nature of the definition of organised crime itself, one cannot identify definitively those measures which pertain to this type of crime only. Many reactions to organised crime may apply to a broader range of criminality; nonetheless, what is explored here in a doctrinal, theoretical and normative sense is a range of the most critical legal measures which may and do address organised crime. The matters under consideration are predominantly procedural, and some substantive law is also examined, in addition to changes to sentencing practice and the use of civil means to deal with a crime

[1] M Levi, 'The Organization of Serious Crimes for Gain' in M Maguire, R Morgan and R Reiner (eds), *The Oxford Handbook of Criminology* (5th edn) (Oxford, Oxford University Press, 2012) 612.

[2] M Levi and M Maguire, 'Reducing and Preventing Organised Crime: An Evidence-Based Critique' (2004) 41 *Crime, Law & Social Change* 397, 451.

problem. The focus is not on the relevant criminal justice agencies or actors, nor on structural change to law enforcement, nor on policing practices, though laws facilitating the establishment of new agencies are considered briefly.[3] The focus here is on one particular dimension of the State's reaction to such crime, namely how the law has been constructed, amended and interpreted to address organised crime more effectively.

Though the selection may be challenged, the analysis here concerns those legal provisions which are focused on this category of crime and criminal actor and which are the most visible, the most publicised, and those most likely to affect civil liberties and individual rights. In a normative sense, the book adopts a liberal, due process stance, and this perspective shapes the choice of legal measures to be evaluated. While there are unquestionable difficulties in investigating and prosecuting organised crime, and though the threat posed by organised crime to witnesses, jurors and the administration of justice overall is a real one, the more complex matter is how to address the problem in a measured way that is cognisant of due process.

Throughout, reference is made to criminological scholarship and empirical research, but this book does not delve into the socio-economic, political, psychological or structural factors contributing to or explaining organised crime. Essentially, the focus is not on preventive or 'anti'-organised crime measures, but rather on legal 'counter'-organised crime strategies, and the ramifications these hold for traditional norms and protections in the criminal justice context.

I. The Comparator Jurisdictions

The principal jurisdictions on which this book concentrates are the constituent States in the UK and Ireland, although reference is sometimes made to other common law jurisdictions such as the United States (the US) and Canada. Comparing the neighbouring jurisdictions in the UK and Ireland is instructive due to their shared cultural and common law heritage, and the degree of criminal justice policy transfer between them, generally speaking. A comparative method of legal analysis highlights readily the points of commonality and divergence between geographically adjacent and historically bound jurisdictions in terms of the enactment, implementation and efficacy of laws against organised crime. 'Negative similarities',[4] such as lacunae in policy and law, exist between the comparator States, and sometimes, where equivalent laws exist, there are variations in effectiveness due to administrative and/or practical matters.

[3] For an analysis of the work of significant actors like prosecutors in dealing with organised crime see R Goldstock, *Organised Crime in Northern Ireland: A Report for the Secretary of State* (Belfast, Northern Ireland Office, 2004) 4.8 *et seq.*

[4] L Paoli and C Fijnaut, 'Organised Crime and its Control Policies' (2006) 14 *European Journal of Crime, Criminal Law and Criminal Justice* 307, 326.

In the reactions to organised crime in the UK and Ireland, there is evidence of policy transfer in a true sense involving purposeful imitative activity, as well as policy diffusion and convergence where the jurisdictions become more alike purely by the successive adoption of specific policy approaches.[5] In some respects, and indeed as is often the case in relation to criminal justice, counter-organised crime measures in the United States represent a prototype,[6] such as with the adoption of witness protection programmes. In addition, measures first used in England and Wales, such as anonymous witness evidence, have been emulated north of the border in Scotland, while post-conviction measures first adopted across the UK were imitated subsequently in Ireland. Against the usual flow of policy transfer, the use of civil measures to recoup the proceeds of crime in the UK derives from an Irish model, though is also influenced by US civil forfeiture mechanisms.

