

CHAPTER 8



Illegal-Market Monopolies and Quasi- Governmental Structures

INTRODUCTION

The previous two chapters have examined illegal structures that are centered on either economic or social functions for which the terms *entrepreneurial structures* and *associational structures* have been used. This chapter is devoted to describing and explaining a third category, one that encompasses illegal structures that are political in nature because they are centered on the exercise of power. These phenomena fall into the category of quasi-governmental structures because in their purest, ideal-typical form they do indeed represent some form of underworld government.

Quasi-governmental structures enable certain criminals to control other criminals who operate in a particular illegal market or in a particular geographical area. Quasi-governmental structures regulate behavior, they protect contractual and property rights in the context of illegal business, they provide protection against predatory criminals and against law enforcement, they offer dispute resolution services, and in return, they tax illegal income.

In some cases the influence of quasi-governmental structures reaches beyond the confines of the underworld. Mafia groups in Italy, for example, provide protection to illegal as well as legal businesses, and by protecting legal businesses they enter into direct competition with the state. This will be discussed in greater detail in later chapters (Chapter 10 and 11) as it pertains to the relationship between organized crime on one hand and the legal economy and the state on the other. The present chapter is focused on the governance of criminal milieus and illegal markets.

Quasi-governmental structures are sometimes confused with and have to be distinguished from monopolies in illegal markets. The latter are illegal firms, that is, entrepreneurial structures (see Chapter 6), which face no competition in their respective markets. These illegal-market monopolies are similar to underworld governments in that they exert power. However, this power is economic in nature and is used for economic purposes. Economists speak of “market power.” Simply put, a monopoly allows an illegal firm to impose higher prices because customers do not have the option of switching to a cheaper supplier.

Both illegal market monopolies and quasi-governmental structures and the differences between the two will be discussed in this chapter in some detail. First, however, a case study of perhaps the most notorious quasi-governmental structure in the history of crime is presented: the American Cosa Nostra. At this point it needs to be reemphasized what has repeatedly been pointed out in previous chapters: the three basic types of illegal structures (entrepreneurial, associational and quasi-governmental) are not necessarily mutually exclusive. The American Cosa Nostra, just like other mafia-type organizations, is an example of the overlap of associational and quasi-governmental structures. That is why the case study of the American Cosa Nostra presented below could have been included in the previous chapter on associational structures, just like the case study of the Sicilian Mafia featured in the previous chapter could have been included here. However, while Chapter 7 has highlighted the characteristics that make the Sicilian Mafia an associational structure, this chapter highlights the features of the American Cosa Nostra, which make it—or rather the individual Cosa Nostra families—a prime example of an illegal quasi-governmental structure. What is important to bear in mind is that the distinction between associational and quasi-governmental structures is made for analytical purposes and to avoid comparing apples and oranges where associational and quasi-governmental structures manifest themselves in separate entities.

CASE STUDY: THE AMERICAN COSA NOSTRA

The American Cosa Nostra, also referred to as American Mafia or—in FBI jargon—La Cosa Nostra or simply LCN, is a mafia-type organization with great similarities to its southern Italian counterparts, namely the Sicilian Mafia, the Neapolitan Camorra, and the Calabrian ‘Ndrangheta. It is a criminal association centered on mutual aid and mutual protection and at the same time it has functioned in some places as a form of underworld government (Anderson, 1979; Haller, 1992).

The origins of the American Cosa Nostra can be traced back to the immigration of Italians to North America in the late 1800s and early 1900s. Although there is no indication that Italian mafia-type organizations made a conscious attempt to expand to the New Continent, mafiosi and camorristi were among those immigrants and became involved in organized criminal activities in the United States. While the exact circumstances of the formation of the American Cosa Nostra as a distinct organization are in dispute, it can be considered an established fact that by the early 1930s Italian criminals in New York had organized themselves in a number of similarly structured and mutually recognized units called families, each under the leadership of an influential underworld figure (see Critchley, 2009; Dash, 2009; Lombardo, 2010; Varese, 2011). By the 1960s, a total of 24 such families were believed to exist in various parts of the United States, with a clear concentration in New York City with five coexisting families. A second important center of Cosa Nostra presence has been Chicago, where the local branch, a successor to the “Capone Syndicate,” is called “the Outfit” (Cressey, 1969; Lombardo, 2013). The American Cosa Nostra became

synonymous with organized crime in the public conscience during the 1950s and 1960s as a result of a number of congressional and journalistic inquiries (see Chapter 2). Since at least the mid-1980s, in the course of sweeping prosecutions and as a result of demographic changes, the American Cosa Nostra has been in decline (Haller, 1991; Lombardo, 2013; Reuter, 1995).

Given variations between and within Cosa Nostra families and changes over time, it is difficult to make definitive statements about the American Cosa Nostra. Historically membership has been restricted to adult males of southern Italian descent who have undergone an extensive period of testing and schooling. New members are inducted in a ceremony that seems to have been adopted from the Sicilian Mafia and that includes the swearing of an oath and the burning of the image of a saint (Haller, 1992, p. 4; Jacobs, 1994, p. 4). Only some units of the Chicago Outfit apparently have not used this traditional initiation rite (Abadinsky, 2013, p. 73; Lombardo, 2013, p. 156).

The individual families have a three-tiered hierarchical structure. Under the leadership of a boss, who is assisted by an underboss and a consigliere (adviser and arbitrator), mid-ranking captains or capos supervise groups of ordinary members called soldiers or buttons (Cressey, 1969). Each member of the Cosa Nostra may be tied to numerous nonmember associates, who have the formal status of being “connected” (Abadinsky, 2013, p. 51).

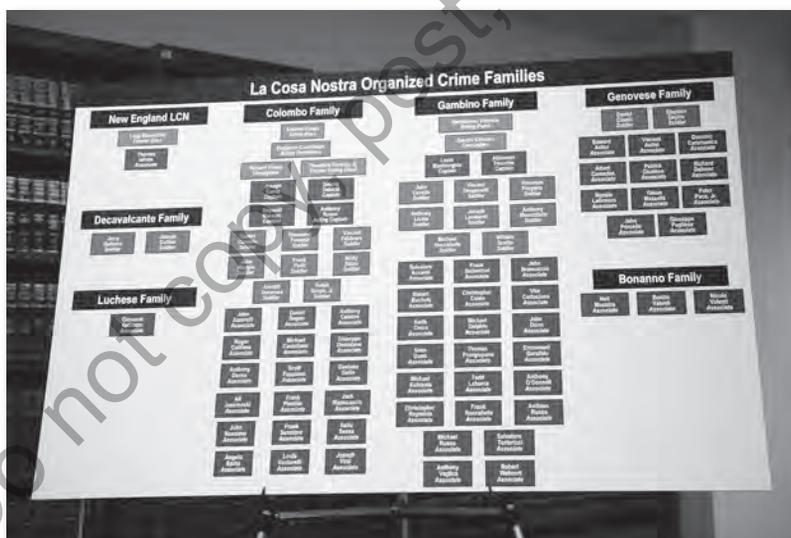


Image 8.1 A chart presented at a press conference by U.S. Attorney General Eric Holder in New York in January 2011 lists Cosa Nostra members and associates who had been arrested by the FBI in a massive roundup. Holder announced that this was the biggest crackdown ever on the New York area’s Cosa Nostra.

Photo: EMMANUEL DUNAND/Staff

Above the individual families, a body called commission has provided a forum for the most influential bosses to come to agreements on matters of general importance, such as the admission of new members and the resolution of conflicts within and between the families. Commission meetings have been held on the national level and, in New York, on the local level (Abadinsky, 2013, p. 59).

Cosa Nostra members are engaged in a variety of legal and illegal activities individually or in cooperation with members and nonmembers (Anderson, 1979, p. 2; Cressey, 1969, p. 118). Members and associates have to seek approval from their direct superior before engaging in a criminal activity, and a percentage of the profits from illegal activities has to be passed up to those higher in the hierarchy. In turn, members and associates are entitled to draw on the Cosa Nostra for protection and conflict resolution (Abadinsky, 2013, p. 51; Pistone, 1989, p. 77).

It is not uncommon for illegal entrepreneurs to voluntarily associate with Cosa Nostra members, as this promises protection and status (Lombardo, 1994, p. 301). At the same time, Cosa Nostra families have tried to establish control over territories and illegal markets by coercive means to the effect that only connected illegal entrepreneurs are permitted to operate. However, certain groups have reportedly remained untouched, such as ethnic minorities and outlaw bikers (Edelhertz & Overcast, 1993, p. 138; Haller, 1991, pp. 5, 23; Lombardo, 1994, p. 306). Robert Lombardo quotes one Chicago bookmaker (a professional gambler who takes bets on sports events) describing the system of Outfit control:

In order to book, you have to get the O.K. It is accepted that you have to pay in order to book. I have to split 50/50. For that I get the right to book. It is a tax. If you make money legitimate, you pay taxes. If you make money illegally, you pay the Outfit. (Lombardo, 1994, p. 303)

Cosa Nostra members draw on a wide network of underworld contacts to identify rogue illegal entrepreneurs and use a variety of means to stop unauthorized operations. These means include violence and more subtle methods, such as informing the police (Lombardo, 1994, p. 304; see also Rudolph, 1992, pp. 310–311). The system of control has typically centered on illegal gambling and prostitution, but in some cases, even more-difficult-to-monitor ordinary professional criminals, such as burglars, have been forced to pay a street tax to the local Cosa Nostra family (Abadinsky, 1981, pp. 30, 104; Lombardo, 2013, pp. 160–161). The taxing of criminals, it seems, goes beyond mere extortion to include protection and dispute resolution services similar to the benefits accorded ordinary members. In one example, presented by Peter Reuter (1983, p. 163), a group of thieves who had gotten into an argument over how to divide the loot from a burglary, submitted to the ruling of a panel of Cosa Nostra members. After a hearing, the mafiosi rejected the claim made by one of the thieves that he had been wrongfully deprived of his share.

