



## The paradoxes of organized crime

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**Abstract.** The paper argues that the concept of organised crime inconsistently incorporates the following notions: a) the provision of illegal goods and services and b) a criminal organization, understood as a large-scale collectivity, primarily engaged in illegal activities with a well-defined collective identity and subdivision of work among its members. Against this superimposition, the author's contention is twofold: (1) The supply of illegal commodities mainly takes place in a 'disorganized' way and, due to the constraints of product illegality, no immanent tendency towards the development of large-scale criminal enterprises within illegal markets exist. (2) Some lasting large-scale criminal organizations do exist, but they are neither exclusively involved in illegal market activities, nor is their development and internal configuration the result of illegal market dynamics.

*For Susan Strange: mentor and friend*

During the 1990s, the problem of organized crime came to the attention of international organizations, state institutions, and the general public of many countries that had not previously considered themselves affected by the problem. Traditionally regarded as an issue that concerned only a limited number of nations, organized crime has suddenly become a "hot topic" of public discourse all over the world.

The expression "organized crime" has, in fact, been used as a catchphrase to express the growing anxieties of national and supranational public institutions and private citizens in view of the expansion of domestic and world illegal markets, the increasing mobility of criminal actors across national borders, and their perceived growing capability to pollute the licit economy and undermine political institutions. As a background paper prepared for the World Ministerial Conference in Naples convened by the United Nations in 1994 stated the problem:

No doubt, organized transnational crime, a new dimension of more 'traditional' forms of organized crime, has emerged as one of the most alarming . . . challenges for the safety of humanity . . . Organized transnational crime, with the capacity to expand its activities and to target the security and the economies of countries, in particular developing ones and those in transition, represents one of the major threats that Governments

have to deal with in order to ensure their stability, the safety of their people, the preservation of the whole fabric of society and the viability and further development of their economies (UNESCO, 1994a: 3)

The recent world attention has brought no clearness to the debate on organized crime that has been going on among law enforcement officials, politicians, and social scientists in the United States and in a few other countries since the 1950s. Both the recent waves of international interest and the previous debate are, in fact, inspired and, at the same time, polluted by a moral panic that fuels the thriving curiosity of Americans and the rest of the world for the mafia and organized crime. Issues shaped by moral panic are not likely to be handled in a rational, matter-of-fact way, and organized crime has certainly been no exception to the rule.

As a result, we are left with an ambiguous, conflated concept, produced by a stratification of different meanings which have been attributed to the term “organized crime” over the years. In particular, the paper argues, the concept itself inconsistently incorporates the following two notions:

- The provision of illegal goods and services
- A criminal organization, understood as a large-scale collectivity primarily engaged in illegal activities with a well-defined collective identity and subdivision of work among its members

Against this superimposition, my contention is twofold:

- 1) The supply of illegal commodities mainly takes place in a “disorganized” way and, due to the constraints of product illegality, no immanent tendency towards the development of large-scale criminal enterprises within illegal markets exist.
- 2) Some lasting large-scale criminal organizations do exist, however, such as the Italian Cosa Nostra and ‘Ndrangheta, the American La Cosa Nostra, the Chinese Triads and the Japanese Yakuza. Although these groups are usually presented as the archetype of organized crime, they are neither exclusively involved in illegal market activities, nor is their development and internal configuration the result of illegal market dynamics.

This paper examines these two “paradoxes of organized crime”. The above statements, in fact, contradict today’s common belief; they are, literally, “*paradoxa*” and may therefore sound unbelievable or, at least, disconcerting. The fourth and fifth section of this paper thus provide several theoretical and empirical arguments to back these paradoxes.

Before presenting these paradoxes, the first part of the paper explains how the two above-mentioned notions of organized crime came to be superimposed. The first section briefly summarizes the American debate on organized crime because it was in this country that the confusion first took

place. The second section shows how this entangled superimposition has been imported into Europe. The third section then demonstrates the extent to which this inconsistent, conflated conception now shapes the actions taken against organized crime by major international institutions (in particular, the European Union and the United Nations) and causes persistent ambiguities in their crime-fighting programs.

After the fourth and fifth sections, which form the bulk of the paper, the sixth section looks at the usually neglected similarities among all organizations living on the ‘wrong side of the law’. The conditions under which the constraints of product illegality can be overcome will also be investigated in the sixth and final section.

## **Part I. Entanglement and confusion**

In the American debate on organized crime, the two above-mentioned notions – criminal organization and the provision of illegal goods and services – have been superimposed at least since the end of the Second World War. This superimposition was explicitly fostered by the so-called “alien conspiracy” paradigm that remained the official view on organized crime up to the early 1980s. Despite some exceptions, not even the supporters of the alternative conception of organized crime (the so-called “illegal enterprise” paradigm) have succeeded in separating the two notions and thus bringing clearness to an often emotionally-charged debate. Indeed, some of the latter scholars support the view that illegal commodities are provided by large-scale organizations similar to legal corporations.

### *1. The American debate: From the “Alien Conspiracy” to the “Illegal Enterprise” paradigm*

Ever since the 1950s, the official standpoint held by the major investigative bodies and several congressional Committees and emphasized by the media has identified organized crime as a nationwide, centralized criminal organization. The latter allegedly derived from an analogous parallel Sicilian organization and was headed by and, to a great extent, consisted of members of Italian and Sicilian origin. Although this idea was first put forward in 1890 after the murder of David Hennessey, the New Orleans Superintendent of Police at that time, it was only after the Second World War that what came to be termed as the “alien conspiracy” theory was adopted by most law enforcement and political institutions (W. Moore, 1974).

In the early 1950s, the Federal Bureau of Narcotics was the major “moral entrepreneur” of this campaign (Smith, 1976). With its active support, the

Special Committee to Investigate Organized Crime of the Interstate Commerce Commission, which was chaired by Senator Estes Kefauver, became the first congressional body to support such a view. In its final report, the Committee concluded that “there is a nationwide crime syndicate known as the Mafia, whose tentacles are found in many large cities . . . Its leaders are usually found in control of the most lucrative rackets” (1951: 131). In 1963 the testimony of former *mafioso* Joe Valachi before the Senate Permanent Subcommittee on Investigations further established the terms of this paradigm and gave a new name to this menacing criminal association: La Cosa Nostra. Thanks to the extensive television coverage, Valachi’s view became popularized in the American public (Smith, 1976; [1975] 1990).

Such an interpretative position received a scientific systematization from Donald Cressey, who was called on to work as consultant to the President’s Task Force on Organized Crime in 1967 (Task Force, 1967). In his subsequent book, *The Theft of the Nation*, Cressey adopted the ethnic position of law enforcement agencies even more strongly than in the paper he wrote for the Task Force and maintained that the Italian-American crime confederation, La Cosa Nostra, represented “all but a tiny part of organized crime” in the United States. According to Cressey, La Cosa Nostra relied upon Sicilian traditional cultural codes but was also a hierarchical and “rationally designed” organization, very close to Max Weber’s ideal type of legal-rational bureaucracy, which was capable of operating in contemporary America (Cressey, 1969).

As the quote from the Kefauver Committee report demonstrates, from the 1950s on, many observers and social scientists took it for granted that the criminal organization composing organized crime was involved in the most profitable illegal businesses. The point was also confirmed by the 1967 President’s Task Force on Organized Crime, as illustrated by the opening statement of its concluding report: “The core of organized crime activity is the supplying of illegal goods and services – gambling, loansharking, narcotics, and other forms of vice – to countless numbers of citizen customers” (1967: 1). Cressey’s “modernistic” conceptualization of La Cosa Nostra also reinforced the view that organized crime was rationally oriented towards the maximization of profits through illegal business activities.

The idea of an alien conspiracy polluting the economic and social life of the country has been rejected by the majority of American social scientists since the 1960s. They have alternatively accused this theory of being ideological, serving personal political interests, and lacking in accuracy and empirical evidence (Smith, 1976; W. Moore, 1974; Hawkins, 1969). At the same time, a different conceptualization has been proposed which focuses on the most visible and a-controversial aspect of organized crime: the supply of illegal products and services. In order to eradicate the ethnic stereotypes

of crime and direct attention to the marketplace, several authors have put forward the expression “illicit” or “illegal enterprise” as a substitute for the ethnically loaded term “organized crime” (Smith, 1976; 1990; Haller, 1970; 1990). As Dwight Smith, one of the earliest proponents of the new approach, expressed it, “illicit enterprise is the extension of legitimate market activities into areas normally proscribed – i.e. beyond existing limits of law – for the pursuit of profit and in response to a latent illicit demand” (1990: 335).

More often, however, organized crime itself has been equated with the provision of illegal goods and services: hence, according to Block and Chambliss, “organized crime [should] be defined as (or perhaps better limited to) those illegal activities involving the management and coordination of racketeering and vice” (1981: 13). Organized crime has thus become a synonym of illegal enterprise. Indeed, according to a review of definitions carried out by Frank Hagan in the early 1980s, a consensus now exists among American criminologists that organized crime involves a continuing enterprise operating in a rational fashion and focused toward obtaining profits through illegal activities (1983).

The involvement in illicit market activities has become the basic requirement of virtually all definitions of organized crime in both the U.S. scientific and official discourse, and this view is shared by both the supporters of the “alien conspiracy” theory and its critics. As Ivan Light noted, even Cressey “had no trouble acknowledging that the Italian crime confederation ‘thrives because a large minority of citizens demand the illicit goods and services it has for sale’ ” (1977: 466).

The term “organized crime” is, however, intermittently used to refer to both sets of actors and sets of activities. In the definition quoted above, Block and Chambliss clearly present organized crime as a set of activities. The identification of organized crime with a set of actors is instead fostered by the supporters of the “alien conspiracy” paradigm. This point of view, however, is also shared by some of the critics of this paradigm. According to Peter Reuter, for instance, “organized crime consists of organizations that have durability, hierarchy and involvement in a multiplicity of criminal activities . . . The Mafia provides the most enduring and significant form of organized crime” (1983: 175). Unsurprisingly, this confusion between offender and offence frequently leads to circular reasoning (Maltz, 1976). In 1986, for example, the President’s Commission on Organized Crime concluded that drug trafficking was “the single most serious organized crime problem in the United States and the largest source of income for organized crime” (1986: 11).

Scholars, politicians, and journalists still disagree on how the illegal goods and services are provided. In the official North-American discourse, however, the combination of the notions of “criminal organization” and “provision of

illegal goods and services” is still largely undisputed, although exclusive reference is no longer made to La Cosa Nostra. When it became evident in the early 1980s that “the histories of American organized crime have been ordinarily drawn too narrowly in that they have focused nearly exclusively on the Mafia or La Cosa Nostra” (President’s Commission, 1986: 176), the strategy pursued by American public institutions was to widen the definition of organized crime to include other collective actors involved full-time in the supply of illegal commodities in demand by the general populace. The President’s Commission of Organized Crime, for example, created by President Reagan in 1983, listed, in addition to La Cosa Nostra, a host of other organized crime entities, including outlaw motorcycle gangs, Colombian cartels, the Japanese Yakuza, and Russian gangs.

