Global policing and transnational law enforcement

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Overview

1. Conceptualising global policing
2. History
3. Architecture
4. The Global Policing Vision
5. Law
6. Accountability
7. The Future
Policing the Caribbean
Transnational Security Cooperation in Practice
BEN BOWLING

Clarendon Studies in Criminology
global policing

Ben Bowling & James Sheptycki
Transnational policing

organized forms of order maintenance, peacekeeping, law enforcement, crime investigation and prevention, surveillance of suspect populations and information sharing that transcend national boundaries
Global policing

“the capacity to use coercive and surveillant powers around the world in ways that pass right through national boundaries unaffected by them”

History
Historical precedent?
colonial policing
35 foreign police agents at London’s 1851 Great Exhibition from Berlin, Brussels, Paris, Vienna and New York
Dr Johannes Schober, President of the Vienna Police; Establishes ICPC, September 1923

Dr Oskar Dressler, Chief of the Austrian Federal Police was the Organization's first Secretary General, serving until 1946
An International Police Force?

- 1914 – the idea rejected by police chiefs
- 1930 – Lord David Davies, *The Problem of the Twentieth Century* (1930)
- 1948 UN Secretariat Working paper an “international police force” required ‘for the maintenance of law and order in a territory for which the international society was responsible’
UN police officer from Ghana stands guard. Nations Operation in the Congo (ONUC) Leopoldville, Republic of the Congo, 7 August 1960,
‘I have no doubt that the world should eventually have an international police force which will be accepted as an integral and essential part of life in the same way as national police forces are accepted’

• UN Secretary General U Thant, 1960
Architecture
socio-spatial networks

- **local** (sub-national)
- **national** (bounded by the nation state)
- **inter-national** (relations between nationally constituted networks)
- **transnational** (passing through national boundaries unaffected by them)
- **global** (covering the world as a whole)
Transnational policing networks

<table>
<thead>
<tr>
<th>Locus</th>
<th>Network</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local (glocal?)</td>
<td>Local (neighbourhood, BCU, police force) law enforcement linked with police forces overseas</td>
<td>Domestic drugs policing</td>
</tr>
<tr>
<td>National</td>
<td>National structures able to work with international partners</td>
<td>National Crime Agency (NCA)</td>
</tr>
<tr>
<td>International</td>
<td>International liaison officers posted overseas</td>
<td>UK Customs DLOs (now merged into NCA)</td>
</tr>
<tr>
<td>Regional</td>
<td>Regional entities.</td>
<td>EUROPOL ACCP/RSS/ASEANAPOL</td>
</tr>
<tr>
<td>Global</td>
<td>Interpol United Nations Police</td>
<td>Sub-regional bureaux, UN Police Division</td>
</tr>
</tbody>
</table>
Interpol .... I-24/7

As national boundaries are increasingly meaningless to criminals, effective international police communication has become more important than ever before. One of Interpol’s core functions is to enable the world’s police to exchange information securely and efficiently. Interpol developed its global police communications system, called I-24/7, with the ambitious goal of connecting law enforcement officials in all member countries and providing them with the means to share crucial police information.
Interpol .... I-24/7

Using I-24/7, Interpol National Central Bureaus (NCBs) can search and cross-check data in a matter of seconds, with direct access to databases containing information on:

- nominal data on criminals
- stolen and lost travel documents
- stolen motor vehicles
- fingerprints
- DNA profiles
- child sexual abuse images
- stolen works of art
- stolen administrative documents
• Information accessed in real-time, technical solutions accessible to frontline officers in strategic locations such as airports and border points.

