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Moralism, Mafias and Markets: The Evolution of Popular and Governmental Understanding of Organized Crime

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By June 2012, 147 nations had signed the United Nations (UN) Convention against Transnational Organized Crime (UNTOC). Most governments, therefore, broadly share a common understanding of the problem and ways to combat it. From the background literature to the Convention it is also clear that it followed on from the 1988 UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances and was thus part of an effort to strengthen the global drug prohibition regime as well as to bring some order to a world where illicit trading flows seem to be out of governmental control.

By signing the Convention governments agreed to put in place organized crime control methods mainly pioneered in the United States or recommended by the United States as transnational policing has evolved to combat what is now commonly perceived as an international security threat. These methods include anti-money laundering measures, the confiscation of criminal assets, the ending of bank secrecy, the protection of witnesses, the carrying out of international joint police investigations, the exchange of information, and the provision of mutual legal assistance.¹

In 2010 the United Nations Office on Drugs and Crime (UNODC) launched a publication entitled, *The Globalization of Crime; A Transnational Organized Crime Threat Assessment*. This represents the international community's current understanding and approach to organized crime and is already influencing the way individual states present the problem to their peoples.²

The report featured a large number of maps and charts to illustrate illicit trading flows and their markets. It found that, 'Drugs remain the highest value illicit commodities trafficked internationally, by quite a wide margin' and added that the 'flows coming closest are actually those best integrated into licit markets - counterfeit goods and illicit timber - as well as those involving illicit human movements'.³ The hope was that an effective review mechanism to measure progress and identify needs would emerge from the UNODC's research efforts.

This paper tracks the evolution of the understanding of organized crime from its American origins to the analysis outlined in the UNODC report. It begins by describing the construction of narratives that convinced people first in the U.S. and then internationally of the need for drastic and co-ordinated action against organized crime, and the evolution of widely-accepted but inadequate national and international responses to organized and transnational organized crime. Although there are methodological flaws and false assumptions in the UNODC's analysis, as pointed out by Peter Andreas,⁴ this paper finds

¹ Peter Andreas and Ethan Nadelmann, *Policing the Globe: Criminalization and Crime Control in International Relations*, (Oxford: Oxford University Press, 2006). pp. 242-5.

² See, for example, HM Government, *Local to Global: Reducing the Risk from Organized Crime*, London: The Stationary Office. Available at: <http://www.homeoffice.gov.uk/publications/crime/organised-crime-strategy?view=Binary>.

³ United Nations Office of Drugs and Crime (UNODC). *The Globalization of Crime; A Transnational Organized Crime Threat Assessment*. (Vienna: United Nations Office of Drugs and Crime, 2010), p. 275.

⁴ Peter Andreas, 'Illicit Globalization: Myths, Misconceptions, and Historical Lessons', *Political Science Quarterly*, 126 (2011), pp. 406-25.

much that is positive in it, particularly in the move away from conspiracy interpretations towards the need for a better and more insightful understanding of criminal markets. At the same time, the analysis warns that a radical departure from the current prohibitive approach to the many and varied kinds of drugs now available in the global marketplace is required in order to limit the undoubtedly destructive impact of organized criminal activity to any significant extent.

I

Early 20th century Americans focused on a moral reform movement to prohibit and thus hopefully eradicate 'immoral' activities completely. All of the campaigns that successfully resulted in federal prohibition policies had their own panics and folk devils. During the 'white slave' hysteria, for example, when large numbers of American women were thought to be at risk of kidnapping and enforced prostitution at the hands of foreign criminals, a congressional committee claimed that, 'The vilest practices are brought here from continental Europe'; foreigners were corrupting America with 'the most bestial refinements of depravity'. These unspeakable acts were sure to bring about the 'moral degradation' of America.⁵ To emphasize the need for a federal response there were claims about the centralization of white slavery; there existed, one politician claimed, 'an organized society' that existed both in the US and abroad, 'formed for no other purpose than to exploit innocent girls for immoral purposes'.⁶ The panic subsided after the passage of the Mann Act in 1910 that prohibited the transporting of women over state lines for 'immoral purposes'. No centralized white slave syndicate was ever discovered.⁷

Similarly, campaigns against opium raised the spectre of 'devious' and violent Chinese 'Tong' gangs. Concern about the 'seductive poison' would extend far beyond American borders with anti-narcotic campaigners feeling it was their moral duty to help the Chinese people to rid themselves of the 'opium menace'. These moral crusaders thus put themselves in the vanguard of the international drug prohibition movement as David Musto and others have documented.⁸

The peak of the crusade was the passing of two more federal laws, the Harrison Act in 1914 and the Volstead Act of 1919. The intention of the Harrison Narcotic Act was chiefly to prohibit the use of drugs for recreational purposes. Major black markets soon developed as criminals moved in to supply both addicts and occasional users with a variety of the new illegal drugs.⁹ The known participants in the drug trade included representatives of every ethnic and racial group and have never been shown to be part of centralized conspiracies, despite many claims to the contrary.