Many of the legal measures introduced to address organised crime are echoed across the comparator jurisdictions with readily identifiable parallels in policy and practice. On the other hand, despite geographical proximity, shared histories, and the overarching influence of the common law, a comparative analysis of domestic laws highlights some divergences, stimulated and maintained by cultural, social and legal contingencies. Certain historical factors have sensitised policy makers and the public to the dangers of expanded State powers, thereby dissuading them from the use of particular measures; conversely and simultaneously, legal precursors that developed in very different times may provide an example for contemporary laws. In the Republic of Ireland, the crucial historical contingency which facilitated the legal expansion of State powers is the terrorist legacy and the resultant restrictions on civil liberties. Thus, measures such as non-jury criminal courts and prolonged detention periods, with their antecedents in counter-paramilitary tactics, are welcomed in Ireland, while rarely if ever contemplated in Scotland, for example. Moreover, in Northern Ireland expansion of State powers prompted by the political situation has influenced counter-organised crime measures when compared with the rest of the UK. Conversely, the presence of a written Constitution and a robust rights-oriented jurisprudence in Ireland has guarded against certain measures, such as anonymous witnesses, in contrast to the situation across the UK.

[5] C Bennett, 'What is Policy Convergence and What Causes it?' (1991) 21 *British Journal of Political Science* 215, 220–21.

[6] See T Jones and T Newburn, *Policy Transfer and Criminal Justice: Exploring US Influence Over British Crime Control Policy* (Maidenhead, Open University Press, 2007); T Jones and T Newburn, 'Learning From Uncle Sam? Understanding US Influences Over UK Crime Control Policy' (2002) 15 *Governance* 97; T Newburn, 'Atlantic Crossings: "Policy Transfer" and Crime Control in the USA and Britain' (2002) 4 *Punishment & Society* 165.

II. The Legal Framework

The legal framework that exists in the comparator jurisdictions in the United Kingdom (that is, in England and Wales, Scotland and Northern Ireland) became rather more complex with the devolution of power that occurred at the end of the twentieth century and is significant in terms of the legal reactions to organised crime. Scotland has long had a separate legal and court system,[7] with autonomy in the context of the criminal process, except for matters that impact State security. In particular, Scotland has a distinctive criminal justice system, with a jury of 15, a 'not proven' verdict, a requirement of corroboration, and a marked reliance on common law definitions in substantive law.[8] Despite this separate legal system in Scotland, the United Kingdom had a single Parliament and an Executive consisting of the Prime Minister and the Cabinet until the late-1990s when considerable amendment to the constitutional structure occurred. Referenda were held permitting some executive and legislative powers to be devolved to the Scottish Parliament, the National Assembly in Wales and the Northern Ireland Assembly.[9] The Welsh Assembly originally had executive powers only, whereas now it has limited legislative competence but no law-making powers in the area of criminal justice.[10] In contrast, both Scotland and Northern Ireland possess powers that may affect the bid to address organised crime.

The Scotland Act 1998 provided Scotland with an Executive, and a Parliament which can legislate on areas not reserved to Westminster. Devolved subjects which are within the legislative competence of the Scottish Parliament include health, education and local government, and most critically for present purposes, most aspects of criminal and civil law, the prosecution system and the courts. Reserved matters include defence and national security, social security, immigration, financial and economic issues including money laundering, misuse of drugs, firearms, national security, interception of communications, official secrets and terrorism; many of these are germane to the legal reactions to organised crime.[11] Furthermore, although precluded from legislating, the Scottish Parliament may debate reserved matters that are deemed to be of public interest and importance.[12]

The Scotland Act 1998 does not affect the power of the UK Parliament to make laws for Scotland.[13] In other words, the Westminster Parliament may continue to legislate on devolved subjects; however this requires the consent of its Scottish

[7] See the Acts of Union 1707 and 1800.

[8] See P Duff and N Hutton (eds), *Criminal Justice in Scotland* (Dartmouth, Ashgate, 1999).