Apart from taxation and adjudication, Cosa Nostra families may regulate criminal activities in yet another way: by outright banning certain crimes in the neighborhoods they control, namely, predatory street crimes and drug selling. In these cases, Cosa Nostra assumes a policing function similar to legitimate government (Abadinsky, 2013, p. 84).

In a neighborhood or market controlled by a Cosa Nostra family, it appears that typically illegal entrepreneurs who are Cosa Nostra members and illegal entrepreneurs who are nonmembers operate side by side. In other words, Cosa Nostra control is usually not geared toward eliminating competition for mafiosi-run illegal businesses, although the latter may be allowed to operate under more favorable conditions (Anderson, 1979, p. 52; Edelhertz & Overcast, 1993, pp. 28, 152; Lombardo, 1994, p. 303). Protection against competition is only provided in the sense that the overall number of enterprises allowed to operate in the territory of a Cosa Nostra family may be limited, and exclusive areas of operation may be assigned within the territory (Anderson, 1979, pp. 44, 52–53).

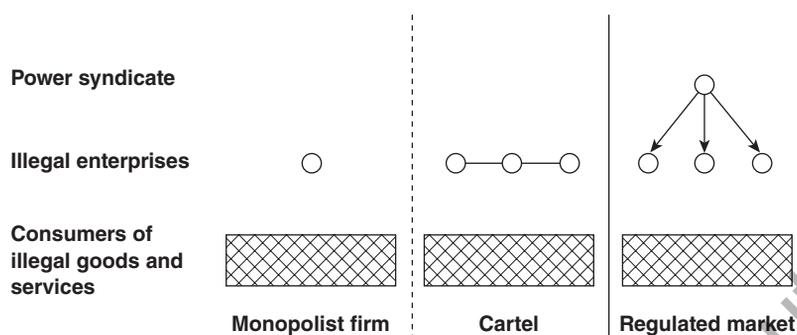
ILLEGAL-MARKET MONOPOLIES AND QUASI-GOVERNMENTAL STRUCTURES

Examining the case of the American Cosa Nostra is important because it has been at the center of two of the main controversies in the scholarly organized crime literature. One controversy, alluded to in the previous chapter, is over whether the American Cosa Nostra is a business (Cressey, 1969; Haller, 1992). As has been pointed out in the case study above, it is not an entrepreneurial structure but rather, as Mark H. Haller (1992) has argued, an association of illegal entrepreneurs. The other, related controversy pertains to the role the American Cosa Nostra plays in illegal markets. According to one view, it tries—and has partly succeeded—to monopolize illegal markets by effectively removing competition to mafia-owned illegal enterprises. According to another view supported by empirical research and presented in the case study above, the American Cosa Nostra seeks to regulate illegal markets populated by members and nonmembers. To understand the role of the American Cosa Nostra and the exercise of power under conditions of illegality more generally, it is important to understand the differences between the underlying notions of market monopoly and the kind of illegal market regulation the Cosa Nostra has achieved in the past. There are two basic forms of centralized control over an illegal market (see Figure 8.1).

One form of market control is a market monopoly. Market monopolies exist where there is only one firm present selling a particular good or service and new sellers are effectively prevented from entering the market. A market monopoly also exists where all firms are combined in a cartel that acts as a single seller (Welch & Welch, 2010, p. 387). It should be noted here that the term *cartel* as used by economists is different from the term cartel used by the media and law enforcement officials to describe cooperative arrangements and power alliances between criminals in Latin American countries, namely Colombia and Mexico, and elsewhere (see Grillo, 2011, pp. 60–62).

The monopolist firm (or cartel) can set prices and can determine how much of the commodity is sold without concern that consumers might switch to competitors, because by definition and for a variety of possible reasons, other sellers have no access to the market. As a result, the monopoly position generates

Figure 8.1 Basic Forms of Centralized Control Over Illegal Markets



This graph depicts three different constellations where power is concentrated with regard to an illegal market: a monopoly, with a single (monopolist) firm providing an illegal good or service to numerous consumers; a cartel, where a combination of several firms operate as a single seller of an illegal good or service; and a number of competing firms under the control of a power syndicate, which taxes and regulates the behavior of these competing firms.

Source: von Lampe (2001b, p. 468).

profits than in a competitive market, even when efficiency, product quality, and output are lowered (Welch & Welch, 2010, pp. 386–390).

It should be noted on the side that the tendency of monopolies to reduce output at increased prices and thereby to reduce consumption has led to a debate on whether it is socially desirable for illegal markets to be monopolized (Buchanan, 1973; Hellman, 1980, p. 174; Reuter, 1994, p. 107).

The other basic form of centralized control over an illegal market, besides monopoly control by a single firm or a cartel, is ideal—typically represented by what Alan Block (1983) has called power syndicates. In these cases a power structure is superimposed on a competitive market populated by a number of illegal firms. These illegal firms run their businesses in essentially the same way they would otherwise. However, the firms are forced to share some of their profits with the power syndicate. Because ideally all illegal firms in a market under the control of a power syndicate are affected in the same way, this does not influence competition. The firms simply pass on the additional costs to consumers (Schelling, 1971, pp. 82–83).

There has been some controversy over the basis of power of power syndicates. According to one view, it is essentially a matter of the threat and use of violence. What power syndicates do is regarded as a form of extortion, even though subordinates may receive some benefits in return, for example, protection against predatory criminals and against law enforcement (Schelling, 1971). According to another view, power syndicates exploit the dependence of illegal enterprises on certain vital services. This view rests on two assumptions. One is

that illegal enterprises involved in the provision of illegal goods and services—for example, illegal gambling—need certain resources themselves—namely, capital, immunity from law enforcement, and violence—in order to stay in business. The other assumption is that criminal groups gain control over illegal enterprises because they are able to monopolize the provision of these vital resources (Rubin, 1973; see also Reuter, 1983). To what extent power syndicates rely on force and to what extent they rely on the need of illegal enterprises for certain services appears to be largely an empirical question. There are examples supporting both views (see, e.g., Block, 1983; Gardiner, 1970).

MONOPOLIES IN ILLEGAL MARKETS

To clarify the distinction between illegal-market monopolies and quasi-governmental structures, both phenomena are discussed separately in this chapter. First, the nature, prevalence, and causes of monopolies in illegal markets will be examined.

Defining the Scope of Illegal Markets

The question of whether an illegal market is monopolized is directly tied to the question of how one defines an illegal market. Defined in abstract terms (see Chapter 4), an illegal market is an arena for the regular voluntary exchange of goods and services for money, where the goods and services themselves, their production, selling and/or consumption violate the law (Arlacchi, 1998, p. 203; Beckert & Wehinger, 2011, p. 2). This abstract definition, however, is not helpful when it comes to the question of monopoly control. In order to determine if a market is monopolized, it is important to clearly delineate the boundaries of that market. An example may clarify this point: If in a neighborhood there is only one illegal gambling casino, does it mean this casino holds a monopoly? What if there are many more casinos in nearby neighborhoods? What if this casino offers roulette, but illegal card games are held in the backrooms of many bars in the same neighborhood?

There are two parameters that define the boundaries of a market for the purpose of determining if a monopoly exists. In essence, firms “are in the same market when they sell similar products and compete with each other for the same buyers” (Welch & Welch, 2010, p. 366). This implies that a market can be delineated by the “product boundary” and the “geographic boundary” (Welch & Welch, 2010, p. 367).

The product boundary depends on the substitutability of a product. All commodities that buyers accept as equally suited to meet a specific demand define a single market. If buyers in the example given above look for any kind of illegal gambling, then there is one illegal gambling market. However, if buyers, even when given a choice, are only interested in one particular type of gambling (e.g. poker instead of roulette), then this specific type of gambling defines the market. The geographic boundary depends on the mobility of buyers and sellers and on the geographical distances across which they can come together. Accordingly, markets can be highly localized, they may be regional, national, or international. Both product boundary and geographic boundary define legal markets as well

as illegal markets. What distinguishes both classes of markets is the level of transparency of sellers, buyers, commodities, and prices. The flow of information that is necessary to constitute a market in the sense of an arena for the exchange of goods and services is greatly restricted under conditions of illegality. Namely, illegal businesses cannot extensively advertise their goods and services (Reuter, 1983).

This means that illegal markets are largely closed markets where transactions depend on and are defined by the nature and reach of underlying social bonds. Buyers and sellers primarily meet within the confines of networks of criminally exploitable ties and have limited options in the choice of transaction partners (see Chapter 5). Reflecting these concerns, Martin Bouchard defines a market as “the network in which a set of buyers and sellers interact to exchange goods and services for money” (Bouchard, 2007, p. 328).