Taking the special constraints derived from product illegality into account, some American scholars have argued that illegal market activities largely take place in a disorganized way (Reuter, 1983, 1985; Naylor, 1998). As we will see in the following pages, they have rejected the superimposition between the notions of “criminal organization” and the “provision of illegal commodities” (see *infra*, s. 4). Other researchers, on the other hand, who have also applied economic concepts and tools to the study of organized crime, have reached almost opposite conclusions. They have done so by emphasizing the analogies between legal and illegal enterprises. This analogical process has often led to conclusions that are not far away from Cressey’s portrait of La Cosa Nostra. Unlike the latter, more recent studies no longer focus on a single ethnic group. Like Cressey’s work, however, these studies emphasize the market rationality of illegal firms and postulate that criminal organizations in charge of the provision of illegal commodities react to the same incentives and restraints of legal firms and follow the same organizational models. As Nikos Passas, for example, writes,

If the goods or services happen to be outlawed, then illegal enterprises will emerge to meet the demand. In this respect, there is no difference between conventional and criminal enterprises. Very often, all that changes when the business is illegal are some adjustments in *modus operandi*, technology and the social network that will be involved. In some cases, we have a mere re-description of practices to make them appear outside legal prohibitive provisions (1998: 3)

We have thus come full circle. The “illegal enterprise” approach was developed in the 1970s to criticize the “alien conspiracy” model but, twenty-five years after, some its later followers have ended up subscribing to (by the very use of economic tools) one of the basic tenets of such a theory: namely the

rise of large-scale bureaucratic organizations to provide consumers with the illegal commodities they demand.

Particularly in the early 1990s, when official bodies and the general public became more and more concerned about the international spread of organized crime activities, the analogy between criminal organizations and multinational corporations became fashionable and was simplistically pursued by a number of scholars. On this point, for instance, Williams and Florez wrote: “Transnational criminal organizations, particularly drug-trafficking organizations, operate unrestricted across international borders. They are very similar in kind to legitimate transnational corporations in structure, strength, size, geographical range, and scope of their operations” (1994: 9).

Presented in such a way, transnational organized crime was set up to become the great threat that, after the sudden disintegration of the USSR, sectors of American federal institutions, the public, and some scholars desperately seemed to need.

## 2. *The importation of the “illegal enterprise” paradigm into Europe*

Since the mid 1970s, the “illegal enterprise” approach has acquired a dominant position in the European scientific debate. In particular, it has deeply influenced studies on the Italian mafia. In the last two decades, these studies have increasingly emphasized the economic dimension of the mafia and the role played by *mafiosi* on both the domestic and international illegal markets. As Umberto Santino, a leading exponent of this new approach, stated in the early 1990s:

In the last years the hypothesis of analysis of mafia phenomenon as enterprise has more and more asserted itself, a not completely original approach since even Franchetti and Sonnino [two late-nineteenth century observers] talked about an “industry of crime”, but which has, however, marked a step forward in overcoming the stereotypes of traditional and modernized “mafiology” and in giving frame to a scientific analysis (1990: 17–18)

The scholar who instigated this change, providing at the same time a link between the “old” and the “new” methods of interpreting the mafia, is Pino Arlacchi. On the one hand, the Calabrian sociologist re-elaborated the analysis carried out by Hess ([1970] 1973), Blok (1974), and the Schneiders (1976) and adopted their definition of the mafia, presenting it as “a form of behaviour and a kind of power, not a formal organization” ([1983] 1988: 3). On the other hand, Arlacchi argues that, following a crisis in the 1950s and 1960s induced by the national process of economic and cultural modernization, the

*mafiosi* underwent an entrepreneurial transformation, abandoning the traditional roles of mediators and dedicating themselves to the accumulation of capital. Therefore, he maintains, “only by turning to the concepts of enterprise and entrepreneurial activity (or ‘entrepreneuriality’), as used by Schumpeter, rather than to more strictly sociological or criminological categories” (1988: xv) is an understanding of the modern mafia possible. Such a perspective has, in fact, the advantage of stressing the aspect of innovation constituted by the *mafiosi*’s entry into economic competition, which results in “the adoption of mafia methods in the organization of work within the company and in the conduct of its external business” (1988: 89).

The research route opened up by Arlacchi has been followed by other scholars since it is consistent with growing evidence of *mafiosi*’s economic activities in both legal and illegal arenas. With few exceptions (Centorrino, 1986; 1989), however, most of the subsequent reflections on the mafia have differentiated from Arlacchi’s work in one major point: by refuting the process of an “entrepreneurial transformation” of mafia *cosche*, more recent researchers have tended to ascribe a primarily economic-oriented behavior even to traditional *mafiosi*. According to Raimondo Catanzaro, for instance, “the only commonly agreed upon identifying characteristic is that the Mafia exists to make profits illegally” ([1988] 1992: 3 e 1991:3), and the element that mafia and organized crime share and that distinguishes them from social bandits is “their organizational stability, their being shaped in the form of a ‘firm’ within the field of normal economic activities” ([1988] 1991: 4). In order to prove his thesis, Catanzaro identifies the *mafiosi* with the *gabellotti* (lease-owners) and the *campieri* (guards) working on the large inland estates, and he concludes that the traditional ways of exploiting farmers in the *latifundium* (great estate) system were forms of mafia accumulations (1991: 46–49; 1992: 31–34). Contemporary mafia enterprises are, instead, in his opinion, all enterprises “that perform legal . . . and illegal production activities and employ violent methods to discourage competition” (1992: 203; see also 1986). The linkage between these forms of mafia entrepreneurship remains, however, loose.

These two-tier conceptualizations of *mafiosi* have become standard in subsequent literature. As far as the past is concerned, the *mafiosi* are defined as the social class of *homines novi*, the only true expression of the Sicilian bourgeoisie and frequently equated to the *gabellotti* and *campieri*, that is, to the figures that most clearly showed a “modern” acquisitive attitude in the traditional economic and social system of the *latifundium*, and to the middlemen and small land-owners of the coastal areas where intensive agriculture was practiced. When scholars’ attention focuses on the last forty years, the model of mafia enterprise (*impresa mafiosa*) is put forward (Santino and La



Fiura 1990; Pezzino, 1993a: 68; see also 1988; Recupero, 1987b; Lupo, 1988; 1993a; Pizzorno, 1987). Such an operation, however, while it usually reduces contemporary mafia groups to business enterprises and thus denies them any other goal but profit, fails to mark the boundary of the mafia phenomenon. Under this paradigm, in fact, *mafiosi* become indistinguishable from large sectors of the Sicilian bourgeoisie and, at the same time, lose any peculiarity in regard to other types of organized crime, irrespective of their cultural and historical background.

The emphasis on the provision of illegal goods and services has been particularly strong in the scientific debate in Northern Europe, which has had little or no experience with the mafia phenomenon until recently. As a matter of fact, Kerner and Mack talked about a “crime industry” as early as the mid 1970s (1975), and, in an earlier report written in German, Kerner subscribed even more explicitly to the view of organized crime as an enterprise (1973, *passim*).

The emphasis on illegal market activities has remained unchallenged ever since. Hence, for example, according to Dick Hobbs “organized crime . . . [is] referred to in terms of its relationship to the marketplace” (1988). Likewise, the Dutch scholar Petrus van Duyne points out that organized crime results from illegal market dynamics: “What is organized crime without organizing some kind of criminal trade; without selling and buying of forbidden goods and services in an organizational context? The answer is simply nothing” (1997: 203).

As much as in the United States, the adoption of an economic approach has not necessarily meant avoiding the superimposition between the notion of the “provision of illegal goods and services” and that of “criminal organization.” Indeed, the parallelism between legal and illegal markets has frequently led to the conclusion that the supply of illegal goods and commodities is carried out by collective actors similar to those present in legal markets. This is, for example, the position of German scholar Ulrich Sieber. Although he does not completely disregard the peculiarities of illegal markets, his analyses on the logistics of organized criminality “are based on the research hypothesis that normal and criminal commercial activities present analogies and common points” (Sieber, 1997: 49; see also 1993). After interviewing several experts (to a large extent drawn from law enforcement agencies), Sieber and his collaborators prove their initial hypothesis and come to the conclusion that, in addition to a loose network of offenders, large hierarchical organizations exist which are “characterized by a strong centralization and a clear internal organization” (1997: 70).

### 3. *Organized crime as an ambiguous catchphrase*

Despite the lack of agreement on its definition, organized crime has become an important topic in the discourse and activities of national and international public bodies. In the second half of the 1980s, several countries that previously did not regard themselves to be affected by the phenomenon suddenly discovered they had an organized crime problem. At the end of that decade in Germany, for instance, the fear of mafia expansion ignited into a general debate around the notion of *organisierte Kriminalität*, which had suddenly come to be perceived as a threat (Paoli, 1999b; Raith, 1989).

What *organisierte Kriminalität* is, however, remains unclear. In the German public discourse as much as in most other European countries, organized crime is frequently identified with Italian mafia organizations and a succession of foreign mafias: the Russian, Turkish, and Albanian mafias, and so on. German law enforcement officials and scholars refer alternatively to the two conceptions of organized crime that have been distinguished in the American debate. On the one hand, the expression “organized crime” is employed to point to lasting, hierarchical organizations. On the other hand, it refers to the transfer of entrepreneurial methods and goals to the trade of illegal goods and services. Sometimes the two notions are superimposed, as in the definition developed by the Conference of State Interior Ministries in 1983. According to this definition, “the expression ‘*organisierte Kriminalität*’ refers not only to a mafia-like parallel society as ‘organized crime’ [in English in original quote] implies, but also to the conscious, desired, and lasting cooperation of several people for the accomplishment of criminal actions – often with the exploitation of modern infrastructure – with the aim of rapidly accumulating high financial profits” (Sielaff, 1983).

The current semi-official definition of *organisierte Kriminalität*, which was established in 1990, clearly subscribes the anti-Cressey conception of organized crime. The “Common Guidelines of the Ministers of Justice and the Interior to Foster the Cooperation of Prosecutors and Police Forces in the Fight against Organized Crime” (1990) maintain:

Organized crime is the planned violation of the law for profit or to acquire power, whose offences are each, or together, of a major significance and are carried out by more than two participants who cooperate within a division of labor for a long or undetermined time-span using at least one of the following

- commercial or commercial-like structures
  - violence or other means of intimidation
  - influence on politics, media, public administration, justice, and legitimate economy
- (BKA, 1998)

The influence of the illegal enterprise paradigm on the German conception of organized crime is also confirmed by practitioners. This is, for instance, what Peter Korneck, a Frankfurt prosecutor with many years of experience in the field, has to say on the matter:

Experts who work not only theoretically but also practically maintain that [organized crime] implies the activities of persons who commit serious offences in an enduring cooperation founded on the principle of the division of labor with the aim of maximizing profits. If you omit the reference to “serious offences,” you are left with the description of an activity that in Germany and in all the Western world is usually described as entrepreneurial activity  
(Raith, 1988: 268)

This means that the current definition of organized crime can be applied not only to the members of a criminal organization in a strict sense, but also to relatively small and loose partnerships and teams set up for the pursuit of profit-oriented offences. Although organized crime is usually equated with highly structured mafias in the media discourse, the data gathered by the German Federal Criminal Office on organized crime proceedings show the small size of the criminal enterprises targeted yearly. Less than 10 people were in fact involved in 54 percent of all the investigations carried out between 1991 and 1999. In 39 percent of them, the number of suspects ranged between 11 and 49. Only seven percent of the organized crime proceedings involved more than 50 suspects at a time (Paoli, 1999b).