[9] Northern Ireland Act 1998; Scotland Act 1998; Government of Wales Act.

[10] Government of Wales Act 2006, sch 7. The Welsh Assembly has legislative competence in respect of certain aspects of agriculture, fisheries, forestry and rural development, culture, education, housing, sport, tourism, and health, which can cut across certain drugs issues.

[11] Scotland Act 1998, sch 5.

[12] D Arter, *The Scottish Parliament: A Scandinavian-Style Assembly?* (London, Frank Cass, 2004) 15.

[13] Scotland Act 1998, s 28(7).

equivalent. While not provided for in the Scotland Act 1998, it has become a convention that Westminster would not legislate on devolved matters in Scotland without the consent of the Scottish Parliament under what is now known as the Sewel Convention.[14] Thus, Sewel motions (otherwise referred to as legislative consent motions) were passed in relation to significant statutes like the Regulation of Investigatory Powers Bill, the Proceeds of Crime Bill and the Serious Organised Crime and Police Bill, permitting Westminster to legislate on matters that, strictly speaking, fall within the competence of the Scottish Parliament. As noted, Westminster solely legislates on financial and economic matters including money laundering, misuse of drugs, firearms, and the interception of communications.

In Northern Ireland, the devolution of powers has been suspended and restored a number of times since 1998 due to the political situation there. After suspension in 2002, the Assembly resumed in 2006 and devolution was restored in 2007.[15] Government powers are divided into reserved, excepted and transferred powers, with the Northern Ireland Assembly responsible for making laws on transferred matters such as education, health and agriculture. Excepted matters such as defence, taxation and foreign policy remain within the competence of the UK Parliament only.[16] Reserved matters include policing and criminal law.[17] The Assembly can legislate on reserved matters with the consent of the Secretary of State,[18] and at the time of enactment it was envisaged that such matters could, under certain circumstances, be transferred to the Assembly at a later date.[19] In March 2010, the Northern Ireland Assembly voted in favour of the transfer of policing and justice powers from Westminster,[20] and there is now a Department of Justice in Northern Ireland.[21]

Ireland is a common law country which, in contrast to the United Kingdom, has a written Constitution, *Bunreacht na hÉireann*. This was enacted by plebiscite in 1937, and is the primary legal document in the State and may be amended by popular referendum only.[22] Statute law, which is subordinate to the Constitution, is made by the two Houses of Parliament (the Oireachtas), the Dáil and the Seanad. Crucially, the Irish Supreme Court has the ability to declare legislation as unconstitutional and therefore invalid.[23] These particular legal traditions, struc-

[14] See P Bowers and C Sear, *The Sewel Convention*, Standard Note: SN/PC/2084 (London, Parliament and Constitution Centre, 2005).

[15] Northern Ireland (St Andrews Agreement) Act 2006.

[16] Northern Ireland Act 1998, Sch 2.

[17] Northern Ireland Act 1998, Sch 3.

[18] Northern Ireland Act 1998, s 8.

[19] See D Foster and O Gay, *The Hillsborough Agreement*, Library Standard Note SN/PC/05350 (London, Parliament and Constitution Centre, 2010) 2.

[20] ibid.

[21] The Department was established by the Department of Justice (Northern Ireland) Act 2010 and facilitated by the Northern Ireland Act 2009.

[22] Art 46.

[23] Arts 15.4.2° and 34.3.1°. The ability of courts to do so is criticised by some scholars who see this as anti-democratic. See, eg T Campbell, 'Human Rights: A Culture of Controversy' (1999) 26 *Journal of Law and Society* 6, 25; and C Gearty, *Can Human Rights Survive?* (Cambridge, Cambridge University Press, 2006) 69ff.

tures and documents in each of the comparator jurisdictions have influenced the nature of the reactions to organised crime.