• member countries conducted more than 1.2 billion searches of its criminal databases in 2013, an average overall rate of 3.3 million searches per day or 38 searches per second.
UNCIVPOL
United Nations Police
UNITED NATIONS PEACEKEEPING OPERATIONS

MINUSMA
Mali

MINURSO
Western Sahara

MINUSCA
Central African Republic

UNAMID
Darfur

UNMIL
Kosovo

UNFICYP
Cyprus

UNIFIL
Lebanon

UNMOGIP
India and Pakistan

MINUSTAH
Haiti

UNOCI
Côte d'Ivoire

MONUSCO
Dem. Rep. of the Congo

UNMISS
South Sudan

UNISFA
Abyei

UNTSO
Middle East

UNDOF
Syria
A Pakistani police unit in Timor-Leste participates in tactical exercises.
The first all-female Formed Police Unit to be deployed by the UN arrives from India to United Nations Mission in Liberia (UNMIL) Monrovia, Liberia, 30 January 2007
India’s all-female UN police unit serves as inspiration for Liberian women
more than
13,000 Police Deployed in 19 missions

they come from 86 COUNTRIES

just over 10% are female

There are 56 Formed Police Units in 7 peacekeeping operations.

of which 483 are in Formed Police Units, 850 are individually deployed police officers.
National policing hubs
Until recently, few would mention criminal justice and foreign policy in the same breath. Coordination between the State and Justice Departments was rarely necessary, especially in matters of criminal law enforcement. This dichotomy no longer exists. Law enforcement, traditionally a domestic function of government, has become more internationalized. Police and prosecutors who rarely dealt with their foreign counterparts now do so with increasing frequency.

-- Nadelmann 1990: 37
Home Office business is international.

In a globalised world, the Home Office cannot effectively protect the public from terrorism, crime and illegal immigration unless it engages internationally....
UK Government's fight against drugs and international crime

We use our global network of embassies and diplomatic posts around the world to support other UK Government departments who are working to prevent harm to the UK from drugs and international crime.
International liaison officers
International Liaison Officers

• resident overseas
• access to
  – local policing systems.
  – technical surveillance,
  – Informants
  – intelligence network
• bilateral
• multilateral
International Liaison Officers

- Agents through whom confidential information can be passed without recourse to a paper trail
- Human contact exchange
- Strictly speaking non-operational
International Liaison Officers

• “it recognises that a lot of intelligence flow is very informal and that by having somebody actually one the spot assisting with that process is far more efficient than relying on people telephoning each other.”
**Liaison Officers**

- US FBI - 340
- US DEA – 78 offices in 58 countries
- US Treasury Department, State Department, Bureau of Alcohol Tobacco and Firearms (ATF) Federal Marshals Service all have overseas posts
- UK - 140.
- French *Police Nationale, Police Judiciare* and *Gendarmerie* - 130
- Germany – 66 BKA officers in 50 countries
- Royal Canadian Mounted Police (RCMP) 35
- Australian Federal Police 80 liaison officers in 27 countries
ILOs and Operational practice

• No *enforcement* powers
• But, police ‘powers’ to…
  – Collect intelligence and exchange intelligence
  – Support investigation
  – Build capacity through funding
  – Shape the security agenda through persuasion
  – Train and develop local police
  – Mentor and “working with” local officers
  – Engage in policing short of ‘enforcement’
Transnational cooperation

• horizontal cooperation
  – officer-to-officer cooperation by mobile phone and email

• vertical cooperation
  – formal, programmed cooperation through established structures

• pragmatic policing
  – “police officers prefer informal procedures and personal contacts to formal cooperation agreements which they find ‘complicated, time-consuming, and rather ineffective’.”
• pragmatic policing

“police officers prefer informal procedures and personal contacts to formal cooperation agreements which they find ‘complicated, time-consuming, and rather ineffective’.”

» Den Boer
Transnational relations

• “sets of direct interactions among sub-units of different governments that are not controlled or closely guided by the policies of the cabinets or chief executives of those governments.”

• Keohane and Nye
Transnational relations

• go above and beyond inter-national relations

• “sets of direct interactions among sub-units of different governments that are not controlled or closely guided by the policies of the cabinets or chief executives of those governments.”