In 1919 the Volstead Act was passed, providing for the enforcement of the 18th Amendment to the Constitution. The Amendment prohibited the manufacture, transportation, sale or importation of intoxicating liquor within the United States. Again criminals moved in to supply a variety of intoxicating substances to those addicted to alcohol or those who just wished to drink alcohol. Prohibition took the legitimate income of brewers, distillers, and saloon-keepers and gave it to criminals and corrupt public officials. Rumrunners, bootleggers, gunmen, speakeasy operators, corrupt politicians, law

⁵ Lawrence M. Friedman, *Crime and Punishment in American History* (New York: Basic Books, 1993), p. 326.

⁶ David J. Langum, *Crossing Over the Line: Legislating Morality and the Mann Act* (Chicago: University of Chicago Press, 1994), p. 40.

⁷ Ibid., pp. 40-4.

⁸ David Musto, *The American Disease: Origins of Narcotic Control* (New York: Oxford University Press, 1999).

⁹ Michael Woodiwiss, *Crime, Crusades and Corruption: Prohibitions in the United States, 1900-1987* (London: Pinter, 1988), p. 6.

enforcement and criminal justice officials shared in an immense new potential for easy profits. Large bootlegging syndicates emerged but never controlled the trade in illegal liquor.¹⁰

The basic problem with the criminalization of 'sin' or aspects of personal behaviour was noted by several of the early serious commentators on the problem of organized crime. In 1936, for example, the economists, E.R. Hawkins and Willard Waller, noted that such crime was economically productive:

The prostitute, the pimp, the peddler of dope, the operator of the gambling hall, the vendor of obscene pictures, the bootlegger, the abortionist, all are productive all produce goods and services which people desire and for which they are willing to pay. It happens that society has put these goods and services under the ban, but people go on producing them and people go on consuming them, and an act of the legislature does not make them any less a part of the economic system.

The U.S., they argued, needed to study the economic effects of crime:

We need to know the nature and immediate results of a crime crusade. We need to be more cognizant of the permanent consequences of crime as an organic part of our society....What is the effect of crime in redistributing the national income? What unintended consequences for the larger social order have such crimes as bank robbery, embezzlement, counterfeiting, and racketeering?....What are the roots of crime in legitimate business?¹¹

Unfortunately for America, and other nations that have followed their lead on organized crime control, questions of this type were not ones which American opinion makers and government officials wished to see addressed.

America's moral crusade did not end with the repeal of the 18th Amendment in 1933. The institutions which moulded public opinion, such as newspapers, churches, chambers of commerce and civic associations, were set against any more tampering with the morality legislation. They backed appropriate candidates in local elections and when this failed to improve matters they favoured increased federal involvement to support the effort to enforce the prohibitions of gambling and drugs.¹² Conspiracy interpretations of organized crime began to get the support of influential newspaper and magazine publishers like William Randolph Hearst, Colonel Robert R. McCormick and Henry Luce, and Hollywood studios such as Warner Brothers and Paramount.¹³ These interpretations explained the failure to enforce the remaining prohibitions by increasingly outlandish claims about centralised criminal conspiracies that demanded centralised and toughened up policing responses. Those Americans who argued that a large part of the problem of organized crime was in the laws, the system and the impossibility of eradicating perverse aspects of personal behaviour were discredited or more simply ignored.¹⁴

Instead of constructing organized crime interpretation and control policy on empirical research there was an emphasis on nationwide criminal conspiracy by newspaper reporters, law enforcement officials, and politicians – all seeking to advance

¹⁰ Mark Haller, *Illegal Enterprise: The Work of Historian Mark Haller* (Lanham, MD: University Press of America, 2013).

¹¹ E.R. Hawkins and Willard Waller, 'Critical Notes on the Cost of Crime', *Journal of Criminal Law and Criminology*, 26 (1936), pp. 679-94.