III. The International Dimension

Organised crime is a cross-border phenomenon and consequently is far more than a national law enforcement problem.[24] The individuals and groups involved in organised criminality are not limited by State borders, and, in fact, often exploit national differences in laws, regulations, and taxes to establish illegal markets and generate profits. Moreover, the importation of controlled goods like drugs or weapons by definition is transnational in nature. Actors in the UK and Ireland may collaborate with or rely on colleagues in other countries or continents to import illegal materials, and may represent a part of or the final aspect of a lengthy, complex and international distribution chain. This international dimension both permits organised crime groups to increase the range and depth of their activities and also requires cross-border cooperation by investigating and prosecuting authorities. Thus, international agencies, like Interpol, and supra-national obligations and legal standards, such as the European Convention on Human Rights, European Union Directives and United Nations Conventions, all are crucial in respect of dealing with these types of crime.

The European Union (EU), as a supranational body whose laws take precedence over domestic legislation, has had a considerable effect on criminal law and practice in the UK and Ireland.[25] For instance, money laundering legislation was modified to ensure adherence to a number of EU Directives. Therefore, although these provisions may illustrate an innovative turn in adaptations to organised crime, these alterations have not been initiated by the Irish and UK States alone but implement compulsory pan-European measures. Moreover, the signing and ratification by Ireland and the UK of international measures such as the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances[26] and the United Nations Convention Against Transnational Organized Crime[27] may influence the measures used to address organised criminality. As regards international law and conventions, both the UK and Ireland have dualist systems, which require the express translation of international measures into domestic law. Despite these binding and persuasive authorities, the primary impetus for legislative change remains local, and so the emphasis remains on national laws, though reference is made to EU and international measures.

[24] P Van Duyne, *Organized Crime in Europe* (New York, Nova Science Publishers, 1996).

[25] European Communities Act 1972. See Bunreacht na hÉireann, Art 29.4.3°, as inserted by the Third Amendment to the Constitution Act 1972.

[26] UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, GA Res 47/97, 47 UN GAOR Supp (no 49) at 179, UN Doc A/47/49 (1992).

[27] UN Convention Against Transnational Organized Crime, GA Res 25, annex I, UN GAOR, 55th Sess, Supp no 49, at 44, UN Doc A/45/49 (vol I) (2001).

Moreover, the 'Europeanisation' of human rights, in particular in the context of crime control,[28] is significant for this project. The Human Rights Act 1998 made the rights protected by the European Convention on Human Rights (the ECHR), such as the rights to a fair trial, to liberty and to privacy, enforceable under national law in the United Kingdom, thereby facilitating challenge to acts of public authorities or to legislation in domestic courts on the ground that they infringe Convention rights. The courts may then make a 'declaration of incompatibility' if satisfied that legislation conflicts with a right under the ECHR.[29] In this dialogic approach,[30] Parliament has the ability to remedy the situation if it chooses to do so, or a Minister may make a remedial order to remove the incompatibility.[31] This maintains parliamentary sovereignty as the defining principle of the UK Constitution.[32]

As noted, the primary protective document for rights in Ireland is the Constitution, *Bunreacht na hÉireann*, which safeguards due process rights,[33] the right to liberty, equality,[34] and so on. In addition, the European Convention on Human Rights Act 2003, which incorporated the ECHR into Irish law, requires courts to interpret and apply the law, as far as is possible, in a manner compatible with the Irish State's obligations under the ECHR,[35] and organs of the State must perform their functions in a manner compatible with the ECHR unless there is a domestic law stating that this is not required.[36] Akin to the situation in the UK, the Irish courts may make 'a declaration of incompatibility' and there is no onus on the legislature or executive to react to this declaration.[37] While it may be argued that constitutional safeguards in Ireland mean that the ECHR does little in terms of supplementing the rights of the accused or the offender, it seems more accurate to say that in fact the Convention's incorporation enhances rights in the criminal process, in particular in the context of procedural rights,[38] since certain ECHR cases may involve a more extensive protection of individual rights than that promulgated by the Irish courts.[39]

[28] S Kilcommins and B Vaughan, *Terrorism, Rights and the Rule of Law: Negotiating State Justice in Ireland* (Cullompton, Willan Publishing, 2007).