Given the reliance on social network ties, several illegal markets may coexist in the very same geographical location with little or no overlap (Dwyer & Moore, 2010, p. 87). At the same time, there are also illegal markets defined by far-reaching social networks that can cover enormous geographical distances. The case of the Larry Lavin drug enterprise, presented in Chapter 6, with its customers spread across the United States provides such an example. Reuter and Haaga (1989, p. 50), in discussing the geographical scope of drug markets in the United States, also found that while most drug dealers they interviewed operated exclusively in one metropolitan area, a significant minority “were able and willing to sell elsewhere if the opportunity arose, and others reported dealing with multicity suppliers.” It is problematic, therefore, to define illegal markets in conventional geographical terms, perhaps with the exception of open markets characterized by the congregation of vendors within confined public spaces, such as street squares or inner-city parks (see, e.g., Antonopoulos, Hornsby, & Hobbs, 2011; Edmunds, Hough, & Urquia, 1996; Moeller, 2012).

Another aspect that needs to be considered in the analysis of illegal markets is that the degree of concentration, that is, the number of sellers, may vary across market levels. Typically one might expect a pyramidal structure with few sellers on the upper level, more sellers on the mid-level, and a large number of sellers on the retail level (Hellman, 1980, pp. 148–149). But other configurations, for example, a concentration on the middle-market level, also appears possible (see Pearson & Hobbs, 2001, p. 36). These caveats in the definition of illegal markets notwithstanding, the question remains to what extent and by what mechanisms illegal markets may be subject to monopolization.

Empirical Research on the Structure of Illegal Markets

It seems that most empirical research on the structure of illegal markets undermines the frequently held assumption that there is a tendency toward monopolization (Desroches, 2007). Peter Reuter, for example, in his examination of the bookmaking, numbers lottery, and loan-sharking markets in the Mafia stronghold New York City of the 1970s found that “the weight of evidence is against the claim that they are monopolized” (Reuter, 1983, p. 2). John Eck and Jeffrey Gersh came to a similar conclusion in their study of drug

markets in the Washington-Baltimore area. According to their research, “the overwhelming majority of trafficking organizations have very small market shares for the areas they serve” (Eck & Gersh, 2000, p. 262), resembling a “cottage industry” rather than a market “controlled by a few highly organized groups” (Eck & Gersh, 2000, p. 244). Letizia Paoli (2003b), summarizing a number of studies, likewise found little evidence of concentrated drug markets in Germany, Italy, and Russia. She concluded that in most cases, drug enterprises are small scale and operate in a competitive environment. The only exception to the commonly observed pattern of decentralized, fragmented illegal markets, as Paoli (2003b) and others have pointed out, may be provided by highly localized illegal markets.

Conditions Conducive to the Emergence of Illegal Market Monopolies

A monopoly, as indicated before, is characterized by a single firm or a cartel of several firms functioning as the only seller of a given commodity. The domination of a market by a monopolist firm or by a cartel can be the result of a number of factors. In legal markets, the following four factors are commonly identified, not counting illegitimate means employed by legal businesses (see Case & Fair, 1992, pp. 360–363; Welch & Welch, 2010, p. 386):

- State licensing
- Patents
- Exclusive control over scarce resources
- Economies of scale

State licenses grant the right to sell a commodity, while selling without a license would be illegal. Patents grant the exclusive right to sell a commodity produced or designed in an innovative way. In illegal markets, state licenses and patents cannot play any role because these legal guarantees do not apply to illegal contexts (Luksetich & White, 1982, p. 207). However, arrangements between governments and criminal enterprises may exist that effectively constitute licenses to operate with impunity. Depending on the circumstances, such a license, issued by corrupt officials, may grant a monopoly position to an illegal firm or to a cartel of illegal firms (see Chapter 11).

More relevant within the immediate context of an illegal market may be the exclusive control over scarce resources and economies of scale. In addition, there is a commonly held assumption that monopolies in illegal markets are established through the use of violence, by one firm eliminating all competition and keeping potential competitors out of the market through force or the threat of force.

Exclusive Control Over Scarce Resources

It is at least theoretically possible that a monopoly exists in an illegal market based on one illegal firm having sole access to a factor necessary for producing

and procuring the commodity that defines the market. However, real-life examples are difficult to come by. One scenario described in the literature is that a monopolization on the lower levels, namely of drug markets, may occur as the result of exclusive access to supply channels (see Costa Storti & de Grauwe, 2009, p. 54). Frequently cited, especially in the popular literature, is the example of the heroin market in New York City up until the early 1970s. Reportedly, Italian American wholesale dealers belonging to various Cosa Nostra families took advantage of exclusive links to heroin refineries in Marseille, the famous French Connection, “to monopolize the heroin trade” and to control “an estimated 95 percent of all of the heroin entering New York City” (President’ Commission on Organized Crime, 1986, p. 106). While this may be an exaggeration, there is indeed some evidence that drug dealers in New York had little choice but to procure drugs from a small number of Italo-American suppliers (see Ianni, 1974, p. 239). The situation changed with the disruption of the French Connection and the opening of new supply lines that connected the drug market in New York City with sources in Southeast Asia and Mexico and that proved impossible to be controlled by a single entity (Schneider, 2008, p. 183). In general it seems that monopolies in illegal markets, should they exist, are vulnerable given the principle ease with which new sellers can enter a market (Reuter, 1983), unless other factors come into play. One such factor that “naturally” leads to market concentration and may give particular market participants a competitive advantage is what economists call economies of scale.

Economies of Scale

Economies of scale are cost-reducing effects that favor large firms over small firms. In extreme cases, the most efficient way to run a business requires a scale that only allows one firm to exist in a market. This is what economists refer to as a natural monopoly. A traditional textbook example would be a local utility company (Carroll, 1983, p. 471).

Two types of economies of scale can be distinguished, technical economies of scale and financial economies of scale. *Technical economies of scale* allow reducing average costs through increasing output with the help of large equipment or staff. *Financial economies of scale* exist where substantial financial outlays help reduce average costs—for example, by procuring raw materials in bulk (Carroll, 1983, p. 248; Hellman, 1980, p. 173; Luksetich & White, 1982, pp. 213–214).

Financial Economies of Scale. A situation that seems to come close to a monopoly based on financial economies of scale in an illegal market has been reported by Gary Potter (1994). He studied the crime landscape in an industrial town in the northeastern United States and found that a “local drug network (was) able to set the retail price for heroin, methamphetamines, and even cocaine for an entire metropolitan area simply by operating a highly efficient and cost-effective importation network through Toronto” (Potter, 1994, p. 126). This means that competing drug dealers could have procured drugs from other

sources, as opposed to the heroin market in New York City in the 1960s, but not at competitive prices (see Hellman, 1980, pp. 148, 173).

Another constellation in which financial economies of scale may lead to a concentration within an illegal market involves the payment of bribes to neutralize law enforcement. The assumption is that corruption may be necessary to operate an illegal business and that the payment of large bribes to high-ranking officials by a large criminal enterprise is more cost-effective than the payment of small bribes to low-ranking officials by a large number of small illegal enterprises (Luksetich & White, 1982, pp. 214–216). Note that where only a single illegal firm is able to buy protection from corrupt officials, this constellation resembles a monopoly based on state licensing. As will be discussed in Chapter 11, there are interesting variations in the prevalence of corruption of public officials and in the degree to which corruption is centralized both on the part of illegal businesses and on the part of corrupt public officials.

Technical Economies of Scale. An example for an illegal market monopoly based on technical economies of scale is perhaps provided by John Torrio, the mentor of Al Capone and a major player in the illegal alcohol market in Prohibition-era Chicago. Early on, Torrio had been able to bring a number of breweries and distilleries under his control, which allowed him to produce alcohol for the black market at an industrial scale (Allsop, 1968, pp. 47–48; Kobler, 1971, p. 104).

Theoretically, the ability to produce high volumes of alcohol at lower average costs could have put Torrio in a position to undercut prices and to push competitors out of the market to then charge higher prices. Indeed, according to Allsop (1968, p. 48), this is what happened. However, the available information on the development of prices on the illegal alcohol market are contradictory and do not fully support this claim (see Allsop, 1968, p. 34; Kobler, 1973, p. 223).

The example of Torrio is also problematic in the present context because there was a political dimension to his position in the illegal alcohol market. Torrio has been credited with brokering an agreement with competing gangs that granted each gang exclusive rights to sell alcohol to illegal bars (speakeasies) in their respective territory (Kobler, 1971, p. 105). If indeed at some point in time Torrio was able to increase prices without concern for competition, then it might have been because of this agreement, not because of his control of large production facilities and the resulting economies of scale.

The territorial agreement brokered by Torrio leads over to the question to what extent illegal markets can be monopolized by violent means. The fact that the leading gangs of Chicago were able to guarantee each other exclusive territories for the distribution of illegal alcohol suggests two things: that they had the means for keeping other competitors not party to the agreement out of the illegal alcohol market in the city altogether and that these means were first and foremost the threat and use of violence.

However, before moving on to discussing the monopolization of illegal markets through the violent elimination of competition, another possible link between violence and monopolization of illegal markets has to be considered: economies of scale in the crime-specific use of violence.