In the legal debate, however, organized crime is referred to the offence of criminal organization, which clearly points to the conception of organized crime as a set of illegal collectivities. This offence, however, which was often used in the 1970s and early 1980s against members of terrorist organizations, is nowadays seldom applied in organized crime cases, because it entails low sentences and has very high proof requirements that are difficult to fulfill in case of non-terrorist groups. As a result, some critics maintain, the much debated concept of organized crime is left without any clear correspondence in the criminal code and the exceptional measures foreseen for its fight may be therefore easily abused (Pütter, 1999).

The same uncertainty and confusion can also be found in the discourse and action against organized crime undertaken in the last ten years by international organizations. The notions “organization” and “provision of illegal commodities” are superimposed in the official discourse, which still clings to the idea that the latter commodities are supplied by large-scale criminal organizations. The background papers for the 1994 UN World Ministerial Conference on Transnational Organized Crime, for example, confirm this superimposition, showing at the same time the tension between the two no-

tions. On the one hand, in fact, organized crime is equated with large-scale enterprises that are supposed to work as their legal counterparts do:

Participants in criminal organizations are considered to be persons associated for the purpose of engaging in criminal activity on a more or less sustained basis. They usually engage in enterprise crime, namely the provision of illicit goods and services, or of licit goods that have been acquired through illicit means, such as theft or fraud. (...) The activities of organized crime groups require a significant degree of cooperation and organization to provide illicit goods and services. Like any business, the business of crime requires entrepreneurial skill, considerable specialization, and a capacity of coordination, and this in addition to using violence and corruption to facilitate the conduct of activities (UNESCO, 1994a: 4)

On the other hand, to reflect empirical evidence, the authors feel the need to exploit the semantic extension of the expression ‘organization,’ inconsistently arguing that “transnational criminal organizations range from highly structured organizations to more fluid and dynamic networks” (ibid.: 11). To present organized crime as a true global problem, the organizational requirements thus are lowered, so much so that even “fluid and dynamic networks” are equated to organizations.

An analogous proceeding has been employed at the European Union level. To justify its intervention, the EU Council presents organized crime as a new threat, whose novelty lies in the increasing involvement of the criminal organizations in the supply of criminal goods and services. Such a view is clearly stated in the EU’s major programmatic document, the “Action Plan to Combat Organized Crime,” which was adopted by the Council of the European Union on 28 April 1997. Its opening statement, in fact, maintains:

Organized crime is increasingly becoming a threat to society as we know it and want to preserve it. Criminal behavior no longer is the domain of individuals only, but also of organizations that pervade the various structures of civil society, and indeed society as a whole (EU Council, 1997)

When it comes to defining what a criminal organization is, however, the EU proposes a very loose interpretation, setting low numerical standards. In the Joint Action adopted by the European Council on May 1998, a criminal organization is defined as “a lasting, structured association of more than two persons, acting in concert with a view to committing crime or other offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty. . . .” (EU Council, 1998). If only three people are sufficient to form a criminal organization, one might

justifiably ask if the (alleged) increasing presence of these entities in the illegal arena really represents a major innovation in regard to the past and the threatening menace that the Plan assumes it to be.

The lack of clarity surrounding this topic has also hampered the negotiations for the preparation of a UN Convention against Transnational Organized Crime. For more than two years it was impossible to find a definition that could suit all parties. Given the ambiguity of the term, a loose definition was finally adopted which refers to offences punishable by a maximum deprivation of liberty of at least four years (UNGA, 2000).

## **Part II. “Para doxa”: Disentangling the confusion**

Notwithstanding the frequent superimposition of the notions of “criminal organization” and the “provision of illegal goods and services,” there are good reasons for keeping them separate.

On the one hand, the provision of illegal goods and services is largely carried out in an unorganized way: it is, actually, as Peter Reuter put it, “disorganized crime” (1983; 1985). The illegal status of the products, in fact, affects the way in which their production and distribution are carried out and tends to prevent the consolidation of large-scale, durable criminal enterprises.

On the other hand, the very criminal organizations that are assumed to be the prototype of organized crime, such as the confederations of Sicilian and Calabrian mafia families known under the labels of La Cosa Nostra and 'Ndrangheta, the so-called Chinese Triads and Tongs, the 3,000 groups belonging to the Japanese Yakuza, and the American La Cosa Nostra, cannot be reduced to their involvement in illegal entrepreneurial activities. Although their members are frequently successful players in the illegal marketplace, these collectivities are not only nor primarily illegal enterprises, nor can they “be considered the outcome of organizing one’s forbidden trade and industry” (van Duyne, 1997: 203). Indeed, these groups pre-existed the formation and expansion of modern illegal markets, most notably, those involved in the trade in drugs, human beings, and arms. These markets have, in fact, grown parallel to the development of economic regulation, protection, and social support initiated by the modern Welfare State and to the development of international law at the beginning of the 20<sup>th</sup> century (Cassese, 1984; Paoli, 2001). On the contrary, with the exception of the American La Cosa Nostra, all of the above entities, which may be collectively termed as mafia-type associations, have been active since at least the mid-19th century. Moreover, far from being determined by the illegal market dynamics, the culture, structure, and actions of these organizations follow a different, multi-faceted logic. Although implying a heavy toll in terms of economic efficiency, this logic is also the key

to their longevity and extraordinary capability to adapt to changing social and economic conditions.

#### *4. The first paradox*

Contrary to the common *doxa*, at least in state-governed countries illegal markets have no immanent tendency towards the development of large-scale criminal enterprises, that is, of criminal organizations, as is often implied by the very expression “organized crime.”

Illegal markets have indeed very much in common with their legal counterparts. As Arlacchi puts it, “there are buyers and sellers, wholesalers and retailers, go-betweens, importers and distributors, price structures, balance sheets, profits and, though less frequently, losses” (1988: 407). The analogy between illegal and legal firms cannot, however, be pushed too far, as instead is routinely done in much of the contemporary discourse on organized crime, nor can criminal enterprises be thought to follow the same evolutionary trends of licit firms and be simplistically equated to multinational corporations (as done by Sterling, 1994; Williams and Florez, 1994). Although illegal entrepreneurs embody in the fullest form the “animal spirits” of capitalism, the constraints created by the illegality of the products these actors provide have been so far so powerful as to prevent the development of modern capitalist companies similar to those that populate the legal sphere. In particular, these constraints are due to the fact that illegal market actors are obliged to operate both without and against the state.

#### *Without the state*

Since the goods and services they provide are prohibited, illegal market suppliers cannot resort to state institutions to enforce contracts and have their violations sanctioned, nor does the illegal arena host an alternative sovereign power to which a party may appeal for redress of injury. The illegal marketplace is characterized by the absence of a coherent set of legal rules and sanctions and an enforcement apparatus enshrined to a *super partes* authority able to compel the terms of transactions (Reuter, 1983; Arlacchi, 1988). As a result, property rights are poorly protected, employment contracts can hardly be formalized, and the development of large, formally organized, enduring companies is strongly discouraged.

The respect of commercial agreements between two or more counterparts can also not be ensured through recourse to state institutions. Exchange of illegal goods and services among extraneous actors is thus bound to occur only on the fragile basis of trust developed over the course of repeated exchanges. Still, fraud and violence always remain options. Like the pirates of the antiquity and the Middle Ages, illegal entrepreneurs are usually pleased to

take whatever they can get by force and fraud and resort to peaceful dickering only where they are confronted with a power equal to their own or where they regard it as shrewd to do so for the sake of future exchange opportunities (Weber, [1922] 1978: 640).

The absence of a formal apparatus guaranteeing the security of contracts has also prevented the rise of external capital markets, further constraining the growth of illegal enterprises. The latter are unlikely to have audited books providing sufficient evidence of collateral while potential creditors are discouraged from lending to illegal entrepreneurs because they lack court protection. Furthermore, since the enterprise does not exist independent of the entrepreneur, the creditor may have difficulty collecting his repayment in the event of the entrepreneur's death or incarceration (Reuter, 1985).

#### *Against the state*

Illegal market actors are bound to operate under the constant threat of being arrested and having their assets intercepted by law enforcement institutions. This is the consequence of the fact that they do business "on the wrong side of the law" because the products they deal with are, by definition, either *tout court* prohibited or heavily restricted. In reality, the effective risk of arrest and interception of assets varies according to the situation and the counterparts involved. Some illegal entrepreneurs are so successful in bribing representatives of state institutions and/or the latter are so weak and inefficient that the risk is in effect strongly reduced. In most Western countries, however, the risk of arrest and interception of assets can hardly be disregarded in the long run. In varying degrees, all illegal market actors risk imprisonment and the seizure of their properties by law enforcement agencies and must take precautions against such events.

Thus, each participant in the trade will try to organize his or her activities, particularly those involving other partners, to assure that the risk of law enforcement detection is minimized. In particular, each entrepreneur will try to structure his relationship with employees and customers, reducing the amount of information available to them concerning his own participation. A viable strategy for accomplishing this goal is the segmentation of the enterprise, which reduces the number of people that are in contact with the entrepreneur. A small number of customers and employees means that few people have direct, first-hand knowledge of the entrepreneur's involvement in the illegal business. This reduces the chance of casual information leakage and the entrepreneur's vulnerability to law enforcement efforts to gain information (Reuter, 1983; M. Moore, 1974: 15–31).

For the same reasons, opportunities for vertical integration are likely to remain limited. Illegal firms have few incentives either to integrate upstream

(that is, to produce raw materials and semifabricated products that might otherwise be purchased from independent producers) or downstream (that is, to move forward further finishing of semifabricated products and the wholesaling and retailing operations that put manufactured goods in the hands of consumers) (Scherer and Ross, 1990: 94). No matter the direction, internalizing a function implies higher risks of arrest and seizure of assets and higher costs of managing an expanded and more diverse workforce. The latter costs, in particular, are likely to escalate rapidly. In fact, it is very difficult to monitor the performance of employees who, given the illegal nature of the business, also need to work in covert settings and minimize the production of written documents that can become proof of their illegal activity. This of course, increases the attractiveness of buying the same services on the market.