  Keohane and Nye
The global policing vision
Interpol and U.N. Back ‘Global Policing Doctrine’

*New York Times*, October 11, 2009

Interpol and the United Nations are poised to become partners in fighting crime by jointly grooming a global police force that would be deployed as peacekeepers among rogue nations riven by war and organized crime, officials from both organizations say.
It is the first step toward creating what Interpol calls a “global policing doctrine” that would enable Interpol and the United Nations to improve the skills of police peacekeepers, largely by sharing a secure communications network and a vast electronic trove of criminal information, including DNA records, fingerprints, photographs and fugitive notices.
“We have a visionary model,” said Ronald K. Noble, secretary general of Interpol […] “The police will be trained and equipped differently with resources,” Mr. Noble said. “When they stop someone, they will be consulting global databases to determine who they are stopping.” The ambition is to create a series of networks to counter borderless organized criminal operations.
Transnational law and transnational policing
• Policework and law enforcement are neglected by legal scholars
• Important distinction between
  – law in the books (black letter law) and
  – law in policing (blue letter law)
• Relevant in domestic policing, perhaps even more so in transnational policing
Legal scholars....

...completely ignored one of the key questions, namely the role of legal rules in regulating police behaviour... Nobody thought to ask whether, how and why police would get around the rules. No research was done on the extent to which the police were hindered by a lack of powers, on the reasons why officers fail to adhere to rules, on alternative ways of regulating police behaviour... or on the ways that rules operated under different policing strategies.

Lessons from the socio-legal study of policework
1. Police shape law in the books

E.g. Palermo Convention

legal standards developed “to meet the new demands of cross-border enforcement activities, with minimal interference by domestic political constraints.”

2. Law creates a space for police discretion

- Police law as permissive
- Policing as ‘low visibility’ activity
- Police discretion decreases at the lowest point in the hierarchy
- Law as a presentational strategy
- Law as an enabling resource
3. Police subculture shapes police discretion

- Police practice is shaped by the transnational subculture of policing (norms, values, world view shared by police officers worldwide)
- Shapes and adapts legal rules to create legal tools
Policing as a transnational value system

“[t]he common sentiment that a cop is a cop no matter whose badge is worn, and a criminal a criminal regardless of citizenship or where the crime was committed, serves as a form of transnational value system that can override both political differences and formal procedures”. Andreas and Nadelmann, *Policing the Globe*, p232
The new subculture of transnational policing

- Norms, values, world-view created among police officers specifically inhabiting the occupation of transnational police cooperation
4. Policework as legal engineering

- Legal engineers “use whatever law is available to them at any given moment, sometimes drawing from areas of law and regulation not hitherto seen as relevant to the context at hand, in order to construct new ways of control”

– Doreen McBarnett
[Police] power is formless, like its nowhere tangible, all-pervasive, .ghostly presence in the life of civilized states (Walter Benjamin)

[Policing] moves through boundaries as a ghost moves through walls. Policing, in other words, is something that [...] cannot be confined by the law; that it is a limit unto itself, in many respects (Barry Ryan)
Accountability
Sed quis custodiet ipsos custodes?

– Juvenal,
– Roman satirist,
– 1st century AD
What is accountability?

- quality or state of being accountable; especially: an obligation or willingness to accept responsibility or to account for one's actions
What is accountability?

In a democracy, policing, in order to be effective, must be based on consent across the community. The community recognizes the legitimacy of the policing task, confers authority on police personnel in carrying out their role in policing and actively supports them. Consent is not unconditional, but depends on proper accountability, and the police should be accountable in two senses – the “subordinate or obedient” sense and the “explanatory and cooperative” sense.


Transnational policing

- Transnationalisation of governance challenges the ideas that:
  - The state has monopoly over the use of coercive force
  - Exercised within a defined territory
Khalid El-Masri
Extraordinary Rendition

- German citizen (of Lebanese background)
- December 2003 detained by Macedonian border officials and handed to CIA
- Flown to Baghdad and then to CIA interrogation centre in Afghanistan, subject to torture
- April 2004 CIA conceded mistake; released on road in Albania, arrested, returned to Germany
- December 2012 ECtHR established victim of mistaken identity and awarded compensation
Mistaken identity

Derek Sykes

Derek Bond
The future of global policing: key questions and issues
• How, and by whom, will global security priorities be set?
• Who will fund its development?
• How will we assess its effectiveness?
• How are transnational policing operations regulated by national and international law?
• To whom are transnational policing operations accountable?
• What mechanisms ensure their integrity, legality and accountability?
• How are human rights standards maintained cross jurisdictions?
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