Economies of Scale in the Crime-Specific Use of Violence. It has been suggested that violence is an integral part of certain illegal activities and that economies of scale in the use of violence can lead to a concentration of the respective illegal markets. The prime example is the loan-sharking business.

The underlying assumption is twofold: (a) that a loan shark, someone who illegally lends money at usurious rates, has to rely on the threat or use of violence to collect outstanding debts because there is no recourse to the courts, and (b) that a large organization can acquire and maintain a potential for violence at lower average costs than an individual loan shark. Luksetich and White (1982, p. 214) have made this argument as follows: “As a group, the loan sharks would need to use violence less frequently than they would if they operated independently. The need for ‘muscle’ could be reduced by organization, thereby reducing costs and increasing profits.”

The expected outcome would be that the loan-sharking business is characterized by a few suppliers or only a single supplier rather than by a large number of small firms and individual entrepreneurs. It is a matter of debate to what extent this assumption is accurate. At least in the United States, there is little empirical evidence for a monopolization of the loan-sharking business (Reuter, 1983, pp. 107–108; Seidl, 1968, p. 68). At the same time, research suggests that typically a long-term relationship connects loan sharks with their customers and that the desire to receive future loans provides a sufficient incentive for customers to repay loans. Accordingly, the ability to use violence may not be a prerequisite for success in the loan-sharking business (Ianni, 1974, p. 39; Reuter, 1983, p. 106; see also Seidl, 1968, p. 53).

Monopolization Through Violence

The discussion of illegal market monopolies typically centers on scenarios of violent competition for market shares. Many regard the monopolization of illegal markets through violence as a defining characteristic of organized crime (Abadinsky, 2013, p. 4; Albanese, 2011, p. 3; Ignjatovic, 1998, p. 25), and incidents of violence among criminals are quickly interpreted as being the result of clashes between competing illegal enterprises.

Illegal Markets and Violence

It is true that illegal markets can be linked to high levels of violence. However, not all illegal markets in all countries are equally violent and not all violence that occurs in the context of illegal markets is directed against competitors in an effort to increase market shares and eventually to achieve a monopoly position (Andreas & Wallman, 2009). Violent conflicts can also occur between suppliers and customers, within illegal enterprises, and in the form of predatory attacks on illegal market participants (Amir, 1995; Berg & Loeber, 2015; Wright & Decker, 1997).

Drug markets generally are considered to display higher levels of violence than other illegal markets, and among different drug markets the cocaine market, for example, has been found to be more violent than the marijuana market.



Image 8.2 The St. Valentine's Day massacre of 1929, according to one interpretation, was ordered by Al Capone to eliminate competition and to gain monopoly control over Chicago's illegal alcohol market. Seven members and associates of the rival Bugs Moran gang had been lined up in a garage and killed with shotguns and machine guns. According to more plausible explanations this still unsolved crime was committed in retaliation for the hijacking of illegal liquor shipments or, even less connected to the alcohol business, in revenge of another murder (Abadinsky, 2013, p. 67; Eig, 2010, p. 252).

Photo: ASSOCIATED PRESS/Uncredited

At the same time, cross-national differences exist where the same drug spurs high levels of violence in some countries but not in others (Naylor, 2009; Reuter, 2009). These variations cannot be explained by differences in the level and fierceness of competition alone. Research on the causes of violence in illegal markets suggests that competition over market shares accounts for only a rather small percentage of observable violent events and that most violence occurs within distribution networks rather than between competing criminal groups (see Hopkins, Tilley, & Gibson, 2013; Schlegel, 1987).

In a classical study drawing on police data, Paul Goldstein and colleagues examined drug-market-related homicides in New York City and compared what they called "territorial disputes between rival dealers" with other circumstances, such as robberies of drug dealers, assaults to collect debts, punishment

of workers within illegal enterprises, and disputes over drug theft. They found that in connection with crack cocaine, 44 percent of homicides were tied to territorial disputes, while in the case of powder cocaine that share was only 22 percent and in the case of other drugs only 18 percent (Goldstein, Brownstein, Ryan, & Bellucci, 1989, p. 668).

In a more recent study based on field research in New York City, Angela Taylor investigated the background of 53 disputes involving 25 drug sellers, 35 disputes ending in violence and 18 having nonviolent outcomes. Only 11 of the 53 disputes involved competing drug dealers. The most common constellation, found in 20 cases, was disputes between sellers and buyers (Taylor, 2007, p. 55). Like Goldstein et al., Taylor notes the importance of territory for conflicts between drug dealers. This means that drug dealers, more specifically retail drug dealers, try to establish and maintain an exclusive area in which they sell drugs. This area can be small and may not extend beyond a single street corner or block. The exclusive control over territory and the resulting exclusive access to customers within this territory provide some guarantee for steady income. At the same time, it seems that the stakes are not exclusively economic in nature. There is also an element of status and respect that may motivate drug sellers to establish and protect their turf (Taylor, 2007, pp. 127–130).

Whereas in the academic literature conflicts between market competitors over territory are primarily discussed with regard to the street level of illegal markets, it should be noted that, in the case of the drug war in Mexico, higher market levels may be involved. Some of the violence that has erupted in Mexico since the mid-2000s has been linked to conflicts over the exclusive use of territory for trafficking drugs into the United States (Beittel, 2011, p. 5; see also Chapter 11).

The observation that competitive violence within illegal markets is primarily linked to disputes over territory is consistent with the research on the structure of illegal markets, which has found, as mentioned, that monopoly control is most likely to be observed in highly localized settings. This is also in line with the existing theorizing on the monopolization of illegal markets.

The Theory of Illegal Market Structures

The theoretical discussion of the question to what extent there is a tendency toward the violence-based monopolization of illegal markets has focused on two sets of factors: incentives and obstacles for establishing a monopoly.

Incentives for Establishing a Monopoly in an Illegal Market. The starting point for the debate is the widely shared assumption that violence, for various reasons, is far more prevalent in illegal markets than in legal markets (see Chapter 5). It also appears plausible to assume that illegal entrepreneurs, just as their legal counterparts, have an interest in eliminating competition in order to attain monopoly profits. Yet, it is problematic to infer that illegal entrepreneurs will regularly resort to violence against competitors. There are a number of theoretical arguments that suggest that monopolies in illegal markets are more the exception than the rule, that there is no ubiquitous trend toward monopolization, and that violence is only of limited value for establishing monopoly control.

The first argument is that the incentives to establish monopoly control are weaker for illegal businesses than for legal businesses. One explanation is that profit margins are believed to be generally higher for illegal goods and services than for legal goods and services. The reason given is that suppliers of illegal goods and services can charge a premium, the so-called crime tariff, which compensates for the risks inherent in conducting an illegal business (Potter, 1994, pp. 125, 170; Wisotsky, 1990, pp. 34–35).

Another explanation for the lesser appeal of monopoly control in illegal markets is that illegal markets are believed to have a lower density than legal markets (see Chapter 6). Law enforcement culls out a certain number of illegal enterprises (Potter, 1994, p. 170), and illegality serves as a barrier of entry to the market for those not willing to take the risk of arrest and punishment, which is said to be true for suppliers much more than for customers (Wisotsky, 1990, p. 32). According to this line of reasoning, then, demand in illegal markets tends to exceed supply. As one illegal entrepreneur interviewed by Potter and Jenkins (1985, p. 59) put it, “there’s plenty for everybody.” Thus there would be no need to eliminate competitors through violence or any other means.

An exception to this rule can be found in cases where markets are linked to particular locations and exclusive control of territory is a prerequisite for economic success. This is commonly assumed to be the case namely in open drug markets where dealers seek to control lucrative vending places (Hellman, 1980, p. 149; Rengert, Chakravorty, Bole, & Henderson, 2000, p. 220; Reuter, 2009, p. 277). Once dealers have established territorial control, typically over a narrow space within a larger area where drug dealing is concentrated, they may not have an incentive to expand their domain further by eliminating surrounding competitors. Rather, individual drug sellers may profit from the presence of other nearby drug sellers because it increases protection from law enforcement similar to the protection a swarm offers for an individual fish. Perhaps more importantly, a large number of drug sellers concentrated in one area may also increase profits for the individual seller because more buyers are attracted to the area (Taniguchi, Rengert, & McCord, 2009).

Obstacles for the Monopolization of Illegal Markets. When drug sellers seek to establish control over a street corner, they do not face a problem other illegal entrepreneurs striving for monopoly control will typically face, the problem of identifying who the competition is that needs to be eliminated. In the case of open drug markets, whoever shows up to sell drugs in a particular place is obviously a competitor. Matters are less obvious in closed illegal markets where market participants are known to each other primarily through social network ties. It seems that most commonly illegal firms will not be fully aware of who else operates in a market unless the market is confined to a transparent local setting where everyone knows everyone else (Wilkins & Casswell, 2003, p. 766).

The embeddedness of illegal markets in social networks also creates problems once a competitor has been eliminated. It is not a given that the illegal firm that removes a competitor through violence or any other means for that matter can simply take his or her place. The firm that seeks to aggressively expand its market share would need to identify and win over the customers of the eliminated

competitor. Once again this appears likely only in an illegal market that is highly transparent (von Lampe, 2003a, p. 19; see also Reuter, 1983, p. 140).