The constraints imposed by product illegality also drastically reduce the geographical scope of illegal enterprises. Because of the difficulty of monitoring distant agents and the higher risks associated with transportation and communication to distant locations, illegal enterprises tend to be local in scope; that is, they usually do not include branches in more than one metropolitan area. Furthermore, outside their home region, illegal entrepreneurs may have problems in securing the passivity of law enforcement agencies. Since the latter constitutes a significant advantage, the entrepreneurs may find it convenient to restrict their business to the areas where they know the local police personally (Reuter, 1985).

Due to the threat of police intervention, either in terms of seizing assets or imprisoning participants, the planning time horizon of illegal entrepreneurs is likely to be much shorter than in legal markets. Since an illegal enterprise can hardly be sold as the entrepreneur ages, he is likely to divert an increasing share of his profits to legal assets which can be passed on to heirs.

Finally, since they are operating against the state, illegal firms are prevented from marketing their products. They cannot create their own brand image and try to bind customers to it. Strong economies of scale, however, are associated with advertising and the advantages linked to the nationwide marketing of one's own products have long been recognized as a very important factor in the rise of modern large-scale corporations. According to most economists, for example, advertising represents the single most important basis of large-firm advantages (Scherer and Ross, 1990: 130–138). Illegal firms, however, are by definition excluded from the possibility of exploiting these advantages because, by doing so, they would obviously attract law enforcement attention and damage their own businesses.

For the above reasons, it is rather unlikely that large, hierarchically organized firms will emerge to mediate economic transactions in the illegal marketplace. The factors promoting the development of bureaucracies in the



legal portion of the economy – namely to take advantage of economies of scale of operations and specialization of roles – are outbalanced in the illegal arena by the very consequences of product illegality. The listing of these constraints thus leads to the conclusion that, within the illegal economy, there is no immanent tendency towards the consolidation of large-scale, modern bureaucracies.

*Some empirical evidence*

The reality of illegal markets also confirms such a theoretical hypothesis. Several studies carried out in different parts of the world have demonstrated that illegal urban markets are populated by numerous, relatively small and often ephemeral enterprises. Some are family businesses. Some of them are veritable groups, which rise around a (charismatic) leader and then manage to acquire a certain degree of stability and develop a rudimentary division of labor. The majority of the organizational arrangements set up for the production and supply of illegal commodities, however, can be better represented by crews: loose associations of people which form, split, and come together again as opportunity arises. In crews, positions and tasks are usually interchangeable and exclusivity is not required: indeed, many crew members frequently have overlapping roles in other criminal enterprises.<sup>1</sup>

Empirical evidence additionally shows that the relationships between illegal enterprises are closer to competition than to collusion. Although some suppliers may occasionally enjoy a considerable monopolistic power over a local (usually small) market, most illegal firms are price-takers rather than price-givers. That is, none of them are able to influence the commodity's price appreciably by varying the quantity of the output it sells.

To external observers, illegal enterprises often appear to be associated with networks. It is, in fact, through chains of individuals, crews, and small groups that narcotics producers are linked to final consumers, and other illegal commodities – ranging from stolen cars to women to be exploited as prostitutes – are moved from one country to another. In Germany, for example, several studies have come to the conclusion that networks are the typical manifestation of organized crime in that country (Rebscher and Vahlenkamp, 1988; Dörmann et al., 1990; Weschke and Heine-Heiß, 1990).

The concept of network is indeed a useful construct to describe the distribution system of illegal commodities. The strength and cohesion of most illegal networks, however, should not be overestimated. Although long-term relations may develop among network members, the majority of them are arm's-length buyer-seller relationships, which are neither exclusive in any sense nor centrally organized. Each illegal entrepreneur is free to look for other partners to execute the next transaction and usually belongs to more

than one network at the same time since he has contact with several suppliers and has numerous customers to whom he can sell his merchandise. Moreover, in any point of the network, the actors generally know only their immediate supplier(s) and buyer(s) and have no idea of its overall extent and structure. Finally, it must never be forgotten that illegal networks are volatile constructions. They constantly change their form and extension, as new partners are included, others are occasionally or permanently discarded, and others still are replaced because they have been targeted by law enforcement action (see Paoli, 2000b).

*Excursus: The so-called Colombian drug cartels*

The strength of the constraints produced by product illegality emerges clearly from a closer look at the collective entity usually portrayed as the prototype of multinational illegal corporations (Williams and Florez, 1994: 12): the so-called Colombian drug cartels and, particularly, the Medellin and Cali cartels that allegedly dominated the wholesale export of cocaine for more than a decade from the mid 1980s onwards. Notwithstanding popular representations, a close examination reveals that the Medellin and Cali “cartels” were loose combinations of relatively small, family-based cocaine manufacturing firms that merely joined forces in the early 1980s to transport and smuggle cocaine to the United States. The coordination agreements among single manufacturers were favored by the possibility of mutually benefiting from the economies of scale associated with the transfer of cocaine to the United States and of minimizing risks (Thoumi, 1995: 142 ff.). In fact, since single shipments are occasionally seized, every business unit can lower its risks if it joins other exporters and sends several shipments in which all partners have a share. For this reason, cocaine shipments seized in the United States are frequently reported to be packaged in small bundles, each with a different color or other marking identifying its owner (Krauthausen and Sarmiento, 1991: 31). The stability of these trade agreements, however, should not be overemphasized. Although the system appears to be well-organized, many of these partnerships do not last long and frequently change their composition; manufacturers who participate in one shipment do not have to participate in others.

The popular representation of these enterprises as cartels is also unfounded. First of all, according to economic theory, it does not make sense to speak about more than one cartel for any given industry: no more than a single coalition of firms can, in any given moment, retain a monopolistic position in a specific industry. Moreover, as Thoumi points out,

the illegality of the cocaine industry makes it difficult to form a workable cartel. The risk minimizing strategies that must be followed to succeed as an illegal operation encourage a loose structure, in which it is not

possible to plan production levels and to give orders to be carried out through several layers of production and distribution (1995: 143)

Indeed, as the quick disintegration of the Medellin coalition after the death of its charismatic leader Pablo Escobar shows, the institutional organization of the cocaine industry is rather precarious. As in other sectors of the criminal economy, the illegal status of the products seems to have so far prevented the development of anything resembling a bureaucracy, especially one that survives after its leaders are replaced.

A similar process of disintegration has also affected the Cali "cartel". After the arrest of its leaders, the shipping agreements survived on a smaller scale. New independent operations have emerged in different parts of the country. Testifying before Congress on February 26, 1998, the head of the Drug Enforcement Agency (DEA) pointed to at least ten of them (Constantine, 1998). Other sources cite as many as 40 medium-sized groups and 3,000 smaller enterprises (Labrousse, 1998).

#### *The multiple meanings of organization*

As in the case of most other crimes, illegal market activities require a certain degree of planning and organization. If we employ the term "organization" to mean "the structure of a chain of events, of an interaction process, in which different individuals and groups participate in different ways at different stages" (Cohen, 1977: 98), we can certainly state that illegal businesses have an organization. Indeed, although several studies have been carried out on the topic over the last twenty years, these "activity structures," as Albert Cohen called them in a famous article of 1977 still deserve more attention than they have thus far received.

Moreover, studies of "activity structures" must be frequently updated because criminal activities are very reactive to their environment and rapidly transform themselves as the environment changes. Over the last twenty years, new activities, such as money laundering and unregulated waste disposals, have been criminalized by legislative institutions in many countries. The provision of these new illegal commodities has attracted both entrepreneurs with experience in other illegal commodities as well as new perpetrators with and without specific competencies in the legal branch of the business, who just want to make money quickly.

Technological progress has allowed criminal entrepreneurs to exchange their products and arrange contacts with each other in new ways. Cellular telephones, computers, the Internet, as well as the expanded supply of transportation services, have changed the way illegal business are organized. These new means of communication and transportation today enable the transfer of large quantities of illegal goods (drugs, arms, people) from one side of the

globe to the other with an ease and rapidity that was unthinkable thirty years ago. Instead of taking for granted an increasing role of large-scale criminal organizations, international bodies would do better to take into consideration the above-mentioned transformations to justify their recent programs against organized crime.

The new technological changes have not been extensive enough, however, to offset the constraints created by product illegality. In the legal business world, enterprises primarily react to changes in the economic environment as it is affected by technological innovation in production and distribution and by changes in market size. As Alfred Chandler bluntly put it, “differences in economies of scale and scope<sup>2</sup> in different industries and different time periods result from differences in technology of production and distribution and differences in the size and location of the markets” (1991: 476).

Illegal enterprises are by no means insensible to these factors. They are, however, not free to react to changes in the economic environment, achieving the organizational arrangements that maximize the economies of scale and scope and thus the efficiency of their businesses. The political environment always remains prevalent for them. As we have seen above, all entrepreneurs dealing with illegal goods and services must cope foremost with the constraints deriving from the fact that they operate against state laws and therefore without the possibility of resorting to state institutions to solve conflicts and ensure the implementation of contracts.

The dynamics of illegal markets therefore do not promote the development of large scale enterprises, such as those we have become used to seeing in the legal economic world. In the latter, “the visible hand of management replaced what Adam Smith referred to as the invisible hand of market forces” (Chandler, 1978: ix). Instead, in much of the illegal marketplace, the invisible hand still prevails.

This proposition covers all those illegal markets that are not small appendixes of the legal ones and concerns all those markets that either deal with products that are thoroughly banned by most states – primarily drugs and human beings – or that are largely separate from their legal counterparts, such as illegal lotteries, number games, and illegal pools. These markets are, moreover, the ones that are usually referred to in the organized crime debate.

Large-scale enterprises can instead be active in illegal markets that are closely connected to the larger legal ones of which they represent only a small portion. This is, for instance, the case of the wholesale smuggling of arms and cigarettes and the provision of money laundering services (Naylor, 1995; 1996). The suppliers of these products are usually either employees that sell their companies’ products without authorization or, more often, the companies themselves. In order to maximize their sales and profits, in fact,

the latter sometimes decide to sell their products through illegal or underground channels, in violation of existing state and international regulations and restrictions. These large-scale companies, however, are the product of the evolutionary responses to changes in the (legal) economic environment, and their illegal sales usually represent only a minor component of their overall business.

### 5. *The second paradox*

The legal corporations that occasionally take part in the illegal marketplace are not the only collectivities of the illegal arena. Although this idea was long opposed by many sociologists and criminologists (Albini, 1971; Smith, [1975] 1990; Hess, [1970] 1973; Schneider and Schneider, 1976; Blok, [1974] 1988; Arlacchi, [1983] 1988), these collectivities also include the Sicilian Cosa Nostra and the Calabrian 'Ndrangheta in Italy, the American La Cosa Nostra, the Chinese Triads, and the Japanese Yakuza.

These entities, which may be collectively termed as mafia associations, are frequently presented as the archetype of organized crime. Indeed, most nonexperts think of these organizations when they hear the term “organized crime.” This mental operation is justified if the term “organized crime” is used to refer to a set of criminal organizations. If “organized crime” is equated with “enterprise crime”, however, as is the case in current scientific and political debate, mafia organizations are no longer adequate as a model. We have thus come to the second paradox. The associations that are thought to be prototypical of organized crime represent only distortedly what is today referred to by most experts all over the world with the very expression “organized crime.”

