

**THE LINK BETWEEN ORGANISED CRIME AND CORRUPTION -
A HONG KONG PERSPECTIVE**

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1. When people think of organised crime, they tend to immediately think of those famous “brand” names — Mafia, Yakuza and Triads. However, confining ourselves to these labelled organisations only blinds us to a wider notion of organised crime. But I know you will expect me, as a Hong Kong prosecutor, to make some comments on the triads and I will not disappoint you. In addition, I will refer to case examples which I believe illustrate that organised crime in Hong Kong, even when triad figures are associated with it, is not to be seen in terms of a simplistic model of a monolithic gangster-style organisation.
2. Hong Kong is one of the safest cities in the world with a crime rate at roughly the same level as Singapore and lower than New York, London and Tokyo. During the past 5 years, crimes involving triads have remained stable, at around 4 — 5% of the total crime reported.
3. Although there are around 50 known triad societies in Hong Kong, only about 15 to 20 of them regularly come to police attention through overt criminal activities.
4. The size of triad societies varies with membership which may range from hundreds to thousands. Contrary to common misconception, triad societies in Hong Kong are a collection of loose-knit groups or gangs rather than a unified all-encompassing criminal organisation. Most of the triads in Hong Kong can be considered as street gangs. Conflicts do occur between them often resulting in serious assault cases, and this can give a false impression of their influence and power.
5. Despite the fact that today’s triads are mere gang members, some of them still continue using triad jargon and rank structure. This is done to convince a new recruit that he has indeed joined an awesome elite and is also used to instil fear into members of the public.
6. Triad gang activities are mainly territorial and commonly involve the following types of offences: -
 - a) Extortion and protection racketeering of shops, small business, hawkers, construction sites, car valet services, and places of public entertainment such as bars, billiard halls etc.;
 - b) Monopolising control of non-franchised public transport routes;
 - c) Monopolising control of decoration companies operating in newly built public housing estates;

- d) Street-level dangerous drug trafficking;
 - e) Illegal gambling, and
 - f) Prostitution and pornography.
7. All of these activities can of course lead to the corruption of law enforcement officers and other public servants, simply because corruption allows the triads to conduct their criminal activities with minimal hindrance.
8. But, as I have indicated at the beginning of this paper, if we were to confine our understanding of organised crime solely to the activities of these disparate street gangs, we would leave out of consideration a large amount of very significant criminal activity. Crime that is committed by a number of persons acting in concert as part of a carefully planned enterprise, is just as much organised crime, even though triad members have no involvement in it, or only a peripheral involvement. Let me illustrate what I mean by some case examples.
9. The first case is one where members of an ongoing criminal enterprise solicited the support of a triad leader to provide their organised criminal activity with protection from interference by other triad societies and access to corrupt law enforcement officers. Hong Kong's Independent Commission Against Corruption (ICAC) conducted an investigation into the activities of a syndicate that was smuggling large quantities of cigarettes out of Hong Kong and into Mainland China and Taiwan. In this case, between 1987 and 1993, the profits generated by the smuggling syndicate were calculated to be in the region of \$60 Billion (US\$7.6 Billion) which amounted to 7 times the original wholesale price paid i.e. \$8.5 Billion (or US\$ 1.2 Billion). The opportunity for such vast profits arose as a consequence of the high duties enforced on tobacco products by the governments in the jurisdictions to which the cigarettes were being smuggled.
10. The investigation focused on a company called Giant Island Limited, which was a tobacco distributor. The directors of this company were:
- Hung Wing-Wah
Tommy Chui
Chong Tsoi-Jan
11. The smuggled cigarettes were obtained from British American Tobacco (H.K.) Ltd., a wholly owned subsidiary of B.A.T. in England, and also from the Japan Tobacco Company. The ICAC investigation revealed the corrupt involvement of senior staff of these two companies in the sale of the cigarettes to Giant Island.
12. In H.K. cigarettes are required by law to be kept in a government bonded warehouse. If they are to be sold in H.K. then duty must be paid on them. If they are to be exported, then no duty is payable. The syndicate relied on the assistance of a corrupt officer from the Customs & Excise Department to obtain the release of the cigarettes from the bonded warehouse on the pretence that they were to be

exported. However, after the vehicle on which the cigarettes had been loaded left the bonded warehouse, it was stopped and the driver was switched. The original driver would be paid off and he would not know what subsequently happened to the goods that he had been transporting. ICAC surveillance actually photographed such a switch taking place.