A further problem facing monopoly-seeking firms is that they need to grow organizationally in order to be able to keep up with the growth of their business. In this respect, they encounter the same challenges of monitoring staff and of avoiding law enforcement attention that large criminal organizations generally face (see Chapter 6). In fact, illegal-market monopolists may be preferred targets for law enforcement (Reuter, 1983, p. 134).

Finally, it should be noted that maintaining a monopoly position is possibly as difficult as attaining that position in the first place. This is true at least in those cases where no barriers for market entry exist except for the threat of violence from the monopolist. The monopolist firm would have to constantly monitor the market for new competitors that, especially in closed markets, would require effective intelligence-gathering capacities (Wilkins & Casswell, 2003, p. 770). Overall, in Peter Reuter's words, "violence-based monopolies are unlikely to be pervasive or enduring" (Reuter, 1983, p. 142).

Two other aspects could have been addressed here, the problem for a monopoly-seeking firm of acquiring a sufficiently large military potential and the problem of avoiding the long-term costs of maintaining military superiority over any potential future rivals. These aspects, however, are not unique to violence-based market monopolies. They are as relevant, perhaps even more relevant in practical terms, for the emergence and continued existence of power syndicates. That is why these issues will be addressed in the following section, which deals with quasi-governmental structures.

QUASI-GOVERNMENTAL STRUCTURES

The concept of quasi-governmental structures encompasses a broad range of phenomena, which have in common that they serve certain protective and regulatory functions among criminals that are similar to functions of the state, that is, government, within legitimate society. In fact, the emergence of quasi-governmental structures within the underworld has been compared to the historical process of state formation (Skaperdas & Syropoulos, 1995; see also Tilly, 1985). As already indicated, the power of quasi-governmental structures can extend into the upperworld. For example, criminal groups may provide protection to legitimate businesses and may assist in collecting debts and settling disputes (Volkov, 2002). As one of three basic types of criminal structures, however, it is first and foremost important to understand the function quasi-governmental structures play within the underworld.

The concept of quasi-governmental structures as used here is derived from Anneliese Anderson's analysis of the Cosa Nostra family in Philadelphia. She speaks of quasi-governmental functions performed by a "criminal government (or quasi-government)" (Anderson, 1979, pp. 2, 44). Other authors have used similar terminology for describing essentially the same phenomenon, for example, "governing authority in the underworld" (Schelling, 1971, p. 74), "extralegal governance" (Varese, 2011, p. 6), or "illegal governance" (Campana, 2011, p. 214; Campana, 2013, p. 318). Just like in previous chapters, the term structure is used as

a generic term that encompasses different arrangements of relationships between criminals, ranging from formal organizations to informal, ephemeral alliances.

What Quasi-Governmental Structures Do

The common denominator in the discussion of quasi-governmental structures is the distinction between, on the one hand, criminal groups engaged in the provision of illegal goods and services, and those criminal groups that are engaged in activities that are political rather than economic in nature. The latter groups “provide public goods such as the protection of property rights and the enforcement of contracts” to subordinates, namely the criminals that populate a particular illegal market or territory (Fiorentini, 2000, p. 434). In essence, the existence of a quasi-governmental structure makes life safer and more predictable for criminals who would otherwise be left in a much more chaotic, anarchic, and violent world of crime (Dixit, 2004, pp. 1–2; Haller, 1992, p. 3; Skaperdas, 2001, p. 174).

Often subsumed to the generic term of protection, the functions of quasi-governmental structures can be grouped into four broad categories: (a) the regulation of behavior of subordinates, (b) the resolution of conflicts between subordinates, (c) the protection against external threats, and (d) the generation of revenues through some form of taxation. To what extent each of these functions is performed is a matter of the specific circumstances. In one extreme, illegal governance borders on mere extortion by a terror regime that coerces its subordinates into making tribute payments while giving little or nothing in return. In the other extreme, an underworld government provides fairly comprehensive protection against competitors, predatory criminals, and law enforcement.

Regulation

Quasi-governmental structures can be found to control *who* operates in a given territory or illegal market, *what* activities criminals engage in, and *how* these illegal activities are carried out. This may amount to a more or less dense regulatory framework consisting of rules that are either originally set by a quasi-governmental structure or have emerged as subcultural norms and that are claimed to be binding for all members of the underworld.

The Outfit control over illegal gambling in Chicago (see above) provides an example of a power syndicate that regulates *who* gets to engage in a particular kind of illegal activity. In effect, the Outfit has established a form of licensing system. Illegal enterprises, in exchange for paying a street tax, are given the right to operate (Gambetta, 1993, p. 31). This kind of control over a territory or market serves first and foremost the interests of the power syndicate. It can limit illegal enterprises to a number that makes it easy enough to monitor while yielding the highest possible tax revenues. Depending on the circumstances, a power syndicate may choose to allow only one enterprise to operate, which would then be granted a monopoly position (Reuter, 1983, p. 134).

The control of entry to a territory or market, however, does not only benefit the power syndicate. Imposing a street tax means establishing a barrier for entry

for new enterprises so that, to some degree, the existing illegal enterprises are protected against additional competition (Gambetta, 1993, pp. 31–32). This has various implications. First, the existing enterprises do not have to give up market shares to new entrants to their illegal market. Second, for the existing enterprises the environment within which they operate remains fairly transparent and predictable over time. Third, the likelihood of violent confrontation between established and new illegal enterprises, a main reason for violence among criminals, is reduced, which in turn reduces the risk of attracting unwanted attention from law enforcement and the general public.

For the very same reason of avoiding attention, a power syndicate may determine *what* kind of illegal activities criminals are allowed to engage in. Rules may restrict or prohibit certain criminal activities that are likely to provoke public resentment and increased police scrutiny—for example, the sale of certain drugs, such as heroin, or certain *modi operandi* (the *how* of criminal activities), namely, the use of violence (Anderson, 1979, p. 44). One concrete example of such a rule setting and rule enforcement within the underworld has already been mentioned in Chapter 7: the prohibition of kidnapping imposed by the *commissione* of the Sicilian Mafia for the entire island of Sicily in 1975. The prohibition was not only enforced within the Mafia but also against non-affiliated criminals. Kidnappers were either killed or the police were tipped off (Gambetta, 1993, pp. 177–179). In this case, the Sicilian Mafia employed a functional equivalent of criminal justice by setting a rule (the ban on kidnapping) and enforcing this rule through (direct or indirect) punishment.

Quasi-governmental structures not only mimic the criminal justice system, they may also serve functions similar to the civil justice system. In contrast to criminal justice where the state metes out punishment in response to what are essentially seen as wrongs against the state and society as a whole, civil justice regulates relationships between private citizens to protect individual interests (Michalowski, 1985, pp. 138–139). This is also the case when quasi-governmental structures arbitrate disputes between criminals. These disputes typically emanate from interactions within existing criminal networks.

Conflict Resolution

Conflicts between criminals may arise from personal altercations or from business dealings. The latter may involve contractual agreements or property rights pertaining to illegal firms and illegal commodities and may pertain to market-based crimes as well as predatory crimes. Typical constellations include disputes among accomplices over the sharing of crime proceeds and between suppliers and customers of illegal goods and services over such issues as late payments, product quality, and the consequences of law enforcement intervention. For example, there may be disagreement on who has to incur the financial loss when a shipment of contraband is seized: the sender, the receiver, or both (see Marks, 1998, p. 160).

Compared to legitimate society, conflicts are more likely to arise under conditions of illegality because agreements between criminals rarely exist in unambiguous, written form. At the same time, criminals have no recourse to the legal system. In this situation, Peter Reuter argues, there are incentives for criminals

to “seek nonviolent third-party dispute resolution” by a quasi-governmental structure like a Cosa Nostra family rather than resorting to violence (Reuter, 1984, p. 34). A violent confrontation, as Reuter points out, can be costly in terms of the material and personal resources needed to use violence effectively, it may attract unwanted attention, and it can be costly in terms of reputation (Reuter, 1984, pp. 34–36; see also Desroches, 2007, Desroches, 2005, p. 148). The underlying assumption is that illegal entrepreneurs, at least in certain markets, value a reputation of being a reasonable businessperson who prefers nonviolent conflict resolution over the use of force against business partners (Reuter, 1984, pp. 34–35).

Protection Against External Threats

Apart from conflicts within criminal networks, criminals arguably face two main threats: the threat of law enforcement and the threat of predatory criminals. Quasi-governmental structures may provide protection against both.

Protection against law enforcement can be achieved through corruption. Quasi-governmental structures, by pooling money for bribes or by virtue of privileged access to corrupt officials, may be in a position to neutralize law enforcement more effectively than individual illegal enterprises or individual criminals (Gardiner, 1970, p. 20). This and other constellations of corrupt ties between underworld and upperworld will be discussed in more detail in Chapter 11. Protection against predatory criminals is typically achieved through the threat or use of violence. Tipping off the police may also be used as a means to neutralize a particular predatory criminal. The Sicilian Mafia’s campaign against kidnapping provides an example of how both methods are employed in an effort to provide security for those under the protection of a quasi-governmental structure (Gambetta, 1993, p. 178).