#### *Neither firms. . .*

Although their members are heavily involved in illegal businesses today, neither the development nor the internal organization of mafia associations are the product of illegal markets dynamics. Indeed, all of the above-mentioned associations arose before the consolidation of modern illegal markets. With the exception of the American La Cosa Nostra, which grew out its Sicilian counterpart at the beginning of the 20<sup>th</sup> century, all the above-mentioned associations are more than a hundred years old. The Sicilian and Calabrian mafia sodalities date back to middle of the 19<sup>th</sup> century (Paoli, 1997; 2000a; Pezzino, 1990; 1995; Lupo, 1988; 1993). The Heaven and Earth Society (*Tiandihui*), the Chinese “secret society” out of which modern Triads<sup>3</sup> derive, was founded around 1760 (Murray, 1994). Finally, the ancestors of the modern Yakuza groups – that is, the itinerant bands of Japanese roadside gamblers (known as *bakuto*) and peddlers (*tekiya*) – are known to have been active since the early 18<sup>th</sup> century (Kaplan and Dubro, 1987, Stark, 1981).

Furthermore, throughout their existence, all the above-mentioned associations have carried out a plurality of functions, most of which are not related to the provision of illegal goods and services. Although the enhancement of the members' interests through mutual aid seems to have been the major "official goal" of mafia-type associations ever since their founding, this general aim has been interpreted and applied by the affiliates in many different ways over the decades; that is, it has been translated into a plurality of "operative goals" (Perrow, 1961).

The ends have been so different and often in open contradiction with one another that it is very difficult to select a single, typifying one. Sometimes mafia associations' members have responded to the effective needs of their communities, but more frequently they have denied them, imposing their dominion against the people's will. They have occasionally provided "protection" to somebody requesting their services, but they have also established at times a veritable extortion regime, protecting "clients" from their own mafia threats. Often they have fostered the interests of the higher social classes, gathering votes for their representatives; from time to time, however, they have defended the interests of the poorer people. They have usually supported the *status quo*, but sometimes they – most notably the Chinese Triads – have also fought for revolutionary aims. They have been involved in a variety of economic activities. Although monopolizing practices have been carried out by most of these groups since their founding, the resources targeted have changed according to the stages of economic development in society at large. Even as far as illegal markets are concerned, the type of commodities and the extent of their involvement have undergone sudden and consistent changes, depending on the trends of the international illegal economy and the group's capability to position themselves on the new routes.

The flexibility and ability of mafia organizations to adapt to changing economic and political conditions can be fully taken into account only by considering mafia consortia as functionally diffused organizations. They are the result of a centuries-old process of social construction during which they have been used by their members to achieve a plurality of goals and to accomplish a variety of functions. As Dian Murray puts it, the members of the first Chinese secret societies "originally organized for one purpose sometimes found themselves mobilized for different ends, and simultaneously involved in activities where the distinctions between 'legal' and 'illegal', 'protection' and 'predation', or 'orthodox' and 'heterodox' blurred" (1994: 2). Only by sacrificing empirical evidence is it possible to single out an encompassing function or goal that can characterize criminal organizations of mafia type throughout their life.

Among them, even more than economic activities, political functions have always had a key relevance and it is to Diego Gambetta's merit that he brought attention to this dimension that had long been neglected in the scientific discourse on the mafia and organized crime. According to Gambetta, in fact, the Sicilian mafia is "a specific economic enterprise, an industry that produces, promotes and sells private protection" ([1992], 1993: 1). The provision of protection is one of the most important functions historically played by mafia groups, a quintessential one, we could say, since it derives from their exercise of violence in areas of settlement. Gambetta's analysis is rather to be criticized for his one-sided emphasis on protection and his denial of the polyvalence of mafia groups. It is, furthermore, regrettable that, out of polemical reasons, Gambetta overshadows the analogies between the mafia, as he defines it, and the state.<sup>4</sup> Such a similarity was instead outlined by Charles Tilly: "if protection rackets represent organized crime at its smoothest, then war making and state making – quintessential protection rackets with the advantage of legitimacy – qualify as our largest examples of organized crime" (1985: 169).

Although not employed in every occasion, ultimately violence constitutes the backbone of mafia power. Violence is used foremost by all of the consortia under examination to secure the obedience of their own adherents and to punish those that have betrayed or not respected the group's authority. It is also routinely employed as a means to threaten, render inoffensive or even physically eliminate whoever endangers the power positions and the business activities of the group. Through the menace or the effective use of violence, mafia associations have also been trying – enjoying for a long time a fairly high degree of success – to impose their rules on society at large in their territory of influence. To employ Weberian terminology, we can say that, although they arise as a "voluntary association (*Verein*)," – that is, an organization that claims authority only over voluntary members – they also frequently act as a "compulsory organization (*Anstalt*)" – that is, a social group whose legal order is imposed with relative success on the outside (1922: 52).

As such, criminal organizations of mafia type can be defined as political organizations in the Weberian meaning, that is, organizations which guarantee the subsistence and the validity of their own legal order within a given territorial area through the threat and the use of physical force (*ibid.*: 54). Each *cosca* associated with either Cosa Nostra or the 'Ndrangheta, for example, claims sovereignty over a well-defined territory which usually corresponds to a village or to the district of a city. As the Sicilian mafia turncoat Leonardo Messina explained to the Italian Parliamentary Commission on Mafia Phenomenon:

You must keep in mind that the families have their own businesses and that these concern everything related to the territory of the families themselves. For example, if in the community of Rome there were a family, everything that belongs to the community would interest it, whether politics, public works, extortions, drug traffickings, et cetera. In practice, the family is sovereign, it controls everything that happens on that territory  
(CPM, 1992: 516)

In every town and village of Western Sicily and Southern Calabria, almost all companies and firms pay an *una tantum* tax regularly – in money or in kind – to mafia families (TrRC, 1994; see also Cazzola, 1992). Although the amount of information available is much more scarce, a variety of sources indicate that even in Chinese communities, in Europe as well as in Asia and the United States, large parts of the population are victims of extortive mechanisms run by members of the Triads and other local criminal groups (Chin, 1996)

Today we are used to thinking that government and business have always existed as separate organizations. Nonetheless, until after the beginning of the modern period neither governments nor business enterprises had the forms familiar to us. As Joseph Schumpeter pointed out, our terms “state” and “private” enterprise can hardly be applied to the institutions of feudalism without eliciting a distorted view of those institutions (1981: 169; 201).<sup>5</sup> The separation of force-using enterprises from the profit-seeking enterprises that we now call business firms took place at different times in different areas of Europe and in the rest of the world. In the case of mafia-type organizations, such a process of differentiation has even nowadays taken place only to a minimal extent. The latter, in fact, emerged in contexts where this separation had not yet been fully achieved and where the use of violent means was almost an unavoidable pre-condition of social ascent and have been impeded by state institutions from taking part in the wider process of differentiation because of their criminal nature.

Not only the use of violence distinguishes mafia associations from modern firms, but also their internal organization and *modus operandi* are completely different. Mafia organizations are not specialized in any specific set of products to which a brand name can be attached. Secondly, none of the associations discussed here usually take part in illegal markets as a single collective entity. Every unit composing Cosa Nostra, the 'Ndrangheta or the Yakuza, in fact, enjoys full autonomy in planning and carrying out economic ventures.

Even the affiliates of the single families usually enjoy a wide degree of autonomy and are free to undertake whatever type of economic enterprise they deem profitable in cooperation with other members as well as non-members.<sup>6</sup> The lower ranking members of Yakuza groups, for example, are



expected to earn their living themselves and run autonomous economic enterprises exploiting the “face,” that is, the prestige of their *gumi* (family). Even though they must always be ready to provide their workforce in whatever economic or non-economic ventures the *oyabun* – the bosses – may decide to set up, their primary task is to earn money on their own and pass their bosses a quota of their profits (Seymour, 1996). Likewise, in Hong Kong and other Chinese communities, members of local Triads are usually free to organize economic ventures, both on the legal and illegal side of the law and to enter into cooperative agreements with both members of other Triads as well as non-members as long as they provide a percentage of their earnings to their society of affiliation (U.S. Senate, 1991b: 90; 101; Chin, 1992; McKenna, 1996). Finally, considerable entrepreneurial autonomy is also granted to the affiliates of the Sicilian and Calabrian mafia associations (Paoli, 1997; 2000a: 203–209).

... *Nor bureaucracies*

Despite the high degree of autonomy granted to members in the economic sphere, it still makes sense to consider Cosa Nostra and the other groups as unitary organizations. Contrary to Cressey’s hypotheses, however, in none of the above-mentioned organizations does a single, all-encompassing bureaucracy exist. In fact, although they are usually portrayed by the media as centralized organizations, all of the associations discussed here are nothing more than consortia. The Calabrian *’Ndrangheta*, for example, is actually made up of about ninety mafia families. An analogous number of groups make up the Sicilian Cosa Nostra, whereas the number of American La Cosa Nostra families is usually considered to be twenty-four (Paoli, 1997; 2000a; President’s Commission, 1986). The number of Yakuza groups exceeds three thousand and, although no precise numbers are known, several different Triads are known to be active in Asia, America, and Australia.

These consortia constitute segmentary societies. This is an organizational model often employed by anthropologists who, since the times of Henry Maine, have been confronted with the existence of a wide range of simple societies which not only lacked stable leadership, but also official leaders. In segmentary societies lacking central political organs, societal boundaries coincide with the maximum range of structurally homologous units and it is upon their articulation that the social order depends (Smith, 1974: 98). Likewise, in mafia consortia each unit retains full autonomy and societal boundaries are drawn merely by the common cultural heritage and structural organization. They are founded on what Emile Durkheim called “mechanical solidarity,” that is, a solidarity “derived from likeness, since the society is

formed of similar segments and these in their turn enclose only homogenous elements” ([1893] 1964: 176–177).

In several cases, a process of centralization has been built upon these segmented structures. Among the families associated with the American and Sicilian Cosa Nostra and, more recently, among those belonging to the Calabrian 'Ndrangheta, this process of centralization has led to the institutionalization of superordinate bodies of coordination (Cressey, 1969; TrPA, 1986; PrRC, 1995; Paoli, 1997; 2000a: 62–82). In Japan, three syndicates – the Yamaguchi-gumi, Sumiyoshi-rengo and Inagawa-kai – have succeeded in incorporating two thirds of the 3,490 Yakuza groups recorded by the police (NPA, 1989; Japanese Embassy in Rome, 1993). The trend, however, is not univocal. There are no signs of a centralization process going on in the heterogeneous universe of Chinese organized crime. Furthermore, even when superordinate bodies of coordination exist, their competencies are rather limited. Usually their ratio lies in the need to minimize the visibility of criminal associations through the regulation of the internal use of violence. In fact, by prohibiting affiliates and single groups from indiscriminately using violence to settle conflicts within the mafia universe, the secrecy and safety of the whole coalition is protected. The control exercised by these superordinate bodies over economic activities is usually very low and a large degree of autonomy is left to the single corporate units (Paoli, 1997; 2000a: 62 ff.).