[29] Human Rights Act 1998, s 4.

[30] See T Hickman, 'Constitutional Dialogue, Constitutional Theories and the HRA 1998' (2005) *PL* 206.

[31] s 10(2).

[32] J Goldsworthy, *The Sovereignty of Parliament: History and Philosophy* (Oxford, Clarendon Press, 1999); M Elliott, 'United Kingdom: Parliamentary Sovereignty under Pressure' (2004) 2 *International Journal of Constitutional Law* 545.

[33] Art 38.1 of Bunreacht na hÉireann provides that 'no person shall be tried on any criminal charge save in due course of law'.

[34] Art 40.

[35] s 2.

[36] s 3(1).

[37] European Convention on Human Rights 2003, Art 5.

[38] I Bacik, 'Criminal Law' in U Kilkelly (ed), *ECHR and Irish Law* (London, Jordans, 2004) 151.

[39] See, eg *Salduz v Turkey* (2009) 49 EHRR 19 regarding the right of access to a lawyer during pre-trial detention.

Undoubtedly, the threats posed by organised crime groups are not limited to and do not derive from a single jurisdiction, and arguably few legal responses may be regarded as truly local; nonetheless the focus here is on domestic law as affected by international trends and instruments, rather than constituting an international study, of either the laws or the actors, as such.[40] Whilst remaining cognisant of and incorporating consideration of international measures and transnational organised crime itself, this book examines principally the national definitions of organised crime and constituent offences, and advances a doctrinal and theoretical critique of the salient aspects of domestic criminal law, the laws of evidence, and financial regulations. Granted, the interaction between domestic and supranational law is important, however most of the responses to organised crime remain prompted by local concerns and enacted by domestic legal measures. So, the analysis here centres primarily on the substance and effect of domestic legislative and judicial reactions to organised crime in the UK and Ireland.

IV. The Theoretical Lens

Appraising the legal reactions to organised crime throughout the UK and Ireland indicates that these often map onto wider penological and criminal justice trends. Essentially, what appears to be occurring is the prioritisation of the demands of security and the resolution of crime, and the associated erosion of due process rights. This book adopts a rights' oriented perspective that is critical of many legal shifts which are animated by the imperative of crime control to the undue detriment of due process protections. Though there is no one logic to such developments in relation to organised crime, central overarching themes which contribute to this shift in the ethos of policy-making include the centrality of public protection, the aversion towards risk, the generation of a crisis discourse, and the diversification in crime control which involves the participation or 'responsibilisation' of a range of actors other than State agencies. Even so, failure to use the laws enacted, and application of such laws in a piecemeal or uncoordinated manner, suggests that ultimately the expressive aspects of the reactions to organised crime may be of more significance than their practical effect.

The legal measures used to address organised crime often embody a tension between the judicial and legislative arms of the State in terms of the competing demands of criminal justice. Judicial oversight may mitigate the momentum towards a pragmatic and results-oriented model of criminal justice in the drive to prevent and punish organised crime, by placing more stress on the significance of

[40] See, eg JD McClean, *Transnational Organized Crime: A Commentary on the UN Convention and its Protocols* (Oxford, Oxford University Press, 2007); A Edwards and P Gill (eds), *Transnational Organised Crime Perspectives on Global Security* (London, Routledge, 2003); T Obokata, *Transnational Organised Crime in International Law* (Oxford, Hart, 2010).

due process. Nonetheless, superior courts in the UK and Ireland have given constitutional or conventional imprimatur to other such provisions, indicating that a dichotomous interpretation, in which the judiciary act as enforcers and protectors of rights when compared with an authoritarian legislature, is unduly simplistic.