13. The cigarettes were in fact taken to a timber yard in the New Territories of H.K. where they were concealed in hollowed out wooden bales and also in hollow doors. From there, they would be shipped out of H.K. and smuggled to their ultimate destination.
14. I mentioned one of the directors of Giant Island being Tommy Chui. This person was now resident in Singapore. The ICAC visited him a number of times in order to seek his assistance. Finally their persistence paid off and he gave the investigators a statement setting out in detail all the elements of this criminal enterprise. From the payment of HK100 Million (US\$13 Million) in bribes to Jerry Lui, a senior executive in B.A.T, to obtain the supply of cigarettes, to the corruption of the Customs & Excise officers to obtain release of the cigarettes from bond, to the smuggling of the cigarettes. He also revealed the triad element in the syndicate and the fact that he was receiving pressure from his partners not to cooperate with the ICAC.
15. Chui also implicated a person called Henfrey Tin Sau-Kwong. This person had been an officer in the Customs & Excise Department and Chui alleged that Tin had accepted substantial bribes from he and his co-directors of Giant Island for arranging the issue of permits for the removal of cigarettes from government bonded warehouses.
16. Tin resigned from the Customs & Excise Department in 1989 after which time he became a full time member of the Giant Island syndicate. Through his corrupt contacts, he was able to ensure the continued illegal removal of cigarettes from bonded warehouses. Furthermore, he was a leader of the Wo On Lok triad society, and in this capacity was able to negotiate with the Sun Yee On triad society (one of H.K.'s largest triad societies) in its attempt to share in the profits of this highly lucrative enterprise, and to provide other very special services to his co-partners.
17. One such service became apparent on 29th March 1995 when Tommy Chui, Giant Island's director assisting the ICAC, was brutally murdered in Singapore. His body was recovered from the sea off Clifford Pier. Chui was bound and gagged and masking tape was wrapped around his face. His body was padlocked inside laundry bags and weighed down with diving belts. Although he had been badly beaten, the pathology evidence suggested that he was not actually dead when he was thrown into the sea.
18. Several features of his murder lead inevitably to the conclusion that his death was brought about by those he was implicating in his statements to the ICAC. These features were:
 - a) the diving belts which weighed down Chui's body were aligned in a triad

configuration;

- b) the weight of the belts was insufficient to prevent his body from floating to the surface, suggesting that his murderers wanted his body found;
 - c) next to Chui's car, from which he had been abducted, the police found three keys arranged in a way to symbolise the breaking of a triad bond.
19. Of the other two directors of Giant Island, one, Hung Wing-Wah had fled H.K. and the other, Chong had the case against him dismissed for lack of evidence. The corrupt B.A.T executive, Jerry Lui also fled H.K.
 20. The ICAC investigation now changed direction. For Tin, the ICAC focused on building a case against him of perverting the course of justice in respect of intimidating contacts he had initiated with Tommy Chui prior to his murder. In respect of Chong, charges of tax evasion were laid in respect of undeclared income from his smuggling activities.
 21. Meanwhile, ICAC joined with the Singapore Police in investigating Tommy Chui's murder. Their joint efforts revealed that five Wo On Lok triad members who were associates of Tin had travelled to Singapore a short time before Tommy Chui's murder and had left immediately afterwards for China. With the assistance of China's Public Security Bureau, two of the five were arrested. They were returned to H.K. in October 1996, and tried for conspiracy to murder. One was convicted and sentenced to 27 years imprisonment, and the other was acquitted.
 22. Chong was committed for trial in our High Court on his tax evasion charge and later for the original corruption charge, but committed suicide before he was tried.
 23. In respect of Tin, it was ultimately impossible to prove his complicity in Tommy Chui's murder. He pleaded guilty to a charge of perverting the course of justice and was sentenced to 6 1/2 years imprisonment.
 24. Jerry Lui was located in the USA and extradited back to H.K. where he was tried and convicted of corruption charges and sentenced to 3 years and 8 months imprisonment. This conviction was quashed on appeal as a result of a construction by our Court of appeal of a technical provision in our Evidence Ordinance concerning proof of documentary records. The Secretary for Justice has appealed this decision to our Court of Final Appeal and the appeal will be heard next month. But even if our appeal is successful, it is unlikely that Jerry Lui will be found in Hong Kong.
 25. Arrest warrants remain outstanding for the remaining director of Giant Island, Hung Wing-wah, and also for the three unlocated fugitives involved in Tommy Chui's murder.
 26. There is one other ICAC investigation that I wish to mention. It is interesting because, like the cigarette smuggling scheme, it was well organised and highly profitable. However, where the cigarette smuggling scheme needed, and came to