#### *Ritual kinship ties*

Far from resembling a modern business firm, all the above-mentioned associations are founded on relations of ritual kinship, which means that they do not bind their members to the respect of a mere purposive contract – as a “modern” firm or bureaucracy would normally do – but are founded on what Max Weber called “status contracts.” As opposed to the purposive contracts, the latter “involve a change in what may be called the total legal situation (the universal position) and the social status of the persons involved” (Weber, [1922] 1978: 672); that is, with the entrance into the mafia group, the novice is required to assume a new identity permanently and to subordinate all his previous allegiances to the mafia membership. It is a life-long pact. As Judge Giovanni Falcone pointed out, the admission to Cosa Nostra “commits a man for all his life. Becoming a member of the mafia is equivalent to being converted to a religion. You never stop being a priest; nor being a *mafioso*” (1991: 97). In the Japanese Yakuza and, to a smaller extent, even in the Calabrian 'Ndrangheta and the Chinese Triads, such a life-long commitment is expressed with tattoos (Paoli, 1997; 2000: 98, Ciconte, 1992: 40–42). The affiliates to the Yakuza, in particular, often have their whole torso and thighs

tattooed through a slow and painful process that may take a year to complete (Seymour, 1996: 25–26).

Like most status contracts, the contract used by mafia organizations is also a contract of fraternization, by which novices are bound to become brothers of the other group members and to share a regime of “generalized reciprocity” with them. The latter presupposes an altruistic attitude and behavior without expecting any short-term reward (Sahlins, 1972: 193–200). The members of a mafia family have the obligation of helping each other materially and financially when requested or in case of need and to unfailingly stick to principles of sincerity and correctness in their mutual interaction, while the expectation of reciprocity, though asserted, is left undefined. As the *Procuratore del Re* Lestingi observed more than one hundred years ago, the “essential character of the mafia” lies in “its aid without limits and without measure, and even in crimes” (1884: 453).

The kin-like relation is established through ritual. The entrance into all the associations considered, in fact, takes place with a ceremony of affiliation, which constitutes a true “rite of passage.” The ritual marks the change of position of those who undergo them and their assumption of the new status of member of a brotherhood.<sup>7</sup> The kin-like relations created with the rite of initiation are then further reinforced with symbols and codes drawn from the kinship language. The basic units of the Sicilian and American Cosa Nostra are thus called families. Although mafia groups clearly distinguish themselves from the blood families of their associates to the point that no women are allowed, the term evokes and, at the same time, prescribes the cohesion and solidarity of blood ties (Paoli, 1997; 2000a). In Japan the relationship between a Yakuza chief (*oyabun*) and his novice (*kobun*), which is the pillar of the whole association, is portrayed as the relationship between a father and a son (Kaplan and Dubro, 1986; Seymour, 1996).

Relying on fictive kinship ties, mafia organizations enjoy a flexibility that has no parallel among contemporary business firms whose employment contracts are usually close to the ideal-type of purposive contract. Founded on status contracts, mafia groups can be exploited in the pursuit of any short term gain decided upon by their leaders. The subordinates, in a regime of generalized reciprocity, are not given a choice on whether or not to execute superiors’ orders. Unlike purposive contracts, in fact, the contract binding them to a sodality of mafia type is long-term and non-specific. It does not contain a detailed list of services, beyond which the underwriter has no obligation. Indeed the contract is so comprehensive that the members are expected not only to deny family and friendship bonds but even to sacrifice their own life if the group requests it. Thus even today, the reliance on status contracts strengthens the multi-purpose nature of mafia associations described above.

In exchange, individual members benefit from the collective action and the reputation of the group. The prestige of the associations is foremost exploited by affiliates in the pursuit of their licit and illicit businesses. Furthermore, when the management of some types of illicit activities (frequently extortion rackets, occasionally, drug smuggling) is centralized, the proceeds are divided by the head of the family among the associates. In most 'Ndrangheta families, as well as in a few Sicilian mafia groups, this practice is fully institutionalized to the extent that, each month, the heads of the families pay regular salaries to all the members of the *cosca*. All associations, furthermore, have a common account which is used to cope with exceptional financial needs of the affiliates, to meet their legal expenses in case of trial, to support the families of the imprisoned or dead members and, occasionally, to integrate the monthly salaries.

Thus, as is true of other pre-modern “ritualized relationships” (Eisenstadt and Roniger, 1984), the mafia appears to be characterized by “a peculiar and distinct type of combination of instrumental and solidary relationship, in which the solidarity provides the basic framework, yet within this framework various instrumental considerations, albeit very diffusely defined, are of paramount importance” (Eisenstadt, 1956: 91). In other words, mafia organizations represent a combination of specific exchange with what is termed as “generalized exchange” in anthropological literature. This last expression, coined by Marcel Mauss in his essay *Sur le don* and later elaborated by Claude Levi-Strauss, is nowadays employed to distinguish the non-utilitarian and unconditional relationships necessary to establish conditions of basic trust and solidarity in society and to uphold what Emile Durkheim called the “pre-contractual elements of social life” (Eisenstadt and Roniger, 1980; 1984). The membership to a mafia group is, hence, typified by a crisscrossing of instrumentality and solidarity, of personal selfishness and unconditional involvement. Whoever fails to take into account both sides of this relationship also fails to understand its deeper meaning as well as its strength.

*Kinship, secrecy, and violence: The clan*

The reliance on ritual kinship should not be regarded as an oddity of the associations under consideration. Indeed, although fraternalism has so far been a rather neglected theme of sociological reflection, it was one of the most widely available and persistently used forms of social organization in European, American, and Asiatic history at least from the Middle Ages onwards (Clawson, 1989; Ownby, 1996; Tegnaeus, 1952). As Clawson points out, “in societies where kinship remained the primary basis of solidary relations, fraternal association was effective because it used quasi-kin relations to extend bonds of loyalty and obligation beyond the family, to incorporate

people into kin networks, or to create new relations having some of the force of kinship” (Clawson, 1989: 15). Guilds, journeymen’s societies, religious confraternities, and village youth brotherhoods were founded on the social metaphor of brotherhood. Fictive kin relations, such as godparenthood, also played a central role in late medieval and early modern Europe.

Fraternalism is not a peculiarity of the Western world. The relationship at the core of the Yakuza groups – the *oyabun-kobun* system – has been a pillar of the Japanese society at least since the 18<sup>th</sup> century, and only the modernization process undergone by Japan in the last fifty years has somehow reduced the relevance of this institution (Ishino, 1953). Likewise, several scholars of Chinese history have stressed a continuum linking secret societies to brotherhoods and the practice of blood oaths that have been widespread in Chinese society since the 17<sup>th</sup> century. Indeed, the Tiandihui is only the most successful and longest lasting of a large numbers of fraternal associations (*hui* in Chinese) which had to resort to secrecy following the Qing state’s decision in the early 18<sup>th</sup> century to outlaw and severely punish a wide variety of organizational practices associated with brotherhoods.

In mafia-type associations, ties of ritual kinship are reinforced by secrecy. The empirical degree with which each association has shielded itself from public view depends, in each historical context, on the attitude of the local state authorities and surrounding community. In Japan, for example, the overall level of secrecy enforced by Yakuza groups was rather low up to few years ago. Before 1991, when a law finally banned the *boryokudan* (all violent groups), most of the 3,500 Yakuza groups known to police forces were officially recorded organizations, which were listed in the phone book and had a formal seat and whose entrance was usually decorated with the emblem and signboard with the name (Kaplan and Dubro, 1987; Seymour, 1996). Chinese Triads and Southern Italian mafia associations, instead, had been obliged to resort to secrecy much earlier in order to escape repressive measures from state authorities (Paoli, 2000a; 1998; Ownby, 1996; Murray, 1994).

A minimum pledge to secrecy, however, seems to have characterized all the associations discussed here throughout their history. All of them at least call on their affiliates to keep the rituals and the oaths they undergo secret and not to reveal the affairs of the group to non-members. The reason for such a pledge is that secrecy is a powerful bond to strengthen group cohesion. By defining its external boundaries through secrecy, in fact, the group poses itself as a “living totality,” a whole, enclosed, self-sufficient world in opposition to the larger one that contains it. Complete independence from external control is postulated: the group puts itself forward as a total and totalitarian institution (Goffman, 1961). The claim that the secret group exercises upon its members also becomes total.

Through contracts of fraternization reinforced by secrecy, each group associated with a mafia-type consortium aims to represent what Durkheim called a clan: that is, an organization that has “a mixed nature, at once familial and political. It is a family in the sense that all the members who compose it are considered as kin of one another” ([1893] 1964: 175): although many bonds are indeed consanguineous, however, this family also includes nonkin. The clan is, at the same time, “the fundamental political unity: the heads of clan are the only social authorities.” As in simple societies, mafia groups claim to be the only world for their members and their chiefs demand to exercise absolute authority on the affiliates and on all the matters of their lives. The absoluteness of such a claim was clearly seen by the Prosecutors of the Procura della Repubblica di Palermo:

From the moment of his *combinazione* [that is, the ritual affiliation], the man of honour progressively becomes aware of having lost a meaningful part of his autonomy and individuality; he no longer “belongs to himself”, because he now belongs to Cosa Nostra, he is an integrating part of a system that organizes his life (PrPA, 1993c: 189)

#### *The advantages for illegal markets*

The clannish structure of mafia organizations has turned out to be a major advantage when they enter illegal markets. By imposing, in an authoritative manner, a new identity on the affiliates, the ceremony of initiation and the apparatus of legitimation developed by all the associations involved strongly reduce the chances of betrayals and double-crossings. The relationships of trust and solidarity, created by ritual kinship ties, favor the pooling of material and human resources for the achievement of common aims, as well as the development of economic transactions even among members who do not know each other personally. Moreover, when socialization processes fail, the ruling bodies developed by each group belonging to these confederations sanction members' violations and are able to quickly mobilize a military apparatus to defend the group and its interests from external threats. Finally, in an environment where the flow of information is heavily constrained, the group's reputation of violence and reliability turn out to be a strategic asset for each single member in the pursuit of his own licit and illicit entrepreneurial activities.

This list of advantages does not imply that mafia associations necessarily retain a monopolistic or oligopolistic position on national and international illegal markets. Granted, in the communities where they are based, Cosa Nostra and the other criminal fraternities discussed here often directly control a considerable portion of illegal market activities and/or extract protection taxes

from the majority of smaller, independent operators. As we have seen, claiming to exercise a territorial sovereignty on those areas, they are frequently able to impose an extensive protection racket on legal enterprises as well.