Taxation

The fourth main function typically performed by a quasi-governmental structure, apart from regulation, conflict resolution, and protection, is the taxation of illegal activities. This means that a share of illicit profits is extracted from the illegal enterprises under its control. As indicated, there is some controversy over the character of these payments. While Schelling (1971) sees quasi governments in the role of extortionists, Gambetta (1993) argues that illegal enterprises willingly pay because they receive valuable services in return. Of course, it is an empirical question if in a given case illegal enterprises do in fact benefit in any way from a gang that collects a street tax and what the quality of the services is that are actually provided. From criminological research and journalistic accounts no clear picture emerges (Anastasia, 1993; Anderson, 1979; Griffin, 2002; Lombardo, 2013; Reuter, 1983). It seems that how despotic or how service-oriented illegal governance is depends to some degree on individual styles of governing and the time horizon of those in power.

The Quality of Services Provided by Quasi-governmental Structures

Quasi-governmental structures are similar to governments not only with regard to the functions they serve, but they are also in a similar position in so far as they are not under a higher authority that could supervise the fair and universal performance of their functions. That is why it could be argued that quasi-governmental structures are not likely to provide their services based on considerations of justice or the common good and instead will tend to truly protect only “the highest bidder” (Gambetta, 1993, p. 33; Varese, 2010, p. 18). Protection, then, would just be another moneymaking scheme of criminal groups. However, this seems fully plausible only where the time horizon for protection is short. As Gambetta suggests, those capable of providing protection only in the short term will seek to “maximize present over future income,” and customers “will be reluctant to buy protection” (Gambetta, 1993, p. 33). In the long run, it seems more likely that quasi-governmental structures will “attempt to legitimate authority” (Anderson, 1979, p. 45). Legitimacy is a central concept in political theory. It refers to the capacity of a system “to engender and maintain the belief that the existing political institutions are the most appropriate ones for the



Image 8.3 Members of a criminal gang overlooking a slum (favela) in Brazil. Since the 1980s, many urban slums in this country have come under the rule of criminal groups that control drug trafficking and other illegal activities as well as legal businesses. They also offer individual security and access to informal criminal justice to slum dwellers, for example by finding and punishing those responsible for crimes such as robbery and rape (Pedra & Dal Ri, 2011).

Photo: Lunae Parracho/Reuters/Corbis

society” (Lipset, 1963, p. 64; see also Weber, 1968, p. 31). The assumption is that over time a regime cannot persist without some level of consent of the governed (Bluhm, 1978, p. 117). In this light, quasi-governmental structures with a long lifespan, such as the Sicilian Mafia, can be expected to vie for the support of their subordinates by providing genuine services that “are often useful to and actively sought by customers” (Gambetta, 1993, pp. 33, 187).

One should also consider the motivation of criminals involved in illegal governance. It may be less about money and more about power and respect. As several observers have noted, the behavior of mafiosi can be explained by an eagerness “to control other criminals and to be in control of their activities, and to ensure that they have respect for the authority that is exercised over them” (Edelhertz & Overcast, 1993, p. 121; see also Gambetta, 2009, p. 50; Lombardo, 2013, p. 157). How successful quasi-governmental structures are in this endeavor and how effectively they exercise their power is a different matter. The cases of the Sicilian Mafia and the American Cosa Nostra and their failure to establish full control over the territories and markets they have laid claim on illustrate the imperfections even of relatively mature systems of illegal governance (Gambetta, 1993; Lupo, 2009; Reuter, 1983).

The Structure of Illegal Governance

The focus so far has been on mafia organizations. This should not obscure the fact that quasi-governmental structures can take on very different forms. In fact, in some cases quasi-governmental functions are performed by individuals. In the German underworld, for example, there is a long history of dispute settlement by individuals with high prestige in criminal circles. In the 19th century, older, experienced and well-known criminals reportedly held court in certain bars and offered their arbitration services to other criminals (Hartmann & von Lampe, 2008, p. 126). Similar mechanisms for conflict resolution still exist. Highly respected underworld figures or, confined to migrant communities, self-appointed magistrates arbitrate disputes among criminals and criminal groups on a case-by-case basis. They may charge for their services, and the judgments can take the form of civil law verdicts aiming at compensation, or they can take the form of criminal law verdicts aiming at retribution (Behr, 1987, pp. 105–107; Rebscher & Vahlenkamp, 1988, p. 46; Henninger, 2002).

Quasi-governmental structures also exist in the form of ad hoc arrangements between criminals that may or may not become institutionalized over time. Criminals with some status may convene to set and enforce rules or to adjudicate disputes (Volkov, 2002, pp. 81–82). An illustration of such an arrangement is provided by the above mentioned agreement John Torrio brokered between the leading gangs in Chicago in the early years of Prohibition. The agreement not only entailed the division of the city into exclusive zones of influence for each of the gangs, but the gangs also made a commitment to assist each other against outsiders, and they accepted Torrio as an arbitrator of disputes arising from transactions between the gangs (Kobler, 1971, p. 105).

Opposite such rudimentary regulatory frameworks, at the other end of the spectrum of quasi-governmental structures, are centralized, hierarchical

organizations exemplified by the families of the Sicilian Mafia and the American Cosa Nostra. It has been argued that most quasi-governmental structures follow this latter pattern (Skaperdas, 2001, p. 184). According to Gambetta, quasi-governmental structures can be expected “to be military in nature, that is centralized and hierarchical” because of the need to efficiently deploy violence (Gambetta, 1993, p. 68).

Another salient feature of quasi-governmental structures emphasized in the academic literature is that, almost by definition, they hold a monopoly of violence. In other words, within their respective domain they are the only providers of illegal governance services. According to this view, legal governance and illegal governance have in common that they are not practical in the face of competition. Even the extortionist at the very least has to provide protection against rival extortionists (Fiorentini, 2000, p. 436; Gambetta, 1993, p. 31; Schelling, 1971, p. 74).

In comparison to the debate on illegal-market monopolies, therefore, the question with regard to illegal governance is not if there is a trend toward monopolization, but at what scale illegal monopolies of violence are likely to emerge. One could speculate that in a continuous power struggle ever more powerful gangs come to control ever larger territories, taking advantage of economies of scale in the use of violence. Once again, however, there are a number of theoretical considerations that let this kind of scenario appear to be rather unlikely.

Gambetta has argued that where groups of roughly equal strength compete, agreements on exclusive territories or other forms of “jurisdictional sharing” are the most probable outcome in light of the enormous costs of a violent confrontation (Gambetta, 1993, p. 70–71; see also Schelling, 1971, p. 75). To the extent this is true, the territories individual gangs have under their control would tend to be rather small. The territorial agreements between the leading gangs in Chicago during the early years of Prohibition (mentioned above) provide one illustration. Another instructive example is that of two competing mafia groups in the Sicilian town of Gela. The warring groups, one of which belonging to the Cosa Nostra, eventually came to an agreement on exclusive territories. They also agreed to form extortion teams with members from both groups to jointly collect protection payments in order to guarantee that both sides would profit from extortion (Becucci, 2011, p. 8). These two examples not only illustrate how accommodation is chosen over continued confrontation but also how this accommodation can lead to the formation of overarching structures serving the enforcement of territorial agreements (Gambetta, 1993, p. 71). In such a case, there are two layers of illegal governance, the governance by each gang of its own exclusive territory and the governance of the overall system of jurisdictional sharing. In the absence of such an overarching structure, jurisdictional sharing amounts to nothing more than peaceful coexistence of independent, typically smaller gangs in control of limited territories (Gambetta, 1993, p. 165). It should be reemphasized at this point that large criminal organizations, such as the various mafia-type organizations in Italy, Chinese triads like the Sun Yee On, and organizations like the Solntsevskaya in Moscow, are not the monolithic entities the media sometimes purport them to be. As already indicated in this

and the previous chapter, these criminal organizations can be seen as primarily umbrella structures for a number of semi-autonomous or even independent criminal groups.

Conditions Conducive to the Emergence of Quasi-Governmental Structures

The expectation that quasi-governmental structures holding an illegal monopoly of violence are most likely at a small scale, confined to localized settings, is reaffirmed when considering the contingencies of illegal governance. A comprehensive understanding of the phenomenon of quasi-governmental structures needs to take into account the conditions that favor their emergence and the resources that are needed to take advantage of these conditions (Figure 8.2). The starting point for this discussion is the assumption that quasi-governmental structures emerge in areas that the state, that is, legitimate government, is unwilling or unable to control and to regulate and where self-regulation through trust-based relations is not viable (Fiorentini, 2000; Gambetta, 1993; Skaperdas, 2001; Skaperdas & Syropoulos, 1995).

Power Vacuum

Stergios Skaperdas identifies four constellations where the lack of presence of legitimate government creates a power vacuum that quasi-governmental structures may fill: prohibition of goods and services, geographic distance, major political change, and ethnic and social distance (Skaperdas, 2001, p. 184; see also Skaperdas & Syropoulos, 1995).

The first constellation pertains to the scenario that is at the center of the discussion on organized crime and illegal governance. The state is unwilling to provide governance for those engaged in illegal activities. Instead of protecting and regulating the behavior of criminals, legitimate government is intent on suppressing their activities (Gambetta, 1993, p. 42).

The other constellations involve scenarios of state weakness or state failure: the inability of a government to control remote areas within its territory, the inability to effectively function in times of regime change and civil war, or the inability to reach marginalized segments of society. In these latter cases, quasi-governmental structures tend to replace legitimate government rather than merely filling a limited void in governance. The clearest examples for the replacement of government by quasi-governmental structures are provided by insurgent groups such as the FARC guerilla organization in Colombia (Saab & Taylor, 2009) or the Jaish-Al-Mahdi militia in Iraq (Williams, 2009). A more in-depth discussion of these groups lies beyond the scope of this book. The focus here is on illegal governance in areas that legitimate government has principally no intention of regulating: the supply of illegal goods and services as well as predatory criminal activities.