¹² Woodiwiss, *Crime, Crusades and Corruption*, pp. 41-95.

¹³ William Moore, *The Kefauver Committee and the Politics of Crime* (Columbia: University of Missouri Press, 1974).

¹⁴ Dwight C. Smith, *The Mafia Mystique*, (New York: Basic Books, 1975).

their careers.¹⁵ Fragments of the evidence they collected were obvious, but did not prove their claims, as the historian William Moore explained,

Important figures involved in liquor manufacture and distribution or gambling, as in other business or professional activities, might well become acquainted; similar interests such as racing, resorts, and possibly joint investment ventures would occasion meetings for both pleasure and planning. In some cases, ethnic and family ties might strengthen these relationships. Certainly underworld businesses, like upperworld business, did not proceed in a vacuum.¹⁶

However, many journalists and law enforcement officials began to use these fragments to jump from the undeniable to the unbelievable. Journalist Martin Mooney was a pioneer in this. In 1935, for example, he first publicized an alleged meeting of 'the executives of Crime Incorporated' in a New York hotel. These people ran 'the obscure, elaborate and intricate set-up of super-racketeering which....controls the sixteen principal profitable rackets throughout the nation'. The 'sinister sixteen' rackets ranged from pin-ball to narcotics and in the big cities 'Crime Incorporated' had what amounted to boards of directors and committees engaged in developing new projects, drawing up contracts, operating with their own secret service and lobbying. According to Mooney, the latter reached all the way into Washington D.C. and he stressed the wealth of this national organization with the same misuse of statistics that characterized reporting of the organized crime problem thereafter: 'The pin-ball game has become the biggest money-maker for Crime, Incorporated. Out of the five cent pieces of the men, women and children of the United States, the crime combines have built up a business which, conservatively estimated, is bringing the super-racketeers a daily take of \$5,000,000!' ¹⁷

Mooney provided no names and there is no doubt that much of 'Crime Incorporated' was purely imaginary, particularly claims about the centralized structure of organized crime and the mythical statistics to back it up. His interpretation was based on the same moralistic assumptions that lay behind the 19th century moral crusading.¹⁸ Mooney's theory was widely circulated in the press and it appeared in book form with an endorsement from the Director of the Federal Bureau of Investigation (FBI), J. Edgar Hoover.¹⁹ Although Mooney himself then faded into obscurity the conception of organized crime as a united entity transcending state lines was vital in a nation rapidly transforming itself into the national security state that Hoover and others in American government were constructing. Organized crime as a united entity could be plausibly presented as many-faced, calculating and conspiratorial, relentlessly probing for weak spots in the armour of American morality – a threat to national security in other words. The only conclusion reachable from such an analysis was that the only acceptable response to this threat was law enforcement.²⁰

In December 1941 the United States entered the Second World War. This, and the fact that the country was fighting fascist Italy helped to fan the nativist xenophobia that spawns ethnic stereotypes and alien conspiracy interpretations. In the immediate post-war years early century images of Sicilians and Italians as 'death-bound assassins' and 'Black Hand' extortionists were refashioned into a catch-all explanation of the

¹⁵ Lee Bernstein, *The Greatest Menace: Organized Crime in Cold War America* (Boston: University of Massachusetts Press, 2002).

¹⁶ Moore, *The Kefauver Committee*, p. 21.

¹⁷ Martin Mooney, "Crime Incorporated", *Rochester Evening Journal and Post Express*, 21-25 January 1935.

¹⁸ Woodiwiss, *Crime, Crusades and Corruption*, pp. 3-5.

¹⁹ Martin Mooney, *Crime Incorporated* (New York: Whittlesey House, 1936).