V. Structural Outline

This book presents a comparative exploration of the legal measures adopted across a number of jurisdictions to counter the threat of organised criminality, and critiques the diminishing concern for due process values in the creation of such legislation. Rather than adopting a criminological focus on the actors or an in-depth appraisal of particular aspects of methods of dealing with organised crime, this work assesses and then situates these laws as part of wider trends in the criminal justice realm. A distinctive contextualised approach is undertaken, firmly grounded in penological and criminal justice theory so as to enrich the doctrinal legal analysis. It identifies the different motivations and principles of the various agencies and institutions involved in dealing with organised crime and how this impacts on the construction and application of the law.

Before the doctrinal evaluation is undertaken, Chapters two and three unpack key definitional issues and theoretical propositions. Chapter two explores the scholarly, political and legal attempts to define organised crime, as a concept which may depict a type of criminality, may denote specific crimes, and may involve certain actors. It considers the gravity of the threat, and the extent to which this can be measured, given the ineluctable definitional problems. In a substantive sense, the criminalisation of organised crime itself, as well as constitutive crimes, is analysed, as are the several of the new agencies which have been established as a result.

Chapter three sets up the theoretical framework which underpins the doctrinal analysis in subsequent chapters. Legal reactions to organised crime exemplify the perceived conflict of ideologies and imperatives in criminal justice, with security being portrayed as compromised by undue concern about due process rights. The emphasis on public protection, the centrality of risk, the belief that the threat of organised crime constitutes a state of emergency, and the adaptations required by the nature and gravity of the problem explain the form and substance of the legislation introduced. This chapter then examines the dialogue between the arms of the State whereby the judiciary sometimes finds itself in opposition to policy makers and legislators, and motivated by conflicting concerns.

Chapters four to seven constitute the doctrinal analysis of the laws used to address organised crime in the UK and Ireland, informed by and drawing on the theoretical insights examined in chapter three. The laws and policies adopted to address organised crime are described and appraised legally and normatively, and

then evaluated through a theoretical lens. Throughout, reference is made to the theoretical arguments which each initiative tends to support: for example, one legislative development might demonstrate the move towards risk while another might temper this potential with a greater emphasis on due process values. Moreover, the diverging perspectives and animating rationales of the different players and institutions involved will be noted, with the courts being much more concerned with due process than any other State institution.

Chapter four focuses on the pre-trial process, that is, the investigation of organised crime. This chapter explores the growing use of access and disclosure orders, suspicious activity reports, surveillance of various sorts, and controlled deliveries of illicit goods, and the effect that these have on investigative norms and practices. In addition, the extension of detention periods and the amendment of rules of interrogation are considered.

Chapter five concerns the prosecution of organised crime, and the changes that have been made to the criminal trial. Firstly, procedural law changes are examined, including the admissibility of surveillance evidence and accomplice testimony. This chapter also examines the range of measures employed to protect jurors and witnesses, such as non-jury trials, anonymous juries and witnesses, protective measures for witnesses, the use of prior inconsistent evidence, and witness protection programmes.

Chapter six examines the post-conviction stage of the criminal process and the means of punishing organised crime. It assesses the growing reliance on presumptive minimum sentences for certain quintessential organised crimes and the imposition of indeterminate sentences. The reduction of sentences in return for assistance is also examined. Various post-conviction orders are explored, such as confiscating or forfeiting property upon conviction, limitations on travel and registration requirements.

Chapter seven moves the analysis beyond the criminal process into the civil context, and focuses primarily on asset recovery. The historical predecessors for this radical approach are considered, as are the challenges posed to its legitimacy, and the contrasting success of the schemes that are in place across the UK and Ireland. Chapter eight maintains the focus outside the criminal process per se by considering the use of revenue powers and the taxing of organised crime.

The dominant narrative on organised crime is that the existing legal framework is not sufficient. The book concludes by reiterating scepticism regarding this depiction, and suggests that the implementation rather than construction or structure of the laws is the critical factor in reacting effectively to organised criminality. Given the threat posed to due process rights, the book closes with a call for caution in the introduction and expansion of legal responses to organised crime.