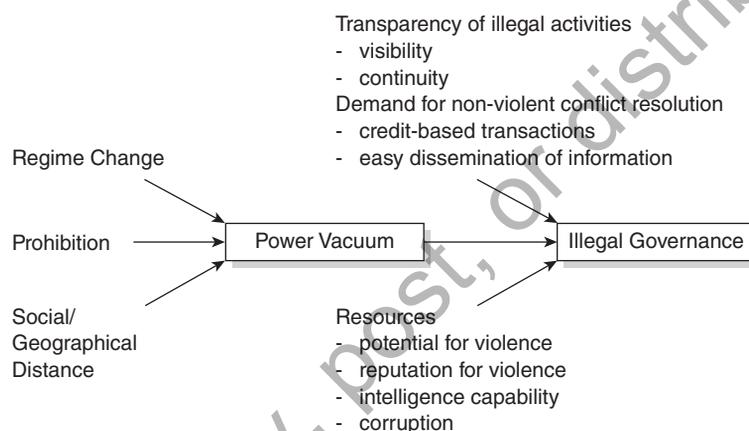
Illegal Activities Most Vulnerable to and in Need of Illegal Governance

Even though the criminalization of any activity automatically leads to a void in governance, there is a consensus in the academic literature that certain areas of crime are more likely than others to see the emergence of quasi-governmental

structures. These areas of crime are characterized by specific vulnerabilities to control and by specific demands for illegal governance.

Crimes Most Vulnerable to Control. The crimes believed most likely to come under the control of a quasi-governmental structure are those most visible, where the criminals committing these crimes are most easily located and identified. This is the case especially on the retail level of illegal markets characterized by frequent interactions between sellers and a large number of customers and where criminal activities are carried out on a regular basis at fixed locations (Schelling, 1971, p. 78). The bulkiness of the product may also play a role (Reuter, 1983, p. 134).

Figure 8.2 Factors Conducive to the Emergence of Quasi-Governmental Structures



The graph highlights key factors identified in the academic literature as contributing to the emergence of quasi-governmental structures. At the center is a power vacuum created by prohibition or as a result of state weakness. Certain illegal activities are more prone to illegal governance than others, because of specific vulnerabilities to and demands for illegal governance. The resulting opportunities for establishing a quasi-governmental structure can be exploited only by those in command of certain resources, such as the potential and reputation for violence.

Source: Reuter (1983, 1984, 1994); Schelling (1971)

An additional vulnerability exists where not only the crimes as such are easily observable but also the volume of earnings. This facilitates determining the optimal amount of protection payments, while avoiding continuous conflicts over what a subordinate is able to pay (Fiorentini, 2000, p. 437). Typically, standardized percentages are used across the board, such as the 50 percent street tax levied on all gambling enterprises by the Outfit in Chicago (Lombardo, 1994, p. 303; Schelling, 1971, p. 79).

Crimes Creating the Highest Demand for Illegal Governance. As already indicated, criminals may have incentives to seek the protection and arbitration

services offered by quasi-governmental structures. It can be costly for a criminal to use violence and to be known as someone who quickly resorts to violence when a dispute arises. Instead, it is advantageous to have an arbiter who can resolve conflicts peacefully and who can authoritatively determine that a particular conduct was honorable. The incentives to seek arbitration services, however, as Peter Reuter (1983; Reuter, 1984) argues, are unevenly distributed across criminal activities and illegal markets. He posits that the demand for illegal governance is strongest where the reputational costs of violence are the highest (Reuter, 1984, p. 35). This, Reuter assumes, depends on two factors. The first factor is the importance of a reputation for honorable conduct. The more market participants have to rely on mutual trust in the absence of safeguards against disloyal behavior, the more important such a reputation becomes. This depends in large part on the way a business is conducted. A reputation for honorable conduct is most valued where transactions are made on credit rather than on a cash basis and where the quality of a good or service cannot easily be tested on the spot (Reuter, 1984, pp. 35–36). The second factor determining the demand for illegal governance is the ease with which information can be credibly disseminated and, accordingly, how easy it is for a criminal's reputation to be shaped and tarnished. Reuter argues that this is primarily a matter of the intensity of law enforcement. Where penalties following arrest are slight, market participants can be expected to “readily exchange information with others about particular transactions and operators” (Reuter, 1984, p. 36). Both factors, the need for nonviolent conflict resolution and the ease of communication in criminal circles, Reuter assumes to be most salient in illegal sport betting, in contrast, for example, to illegal drug markets (Reuter, 1983, 1984).

Resources on Which Illegal Governance Is Based

The existence of conditions conducive to illegal governance does not automatically lead to the emergence of quasi-governmental structures. There must be someone present with the necessary resources to take advantage of these conditions. In a nutshell, illegal governance rests on the ability to enforce decisions. In some cases, the authority of an individual, based on charisma and high esteem, may be sufficient (Rebscher & Vahlenkamp, 1988, p. 46). In most cases, however, the ability, and the reputation for the effective use of violence appears to be necessary in combination with an intelligence capability for collecting information that indicates against whom the threat or use of violence needs to be directed (Gambetta, 1993, p. 59; Varese, 2010, pp. 14–15).

Violence. The ability to use violence is an individual skill as well as a collective resource. Quasi-governmental structures, as Peter Reuter (1983, pp. 133–136) has argued, will tend to command a military potential defined primarily by their strength in numbers. This, in turn, implies that a sufficient number of sufficiently skilled individuals is present or is available for recruitment. The key is to gain superiority over those to be governed individually and combined and over any potential rivals. Once a group has acquired this position, others are discouraged from investing in military resources (Fiorentini, 2000, p. 441; Gambetta, 1993, p. 40; Reuter, 1983, p. 136).

There are several possible scenarios for such a situation to emerge. One can think of a process starting with a state of anarchy where everyone is left to fend for him- or herself. Out of a constant struggle for survival, some can be expected to emerge as better skilled and better equipped for violent confrontation than others. Individuals and small groups may form alliances and band together and eventually the group with the greatest potential for violence will establish a permanent position of power (see Skaperdas & Syropoulos, 1995). The history of the Sicilian Mafia could be interpreted in this way. In other cases, the dominance of a given group may be short lived and the process is more one of periodical change, where the demise of one powerful group is followed by the ascent of another.

There are also cases of groups that command a potential for violence as a by-product of processes unrelated to any power struggles within the underworld. At some point in time, however, these groups may come to take advantage of their military potential. The history of the Hell's Angels and other outlaw motorcycle gangs as well as of the German Ringvereine suggests such a development (see Chapter 7). These organizations were originally created to serve the social needs of their members. Yet, because of their recruitment patterns they almost inevitably built up a military potential along the way. Outlaw motorcycle gangs have from the start attracted violence-prone individuals who do not shy away from a fight, and the German Ringvereine as self-help organizations of ex-convicts more or less by definition had a membership made up of professional criminals. Before long, these intimidating collectives began to exert influence within the underworld (see Barker, 2007; Hartmann & von Lampe, 2008).

Intelligence Capability. The second key resource for quasi-governmental structures mentioned in the literature, apart from a potential for violence, is the capacity to gather information about subordinates and potential rivals (Gambetta, 1993, pp. 37–38, 126; Varese, 2010, p. 15). In this respect a quasi-government faces challenges similar to those described earlier in this chapter with regard to the violent monopolization of illegal markets. Once again, no problems may arise in highly localized, transparent settings where everyone knows everyone else. Otherwise, however, a quasi-governmental structure will have to rely on what Gambetta (1993, p. 59) has called an “intelligence network” to identify those who defy and challenge its power, communications channels resting on social network ties, underworld business contacts, the underworld “grapevine system” and in some cases even a specialized staff of lookouts (Gambetta, 1993, pp. 37–38; Lombardo, 1994, p. 304).

In addition, a quasi-governmental structure needs mechanisms for processing and sharing information internally in order to be able to effectively coordinate its governance activities, thereby avoiding that its members come into conflict with each other (Reuter, 1983, p. 172). Both aspects, the gathering and the internal processing of information about subordinates and potential rivals, hint at possible limitations to the size of the territory and the range of illegal activities a quasi-governmental structure is realistically capable of controlling.

Reputation. The flow of information is relevant yet in another way, going in the opposite direction, from the quasi-governmental structure to its subordinates

and to potential rivals. The underlying assumption is twofold: that quasi-governmental structures need to advertise their existence and their services and that they rely on the dissemination of information to build and maintain a reputation for the effective use of violence (Gambetta, 1993, p. 251).

The Nature and Origins of a Reputation for Violence. Reputation is considered the key resource for quasi-governmental structures. According to Gambetta, it “is nearly everything in the protection business” (Gambetta, 2009, p. 216). Reputation in this context is a combination of the *knowledge* that a quasi-governmental structure exists and the *belief* that it has the power to impose its will (Reuter, 1994, p. 111).