²⁰ Michael Woodiwiss, *Organized Crime and American Power: A History* (Toronto: University of Toronto Press, 2001), pp. 244-56.

country's organized crime problems. 'Crime Incorporated' was now given a new and distinctly ethnic label. It was repeatedly claimed that something now called the 'Mafia' controlled organized crime.²¹

As Thomas E. Dewey had shown when, as a New York prosecutor during the 1930s, he secured the convictions of a number of gangsters, organized crime was a sensational issue that enabled ambitious politicians to get their names before the public.²² Taking note of this, Senator Estes Kefauver of Tennessee introduced Senate Resolution 202 in 1950, which called for an investigation into crime in inter-state commerce. The subsequent hearings and reports made an immense impact on popular and professional perceptions of organized crime.²³

In effect, the Kefauver committee's goal was to reduce the complexities of organized crime to a simple 'Good versus Evil' equation. The evidence uncovered by the hearings was only incidental to the committee's conclusions, which had been decided upon before the hearings began. Traditional American morality, and the argument that gambling was detrimental to business, ensured that the committee's conclusions would be against the legalization of gambling.²⁴

Although the committee was mainly concerned with gambling, it was heavily influenced by Harry Anslinger, head of the Federal Bureau of Narcotics (FBN). Anslinger took a criminal rather than a medical approach to the problem of drug addiction; an approach that was being seriously challenged for the first time in the post-war years not only by doctors and academics but by professionals within the law enforcement community. The Californian Crime Commission, for example, came to this conclusion in 1950:

As long as there is an abundant world supply of illegal narcotics it necessarily follows that vigorous and efficient enforcement of the narcotics laws will merely result in raising the price of narcotics locally thus increasing the possibility for fabulous profits to those who are able to engage in the traffic even for a brief time. The experience in California and in all other parts of the United States in recent years should suggest serious doubt as to whether the narcotics traffic can ever be stopped by the mere prohibition of the possession and traffic of narcotics. Experience has indicated that instead of limiting ourselves to a single line on the problem which takes the form of attempting to prevent the evil by destroying the sources of supply we could do well to consider the possibility of supplementing our efforts with a second line of attack designed to destroy the demand.

The commission argued that the motivation of the narcotics traffic was strictly economic. It existed 'only as long as the narcotics peddler is able to demand a high price from the addict'. As a solution, they suggested that if the addict could register, and as a matter of medical treatment, could receive at low cost his narcotics dosage from carefully supervised dispensary the traffic in illegal narcotics would vanish overnight. The traffic would disappear, they argued, 'because it would no longer be worthwhile financially to bring illegal narcotics in to the country which could not be profitably sold in competition with a medical clinic'.

The Commission also noted that England and other European countries did not have narcotics problems to compare with those of the United States despite 'the super-abundance of the world supply', and recommended further study of drug-control

²¹ Smith, *The Mafia Mystique*, pp. 121-52.

²² Claire Bond Potter, *War on Crime: Bandits, G-Men and the Politics of Mass Culture* (New Brunswick, NJ: Rutgers University Press, 1998).

²³ Smith, *The Mafia Mystique*, pp. 217-51.

²⁴ Moore. *The Kefauver Committee*, pp. 114-35.

policies which prevented 'the development of a narcotics traffic by undercutting the profits of the peddler'. This approach, however, called into question the very existence of Anslinger's organization and he helped ensure that no such study was undertaken.²⁵

Anslinger had no answer to rational arguments. Instead, he developed self-serving distractions; one was to blame foreign conspiracies for America's drug problems. Through statements and disclosures to the Press and by appearances before Senate committees, beginning with Kefauver's, Anslinger and his agents propagated the idea that the Mafia super-criminal organization controlled both the worldwide drug traffic and the core of organized crime activity in the United States.²⁶ The Bureau could, therefore, justify the importance of its task, and explain its lack of success without having to inquire more deeply into the problem of addiction itself. The only result of this approach has been, as the Californian Crime Commission warned, to increase 'the possibility for fabulous profits to those who are able to engage in the traffic even for a brief time'.²⁷

Senate Committees chaired by Kefauver and, later in the 1950s, by John McClellan, government agencies such as the FBN and, in the 1960s, the FBI, newspaper, magazine and book publishers, and finally Mario Puzo's *The Godfather* (1969) entrenched the belief that the Mafia (or La Cosa Nostra as the FBI called it) was a coherent organisation that dominated organised crime nationally and internationally.²⁸ All empirically-based research, such as David Critchley's *The Origin of Organized Crime in America*,²⁹ has demonstrated that this interpretation was basically far-fetched. Mafiosi sometimes cooperated with each other to exploit illegal markets but they could never control illegal markets. The Mafia conspiracy analysis was accepted, however, partly because it justified the retention of laws prohibiting gambling and drugs that had only ever been selectively and unsuccessfully enforced.³⁰

In 1969 Richard Nixon added the weight of the American Presidency to the conspiracy-based line of analysis, supporting new legislation that increased federal jurisdiction over criminal activity to unprecedented levels. He warned that the Mafia's influence had 'deeply penetrated broad segments of American life' and announced a series of measures designed to pursue the criminal syndicate - depicting it as a singular entity.³¹ In 1970 Congress supported this line and passed the Organized Crime Control Act (OCCA).³² This and other legislation gave federal law enforcement and intelligence agencies an array of powers that, as noted at the beginning of this paper, were adopted eventually by a large number of other states. American federal and local police could now more easily use eavesdropping and wiretapping devices, cultivate informants,

²⁵ Special Crime Commission on Organized Crime, *Third Progress Report*, (State of California: Sacramento, 1950), pp. 100-1.