Outside their own communities, however, the associations of mafia type and their members have no preconstituted advantage and, as other illegal markets operators, are subject to the rules and trends of economics. Hence, for example, the role of the American La Cosa Nostra families in American illegal markets has been sharply reduced by the rise of a myriad of more risk-prone, inventive entrepreneurs, with better contacts either in the communities of the final consumers or (in the case of drugs) with wholesale distributors (Reuter, 1995). Likewise, as a result of a worldwide concentration process of heroin refining in source countries and the change of world heroin trade routes, Sicilian Cosa Nostra families have been increasingly expelled from the profitable stages of heroin refining and import in the United States from the mid 1980s (Ministero, dell'Interno, 1994; Paoli, 2000a; 1998). Even the wholesale positions retained by Cosa Nostra and 'Ndrangheta affiliates in the Italian narcotics markets are currently threatened by the competition of several new criminal entrepreneurs – primarily Turks, Albanians, North Africans, and Nigerians – with better contacts in production centers and a higher propensity to use violence (Pansa, 1998; Paoli, 1999a). Likewise, at least in the United States the Triads are today excluded by many profitable businesses, most notably smuggling in drugs and human beings, that are instead run by more flexible, aggressive entrepreneurs (Chin, 1990, 1999).

#### *6. Coping with the constraints of illegality: Fictive and actual blood kinship*

The main conclusions that can be drawn from the analysis of the development and organization of mafia associations can be synthesized in the following statements. Although far from being decisive in the illegal market competition, ritual kinship ties are necessary to build large-scale illegal organizations. To be effective, the ritual brotherhood that is created must, moreover, be ready to use violence to implement its own rules *vis-à-vis* its members and occasionally non-members; that is, it must be perceived as a clan by its members, as a familial and political institution to which all other allegiances are subordinated.

#### *Terrorist groups and juvenile gangs*

This organizational formula – a mix between ritual kinship and violence – seems to be essential for the survival of large collectivities “on the wrong side of the law”, because all major illegal organizations resort to it. In addition to the mafia organizations that we have just reviewed, in fact, the clannish model of organization is employed by terrorist groups and juvenile gangs.

These collectivities are seldom included in the standard definitions of organized crime because their primary goal is perceived as not being economic. Nonetheless, their internal organization has many similarities with that of mafia associations. Although some juvenile gangs are little more than an informal clique, the longest lasting ones are usually set up on the model of brotherhood, employ ceremonies of initiation that create contracts of fraternization similar to those of mafia groups, and commit their members to mutual aid even in crime (Sánchez-Jankoswki, 1991; Huff, 1990). Granted, terrorist groups do not usually express relations among members with the language of kinship. As much as Cosa Nostra and the other above mentioned consortia, however, they also require an absolute commitment from their members and complete subordination to the collective interests and goals. Moreover, all these entities set themselves up as normative and political communities, with their own system of rules and mechanisms, including the use of violence, to enforce them.

Furthermore, although they are founded with ideological or expressive aims, both juvenile gangs and terrorist groups frequently end up being heavily involved in illegal businesses. As Albert Cohen pointed out, “boys’ gangs produce a lot of crime, but crime is typically far from being their *raison d’être*. The central concern of gangs has to do with relational problems and relational reward: status, warmth, security, cohesiveness, and the like” (1977: 194). Likewise, terrorist groups frequently commit robberies, impose extortion regimes in their areas of influence and participate in illegal transactions to finance their political struggle (Naylor, 1993a and b; Maguire, 1993).

Numerous examples of this can be made, ranging from the Hell’s Angels and the white supremacists groups of North America and northern Europe (Cornils, 1998), which have become increasingly involved in drug trafficking in the last two decades, to the Kurdish Communist Party and the Burmese and Colombian insurgents groups. The FARC, for example, the largest Colombian guerrilla group, imposes a ten percent protection tax on most coca producers (Thoumi, 1995). The numerous insurgent groups in Northern Burma, on the other hand, have been directly managing poppy cultivation and opium refining since the mid 1960s in order to finance the fight against their political enemies (McCoy, 1991). Because they rely on strong noneconomic ties, these collective actors are able to operate on illegal markets in a more organized way than the average illegal enterprises, which cannot rely on such resources.

Although usually overlooked, the similarities between mafia organizations and terrorist groups and juvenile gangs are so many and so deep that they deserve to be systematically investigated. If we define organized crime as a set of criminal organizations, it makes no sense to draw arbitrary lines between those allegedly involved in profit-oriented activities and those that are not.



Criminal organizations certainly differ from one another depending on their aims and the emphasis they give them. But, as we have seen in the case of mafia consortia, defining a collectivity only according to their aims can be tricky, because goals change. Although the group's official goal may remain unchanged, new aims usually appear with time. Furthermore, all collective entities are subject to the phenomenon of the "displacement of goals." As time goes by, the interest in the survival of the group, irrespective of the content of its activities, tends to exceed the achievement of the group's official aims (Michels, [1912] 1968). Different aims should thus not be regarded as an impediment to comparative analysis, nor can they serve as an excuse to postpone a much needed systematic reflection on the requirements that "collectivities on the wrong side of the law" must meet in order to consolidate and last.

*Emulation and blood ties*

The advantages of the clan organizational formula to survive in a stateless and/or illegal environment are further proved by another development. Over the last three decades many of the most successful criminal networks – in Italy as much as in Russia or in the United States – have been trying to emulate the cultural and organizational arrangements of mafia consortia in order to increase their own stability and internal cohesion. Raffaele Cutolo, for example, set up the Neapolitan Nuova Camorra Organizzata (NCO), a coalition of juvenile and urban gangs that held the supremacy within the Camorra galaxy for almost a decade from the early 1970s onwards, on the model of the Calabrian 'Ndrangheta, copying its rules, rituals, and ranks (TrRC, 1988: 189; TrVV, 1985). The influence exercised by the 'Ndrangheta on the development and consolidation of Apulian crime groupings has been even stronger. Giuseppe Rogoli, the founder of the longest lasting consortium, the Sacra Corona Unita (SCU), was ritually affiliated to the Calabrian mafia confederation in 1983, and the new organization faithfully imitates the 'Ndrangheta in its internal rules and hierarchies. Likewise, Asian juvenile gangs constantly imitate rituals of initiation, formulas and roles from the more established Triads in order to increase their affiliates' commitment and to enhance their own internal cohesion (Chin, 1996). Even Russian gangs frequently resort to formulas, elaborate rituals, trails of courage, and signs of recognition to transmit a distinct collective identity and to enhance members' sense of common belonging (Dunn, 1997).

In order to be convincing and binding, illegal kinship groups must rely on a cultural tradition or an ideological movement that cannot be created at will. If relations of ritual kinship cannot be established, kinship ties can also be exploited to build small, but sometimes very successful criminal enterprises. In particular, blood ties can be very effective whenever the family is still

considered to be the “fundamental political unity” of society and is entitled to employ violence, while the state is weak and lacks legitimation. Not by chance, blood families are at the core of almost all of the most successful enterprises constituting the so-called Colombian drug cartels. The heroin smuggling and wholesale distribution throughout Europe is to a large extent controlled by numerous, independent family enterprises of Kurdish, Turkish and, more recently, Albanian origin (TrMI, 1994a). The so-called Caucasian, Georgian, and other ethnic mafias that have flourished in the former Soviet Union also seem to rely extensively on kinship ties (Shelley, 1996).

The reasons as to why criminal entrepreneurs so often resort to the clanish organizational formula are easy to explain. Due to the lack of a public power, illegal marketplaces have no “systemic trust” (Luhmann, 1979: 68–69). This type of trust, in fact, depends on the existence of laws and a public apparatus capable of enforcing them, the creation of which is closely linked to the development of national states. In the illegal arena, instead, as much as in traditional societies, trust necessarily has only a personal basis. For these reasons, long-term relationships between illegal entrepreneurs as well as stable criminal partnerships prove to be easier to establish and to maintain among people that are already bound by blood ties, the membership to a brotherhood or by a common ethnic, religious or political background. Among them, “double-crossings” are discouraged and the existing interpersonal trust favor the economic exchanges as well as the pooling of resources for economic and political aims.

#### *The embeddedness of illegal economic action*

The most stable illegal enterprises are those relying on pre-existing non-economic ties. This realization also explains the paradoxes of organized crime. While the logic of illegal markets does not promote the development of large-scale, modern bureaucracies, the most stable and structured illegal enterprises are those that are not exclusively oriented towards the marketplace and are able to embed their economic activities in non-economic relationships of solidary type.

In a historical perspective, the “embeddedness” of criminal economic action in social relations does not represent a novelty. On the contrary, a long view of business history shows that the large-scale, bureaucratic organizations with sharp boundaries and highly centralized operations which populate legal markets today are a very recent phenomenon. As Powell put it, “the history of modern commerce, whether told by Braudel, Polanyi, Pollard or Wallerstein, is a story of family businesses, guilds, cartels and extended trading companies – all enterprises with loose and highly permeable boundaries” (1991: 267). In a context where the modern state and the capitalistic system had yet to

fully affirm themselves, these entities carried out economic activities in addition to a plurality of other functions and their very success as economic actors depended on the conditions of trust and solidarity among members that non-economic ties created.

When state apparatuses started to systematically provide the basic public goods – and primarily law and order – that enabled the functioning of national markets, these polyhedric, multivalent institutions became largely superfluous. Modern capitalistic enterprises progressively emerged from the dense webs of political, religious, and social affiliations that had enveloped economic activity for centuries. The economy thus became an increasingly separate, differentiated sphere of modern society, with economic transactions defined no longer by the social or kinship obligations of those transacting but by rational calculations of individual gain.

The exclusion from state protection has not allowed illegal enterprises to follow such a path and thus benefit from the processes of functional differentiation. For this reason, the most lasting enterprises of the illegal arena today remain those that are founded on pre-existing noneconomic ties. Those organizations that are able to set themselves up as moral communities, forcing their members through a mixture of moral obligation and threat of punishment to respect their own rules, constitute fragile islands of cohesion and solidarity in the *mare magnum* of anomie, represented by the illegal arena. The relationship of trust that develops among the members enables the creation of stable economic arrangements, which entail a certain division of labor among the partners, overcoming the constraints, above reviewed, created by product illegality.

More generally, we can say that, to a greater degree than in the legal economy, illegal transactions or any other illegal action that requires the cooperation of two or more men are tremendously facilitated when familiarity and interpersonal trust already exist among the parties. For these reasons, illegal exchanges tend to take place within pre-existing networks of information and exchange capable of guaranteeing the trustworthiness of the parties and of creating favorable conditions to the successful conclusion of criminal transactions. As much as noneconomic ties, however, these networks can hardly be created at will for the mere accomplishment of illegal exchanges. The latter rather tends to be engrained into wider systems, frequently produced by long-term processes, ranging from the communication links established by extensive migration to the web of solidarity and trust developed among members of legal and semi-legal institutions.<sup>9</sup>

The actors that have access to these networks enjoy a considerable advantage in the pursuit of illegal businesses in comparison with their competitors who do not. On the contrary, the lack of these informal networks may last-

ingly constrain the development of illegal trades. The absence of an ethnic enclave in Europe, for example, long slowed the penetration of Colombian cocaine dealers in the European market in the early 1980s. More generally, it is fair to say that the geographical spread of the pre-existing networks influences the development of illegal exchanges. The expansion of the drug sales of Cosa Nostra and the 'Ndrangheta has largely followed the pre-existing ramification of mafia affiliates and subunits in Northern Italy and abroad. Thanks to a more extensive network outside their home region, the Calabrian mafia families have acquired a relevant role in the domestic drug trade from the mid 1980s onwards, maintaining their position throughout the first half of the following decade (Paoli, 1994). In contrast, Cosa Nostra groups have been progressively marginalized due to their limited presence in the Northern part of the country, where most consumers are concentrated (Paoli, 2000a). The actions of Cosa Nostra and 'Ndrangheta's are not exceptional. All illegal entrepreneurs tend to concentrate their businesses at the locations within the network, neglecting promising ventures and retail markets if they lack trusted counterparts.