Reputation is deemed essential because of its cost-saving effects. Once established, it dramatically reduces the need for the actual use of violence (Gambetta, 2009, pp. 204–205), and a robust reputation even permits a cost-saving reduction in the military potential without loss of authority (Reuter, 1983, p. 135). In fact, since a reputation is the product of communication, it does not necessarily have to have a factual basis at all and may be a pure myth (Gambetta, 1993, p. 44; Reuter, 1994, p. 95). What should also be noted is that whereas under conditions of illegality information is normally spread through clandestine communication channels, the same does not apply here. In the case of a reputation for violence, the media can play a central role by turning the spotlight on particular individuals or gangs who are accurately or inaccurately portrayed as violent and powerful (Gambetta, 1993, p. 65).

Threats and Challenges to a Reputation for Violence. Direct challenges aside, which may come from rivals or recalcitrant subordinates, there are two possible threats to the reputation of a quasi-governmental structure. Both threats highlight that there has to be an identifiable and delineable group that serves as a clear reference point for the reputation for violence in order to be effective.

One threat stems from *imposters* misusing and thereby undermining the reputation of a criminal group. The other threat is linked to the problem of *succession* and the question to what extent reputation is attached to individuals or to an organizational entity. A group cannot function effectively as a quasi-governmental structure if its identity remains elusive and subordinates are unable to determine if someone who claims to act on its behalf is indeed authorized to do so.

Where the members belonging to a quasi-governmental structure are not known to subordinates in person, imposters can fairly easily “pose as an authentic mafioso and reap the benefits” (Gambetta, 1993, p. 45). For example, the Solntsevskaya, considered to be the most powerful racketeering organization in Moscow (see Chapter 7), has reportedly faced increasing problems with impersonators as a result of the practice to allow numerous small gangs to operate under its name (Serio, 2008, pp. 216–217). The effect is similar to a situation where rival groups compete for dominance: “the protector dislikes unfair competition and is eager to reassure customers that they are not paying the wrong person” (Gambetta, 1993, p. 124; see also Grayson, 2014, pp. 37–39).

The threat from imposters is reduced if all those belonging to a quasi-governmental structure are easily identifiable, namely, because they are ethnically

distinct, as in the case of the American Cosa Nostra, or because they wear exclusive symbols such as the “colors” and tattoos of outlaw motorcycle gangs. This of course is not effective unless unauthorized use of these symbols is prevented. Accordingly, organizations that have distinctive symbols that can easily be counterfeited tend to use draconian measures against nonmembers who dare to display these symbols (Gambetta, 2009, p. 179). Outlaw biker gangs, for example, are reputed to go as far as removing a tattoo by cutting off the respective patch of skin (Marsden & Sher, 2007, p. 289).

The reputation of a quasi-governmental structure can also be undermined by a change in membership if the reputation is linked to individuals rather than to the structure itself. Arrests or deaths could then quickly lead to the demise of a once powerful gang (see, e.g., Kray & Kray, 1988). That is why there is an incentive for a quasi-governmental structure to develop a recognizable collective identity, which in turn requires the establishment of “clear and credible rules and practices” for the selection and conduct of members (Gambetta, 2009, pp. 205–206). As a result, the reputation of the quasi-governmental structure would no longer hinge on the individual reputation of members. Instead, the reputation would be an asset that members acquire through membership (Reuter, 1994, p. 103). It is against this backdrop that Diego Gambetta characterizes the Sicilian Mafia as a set of firms that share “a common asset of reputation, equivalent to a trademark: a guarantee of high-quality protection and effective intimidation. This reputation is distinct from that of each individual family or member, but each gains from it, and each has an interest in maintaining its distinctive features” (Gambetta, 1993, p. 245).

While reputation is a vital asset for quasi-governmental structures, it is a “two-edged sword” (Reuter, 1983, p. 142). A reputation can be a liability because it is likely to attract the attention of law enforcement and the general public (Reuter, 1983, p. 137). That is why Reuter and others have argued that a reputation for the effective use of violence alone may not be sufficient and that it needs to be supplemented by the ability of a quasi-governmental structure to neutralize law enforcement through corruption or by some other means (Reuter, 1994, p. 104). Another possible scenario is that a quasi-governmental structure is tolerated by the authorities because it is considered the lesser evil (Whyte, 1943/1981, pp. 138–139).

DELINEATING ILLEGAL-MARKET MONOPOLIES AND QUASI-GOVERNMENTAL STRUCTURES

As already indicated, quasi-governmental structures do not always appear in a pure form. There may be some overlap with entrepreneurial and especially with associational structures (see Chapter 7). Likewise, quasi-governmental structures and illegal-market monopolies may coincide. A careful analysis is necessary to determine the nature of the specific link between the two types of structures. In some instances, the two structures may be identical; in some instances they may partially overlap or coexist without any degree of organizational integration. The latter would be the case where a quasi government allows a single firm to operate in a given illegal market (see Reuter, 1983, p. 134).

A partial overlap of associational and quasi-governmental structures would exist where individual members of the quasi-governmental structure own and operate a monopoly firm. A complete overlap, finally, would exist where a quasi-governmental structure is identical to an illegal firm monopolizing an illegal market (see Anderson, 1979, p. 49). For example, a gang that is selling drugs in its neighborhood and is keeping competition away, thus holding an illegal-market monopoly, may at the same time regulate and tax other illegal activities in its territory, such as gambling and prostitution, thus also functioning as a quasi government. It is a question, however, to what extent quasi-governmental and entrepreneurial structures would indeed be one and the same. Even though the membership may be identical, the structures could still be fundamentally different because of the different organizational requirements of running a business versus running a government (Campana, 2011, p. 223; Densley, 2012). Providing an illegal good or service will tend to be a more time-consuming activity than regulating and taxing illegal behavior (see Chapter 5). Therefore, a gang may function as a quasi-governmental structure with a military-style hierarchy, and at the same time the gang members may operate a drug distribution enterprise on a partnership basis with decentralized authority to flexibly adapt to the intricacies of the drug business (see Chapters 5 and 6).

An analytical framework that accounts for these differentiations is not only necessary for adequately capturing the complexities and variability of criminal structures as such, but it is also important for anticipating the consequences of events, such as the arrest or elimination of individual criminals. The removal of the head of a quasi-governmental structure may undermine the ability to regulate a market and may lead to uncontrolled violence. In comparison, the removal of the head of an illegal firm might disrupt the operations of this firm, and in the case of a monopoly firm, could lead to the emergence of new competitors in the market while the governance structure may well remain unaffected.

ILLEGAL-MARKET MONOPOLIES AND MONOPOLIES OF VIOLENCE: SUMMARY AND CONCLUSION

Following the discussion of entrepreneurial structures and associational structures in the two previous chapters, this chapter has examined two forms in which criminals can achieve dominance over other criminals: illegal-market monopolies and illegal monopolies of violence. The discussion of illegal-market monopolies is an extension of the examination of entrepreneurial structures, more specifically illegal firms, presented in Chapter 6. An illegal-market monopoly exists if there is only one firm or a cartel of firms selling an illegal good or service.

In the case of an illegal monopoly of violence, criminals form quasi-governmental structures. They do not act as an illegal firm engaged in economic activity but as a form of underworld government serving political functions. This entails controlling and regulating an illegal market or a territory functionally similar to the state in legitimate society. Under certain circumstances, the influence of a quasi-governmental structure can extend beyond the underworld into the upperworld. This will be explored in more detail in Chapter 11.

A central point of debate addressed in this chapter has been the question to what extent there is a tendency toward the monopolization of illegal markets. A review of the empirical and theoretical literature suggests that for a variety of reasons, illegal-market monopolies are a relatively rare occurrence, and where they emerge, they are typically confined to highly localized settings.

The question of a trend toward monopolization does not pose itself in the same way with regard to quasi-governmental structures. Illegal governance, just like legal governance, is not practical in the presence of competition. The question instead is under what circumstances and on what scale quasi-governmental structures holding an illegal monopoly of violence come into existence. This is first of all a matter of the power vacuum that legitimate government creates by prohibiting certain goods and services. This vacuum may be filled by criminals who are capable of providing governance services. Respected individuals may assume this role solely based on their social esteem, especially with respect to the arbitration of disputes. But typically the key resources required are the capacity and reputation for the effective use of violence. Just like in the case of illegal-market monopolies, this is most likely in highly localized, transparent settings that are easy to monitor and where a reputation linked to an identifiable and delineable quasi-governmental structure can most easily form. This suggests that on a grander scale the most likely scenario is the co-existence of numerous smaller gangs who each control a small territory based on some formal or informal jurisdictional sharing agreement with neighboring gangs, rather than a process toward an ever-expanding underworld government.

Discussion Questions

1. What is preferable from the perspective of criminals, to hold an illegal-market monopoly or to control an illegal market in the form of a quasi-governmental structure?
2. What is preferable from the perspective of legitimate society, to have an underworld under the control of a quasi-governmental structure or one with no such regulatory framework?
3. What would it take for a criminal gang to establish a monopoly in the cocaine market in your country?

Research Projects

1. Analyze the autobiographies of organized criminals with a view to failed and successful attempts of the monopolization and regulation of illegal markets.
2. Examine the changes in illegal drug prices for a particular area and see if sudden increases or decreases in prices occurred that could be an indicator for the creation, respectively breakdown of a market monopoly.

*Further Reading**The Organization of Illegal Markets*

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