depend upon, the assistance that a triad boss could render, this other organised crime had no involvement with triads at all. In 1997 the ICAC began investigating the activities of an optical disc manufacturing company. This company had 41 replicating lines that produced audio compact discs, video compact discs and CD-roms, 12 printing lines and a mastering system that could produce “stampers” — the digital templates from which the optical discs could be replicated. The factory employed 300 workers and had the capacity to produce 27.5 million discs a month.

27. The proprietors and operators of the factory had started out as legitimate businessmen, but subsequently greed and lean times tempted them into the world of copyright piracy. The cost to them of manufacturing each disc was approximately \$1.10 and pirate discs could be smuggled into Mainland China and sold for approximately \$30 each, a profit of 2~627%. There is a limited market in H.K. for the pirate discs, but the Mainland market is huge.
28. In April 1998, when the ICAC raided the factory, over 22 million suspected infringing discs were seized. The replicating equipment that was seized was worth in the region of \$320 Million H.K. dollars and the discs themselves were valued at \$680 Million. In terms of equipment and discs seized, this bust was the largest copyright piracy operation ever uncovered anywhere in the world.
29. In H.K. the responsibility for investigating intellectual property fraud is vested in the Commissioner for Customs and Excise. The ICAC became involved because of an allegation that an officer in the Customs & Excise Department was tipping off targets of Customs & Excise investigations of impending Customs & Excise raids. When the ICAC investigation was turned overt, the investigators were told by the employees of the factory that the replicating lines were regularly shut down and infringing material concealed when raids were feared. On one occasion, one of the ringleaders had correctly recognised that he was being kept under surveillance and solicited the help of a police contact to identify the owner of the motor vehicle that was following him.
30. The ICAC investigation has resulted in the conviction of a senior officer of the Customs & Excise Department for corruption offences and the charging of a number of persons with offences under our Copyright Ordinance and Trade Descriptions Ordinance. The trial of these latter persons is still pending. In the trial of the Customs officer it was revealed that he, together with a large number of very senior colleagues, and also senior police officers were being regularly wined and dined with lavish banquets by the proprietors of this pirate VCD factory. This unhealthy and inappropriate relationship came in for strong criticism by the trial judge.
31. I would suggest that the lesson that can be learnt from these case examples is that there is nothing complex about the link between organised crime and corruption. In order to understand that link, it is necessary to return to basic principles.
32. Organised crime is in the business of crime i.e. making a profit from crime. Like any business you maximise your profit by increasing your efficiency. One way you do this is to reduce the impact of those things that can adversely affect your

profitability.

33. The obvious thing that can adversely impact upon the profitability of a criminal enterprise is the existence of an organisation whose role it is to regulate, or eliminate the activity from which the organised crime makes its profits. Into this category come all the law enforcement bodies.
34. It does not require a huge depth of intellect by a criminal businessman to realise that he can increase the profitability of his enterprise by corrupting those whose job it is to combat it. The costs of his bribery need not even reduce his profits as he can pass it on to those who utilise his services or buy his product.
35. Organised crime keeps a low profile and many of its most profitable activities do not attract high levels of public outrage e.g. vice, illegal gambling and copyright piracy. These activities can often prompt an ambivalent moral response from the community. We are accustomed to exhibitions of public outrage at increases in street crime, but, when was the last time you saw a public demonstration against the damage caused to Microsoft's profits by copyright piracy?
36. Because organised crime does not necessarily equate with street crime, society can be lulled into a false sense of security. Another illusion in which many citizens take comfort is the absence in their society of a monolithic criminal syndicate of the kind that the Mafia or Yakuza are perceived to be. Without high levels of street crime and no Mafia-style organised crime syndicate, they think, with a certain degree of smugness, that their society is, in law and order terms, healthy and clean. However anyone who has worked in anti-corruption work knows how dangerous this illusion can be. A hidden consequence of organised crime is the corruption of persons in high positions in both the public and private sectors. If the community realised the consequences that flowed from organised crime, it might be less ambivalent in its attitude towards its activities.