#### *The disadvantages of kinship*

Although particularly effective for coping with the peculiarities of a stateless, illegal environment, the reliance on non-economic ties entails a high price in term of economic efficiency. First, all criminal groups intensively relying on fictive and blood kinship ties face rigid restrictions in recruiting personnel. Notwithstanding a high prolificacy rate, the extension that a blood family can reach is limited. In turn, contracts of fraternization are effective only among people that already share a common cultural background.

As a result, mafia-type organizations, terrorist groups, and family enterprises are often unable to internalize the specialized competencies necessary to become involved in the most profitable ventures of the informal and legal sectors of the world economy. Sometimes they are also prevented from entering illegal markets, if the latter constitute only a small appendix of the legal one. For these reasons, Sicilian and Calabrian mafia families were not able to enter the wholesale segments of the international trade in arms and money for many years. Long unable to launder the proceeds of drug trade themselves, in the 1970s and 1980s, these groups relied on the services of characters belonging to the sphere of financial crime and in some of these deals – most notably, those with Michele Sindona and Roberto Calvi, ended up losing considerable sums of money (Paoli, 1995). Analogous restrictions are still faced by most mafia associations as far as the markets in information, gold, and precious stones are concerned (Naylor, 1996).

Additionally, mafia-type organizations are also plagued by many internal drawbacks. As mentioned above, they owe much of their strength and flexibility to the moral strength of the community bonds that create these conditions of trust and solidarity on the basis of which it becomes possible to promote the personal interests of the affiliates through mutual support. At the same time, it is precisely in the necessity of maintaining a balance between these two different “registers,” of preventing the prevalence of selfish calculation over group morality that an element of potential fragility and disorder for mafia consortia lurks. As Eisenstadt and Roniger pointed out, synthesizing the literature on ritualized personal and patron/client relationships, a tension between the emphasis on purely solidary relationships and concrete – power and instrumental – obligations seems to characterize all these types of personal relations (1984). Relationships among the affiliates of a mafia group are also constantly shaken by such tension.

In the daily life of all criminal associations of mafia type, the prescription of group fraternity and solidarity is weakened if not completely betrayed by the conflicts in interests, the rivalries, and the personal ambitions of the members who attempt to exploit the strength of the group’s unconditional relationships for the achievement of specific – personal or factious – goals. The precarious equilibrium between generalized and specific exchange is also constantly threatened by the process of institutionalization which necessarily entails the structuring of instrumental and power relations, betraying the values of fraternity and equality that are prescriptively put at the core of mafia relationships.

To these “permanent” factors of tension, two further ones must be added which have emerged in the last forty years. First, the growing involvement in economic activities during the post-war period has produced a weakening of the in-group moral in many mafia-type consortia, stimulating illicit entrepreneurial alliances with non-members and increasing economic deals among the mafia comrades. Moreover, another important factor of disequilibrium springs from the fact that most mafia associations have undergone a process of delegitimation within their own local communities and have lost most of the “positive” functions they used to carry out. As the language of fraternalism loses its grip on the larger society, mafia associations have had growing problems to make their recruits interiorize the fiction – the necessary fiction – implied by the fraternization contract, while the need to increase secrecy within and around the associations leads to the neglect of rituals and the shortening of new members’ socialization process. Among the families associated to the Sicilian Cosa Nostra, such a trend has already had devastating effects, as the exponential growth of mafia turncoats in the early 1990s proves: as of June 30, 1996, more than 430 witnesses came from the ranks

of the Sicilian mafia (Ministero dell'Interno, 1996). Even though they have been around for many years, criminal organizations of mafia type seem to have growing problems in maintaining the fragile equilibrium between the specific and generalized exchange their success in illegal markets and their very survival depend upon.

## Conclusions

By explaining the paradoxes of organized crime, the preceding sections have shown that the often superimposed notions of “provision of illegal commodities” and “criminal organization” need to be kept separate. On the one hand, in fact, illegal goods and services tend to be produced and traded by a myriad of small ephemeral enterprises that hardly ever succeed in consolidating into large-scale criminal firms. The factors promoting the development of large-scale enterprises in the legal economy are, in fact, offset in the illegal arena by the constraints deriving from product illegality. On the other hand, the lasting criminal organizations that do exist and that are considered the prototype of organized crime, cannot be reduced to their economic dimension, since they pre-existed the rise of modern illegal markets and have carried out many noneconomic functions throughout their existence. Moreover, when they intervene in illegal markets, mafia associations must also take the constraints deriving from product illegality into account. Mafia consortia hardly ever operate as a single unit and the economic initiative is left to single families and, even more frequently, to single members.

As we have seen in the second part of the paper, the constraints preventing the rise of large-scale criminal enterprises in illegal markets can be overcome only by actors relying on noneconomic ties. The latter however – whether they guarantee the centuries-old permanence of mafia-type associations or promote the development of loose criminal networks founded on family and ethnic bonds – are not only an important resource but also a major constraint. It is the crossing of these two types of constraints – those due to product illegality and those created by the reliance on non-economic ties – that leaves some space for optimism. Illegal markets will thrive as long as there is a public demand for their commodities. The extra profits guaranteed by illegality are usually high enough to attract new suppliers constantly to make up for those arrested or hampered by law enforcement action. The constraints listed above, however, do not only prevent the consolidation of large-scale criminal enterprises, but also insulate illegal markets from many of the gains in efficiency that the evolution of the world economy in the last fifty years has granted to their legal counterparts.

## Notes

1. Reuter, 1983; 1985; Reuter and Haaga, 1989; Adler [1988] 1993; Lewis, 1994; Chin, 1996; Rebscher and Vahlenkamp, 1988; Korf and Kort, 1990; Fijnaut, 1997; Becchi, 1996; Arlacchi and Lewis, 1990 and Paoli, 2000b.
2. The economies of scope are the economies of joint production and distribution, which result from the use of a single set of facilities to produce or process more than one product or service (Teece, 1980).
3. The term “Triad” was created by the Britons to represent a symbol employed by Tiandihui members to refer to the three main forces of the universe: Heaven, Earth, and Man.
4. His aim is, in fact, to mark the distance and to criticize sharply what he calls the “relativist ideology,” which is traced back to the theories of the Sicilian jurist Santi Romano ([1918], 1977). According to Gambetta, such an approach, which claims the possibility of more than one legal system within a society, “has enjoyed popularity with all kinds of antiliberal circles right, left, and center” and has provided the intellectual justification for the “peculiar mixture of cynicism and Catholicism which represents the quintessence of Italy’s political structure” (1993: 6).
5. Under feudalism, in fact, the state was in a certain sense the private property of a prince just as the fief was the private property of a vassal. While fulfilling political functions, such as the provision of internal order and protection against external enemies and the administration of justice, the feudal vassals were also expected to raise a profit from the management of the fief as a reward for defending the contract and returning the services provided by the feudal contract. “In a modern context”, as the historian Frederick Lane puts it, “it may be shocking to consider government as a profit-seeking enterprise. But in the feudal system a fief holder was expected to manage his fief with an eye to profit. The successful baron might disdain bourgeois haggling over merchandise, but he was an expert in using military and governmental means of making money” (Lane, 1966: 418; see also Poggi [1991] 1992).
6. Only few economic ventures may be prohibited by the organization’s normative code, usually on the ground that they would stain the collective reputation of the group. For example, the Sicilian and American Cosa Nostra, and, with less emphasis, the Calabrian ’Ndrangheta strongly forbid their affiliates from organizing prostitution and present this clause as a sign of distinction between them and non-*mafiosi* (Paoli, 1997; 2000a).
7. The main steps of the ceremony of initiation staged by Cosa Nostra are, for example, the following: the candidate or, more usually, the candidates are presented in front of the entire family by the “men of honor” responsible for their training and for assessing their criminal reliability. After the head of the family has explained the main rules of the Cosa Nostra to them, each novice is asked to choose a godfather among those present who then makes a small cut on the index of his right hand so that some blood drops on the image of a saint. Finally, the neophyte swears an oath of faithfulness to the mafia organization with this picture burning in his hands (TrPA, 1986, V: 815; 874; Falcone, 1991: 97–99). Much more complex is, instead, the initiation rituals staged by the Triads from the 19th century onwards: during the initiation ceremony, the new members complete a mystical journey, recreating the passion of the five founder-members of the fraternity, swears thirty-six oaths and then drinks a mixture of wine and blood (Chesneaux, 1971; Morgan, 1960).  
It is interesting that some elements of high symbolic relevance are employed by all associations. All of them, for example, make extensive reference to the iconography and terminology of the religion dominant in their context. In the ceremony staged by the Chinese *hui*, religious symbols are in evidence, whether Taoist or Buddhist (Chesneaux, 1971). In

the 'Ndrangheta, the ceremony itself is called "baptism" (TrMI, 1994b: 147–149; Ciconte, 1992: 32–35), while in both Southern Italian associations the crucial moment of the ritual – that is, the swearing of the oath – takes place with the burning image of a saint in one's hands. In all contexts, furthermore, blood is used. The symbolic meaning of these elements is evident: religious references aim to give a sacral valence to the ritual and, thus, reinforce its imperativeness, while blood presents a strong multivocality. In fact, blood refers to a process of rebirth to which the candidate is called, implies a sort of "natural" kinship to which all the members belong and point to the ultimate punishment that may be granted in case of betrayal. "One goes in and comes out of the Cosa Nostra with blood," the Catanese informant Antonino Calderone was told at the moment of his affiliation. ". . . . You will see for yourselves, in a little while, how one enters with blood. And if you leave, you'll leave with blood because you'll be killed" (Arlacchi, [1992] 1993a: 68).

8. Examples of this include the networks of Southern Italian and Turkish immigrant communities in Europe, America, and Australia, which have been extensively exploited in the last thirty years by a minority of their members and without the knowledge of their largest majority to transfer and sell heroin on final consumer markets. Throughout the 1970s and the 1980s, the Freemasons and other similar semi-secret associations have played a crucial role in favoring the contacts between the leaders of Sicilian mafia families with representatives of corporate crime and state institutions. Likewise, after the fall of the Iron Curtain, a network of former KGB officials has facilitated the transfer and sale of sophisticated weapons, including nuclear ones, expertise, and information on the illegal marketplace.

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