²⁶ Smith, *The Mafia Mystique*, p. 182.

²⁷ Special Crime Commission on Organized Crime, *Third Progress Report*, p. 101.

²⁸ Smith, *The Mafia Mystique*, pp. 252-4.

²⁹ David Critchley, *The Origin of Organized Crime in America: The New York City Mafia, 1891-1931* (New York: Routledge, 2009).

³⁰ Woodiwiss, *Organized Crime and American Power*; Smith, *The Mafia Mystique*; Moore, *The Politics of Crime*; Joseph L. Albini, *The American Mafia: Genesis of a Legend*, (New York: Appleton-Century-Crofts, 1971).

³¹ Richard Nixon, 'Special Message to the Congress on a Programme to Combat Organized Crime in America', 23 April 1969; available from *The American Presidency Project* at <http://www.presidency.ucsb.edu/ws/index.php?pid=2014&st=mafia&st1=>.

³² Alan A. Block, 'The Organized Crime Act, 1970', *Historical Issues and Public Policy*, Vol. 2 (1980), pp. 39-59.

secure convictions that would attract long sentences and seize the financial assets of their targets. It amounted to a major centralisation of policing powers.³³

During the 1970s and into the 1980s there was a number of academic works that critically engaged with the Mafia conspiracy interpretation. They found that although Mafia 'families' did have influence in some businesses in some cities and in some trade unions, the Mafia was not a coherent national organization that controlled or even dominated organized crime in America. Dwight Smith, in *The Mafia Mystique* (1975) and in subsequent work made an effort to move away from the organized crime control community's unproductive focus on ethnicity and conspiratorial groups of people in the study of organized crime.³⁴ Instead, he proposed 'a theory of illicit enterprise' as an invitation to further research and study. He meant by 'illicit enterprise' the 'extension of legitimate market activities into areas normally proscribed, for the pursuit of profit and in response to latent illicit demand'. In this context, 'the loan shark is an entrepreneur in the banking industry; the drug or cigarette smuggler is a wholesaler and the fence a retailer; and the bribe-taker is a power broker'. These observations he argued, reflected 'two fundamental assumptions: that the range of activity in any marketplace is continuous in character, from the very saintly to the most sinful; and that organizational concepts ordinarily applied only to legitimate businesses are applicable to that entire range of activity'.³⁵

Following Smith's critique, the FBI did make many successful investigations of the twenty-plus Italian-American crime 'families' that undoubtedly existed. A large number of convictions were achieved and the court evidence showed that many mafiosi swore masonic-type oaths of allegiance, used murder and intimidation to protect territories, markets and operations.³⁶ But the evidence also showed the limits of Mafia power and the limits of the Government's campaign against them. It showed that bosses, even in cities where mafiosi were plentiful, such as New York, could not direct or control criminal activity in their own city let alone nationally. They were certainly powerful gangsters, who made an impact on local economies, but definitely not part of a tightly-knit, all-powerful national syndicate, that could centralize control of illegal markets and therefore constitute a national security threat as had been frequently claimed.³⁷

The United States government chose not to support further research and study along the lines suggested by Smith and others. However, by the 1980s, it was no longer possible to see the Italian families as the *only* source of organized crime in America. Despite the overwhelming emphasis on the Mafia, it became undeniable that people from every racial and ethnic origin were involved in systematic criminal activity in America and therefore making organized crime synonymous with Mafia was no longer

³³M. Lawrence, *Crime and Punishment in American History* (New York: Basic Books, 1994).

³⁴Smith, *The Mafia Mystique*; Dwight C. Smith 'Organized Crime and Entrepreneurship', *International Journal of Criminology and Penology*, 6 (1978), pp. 161-77; Dwight C. Smith, 'Paragons, Pariahs, and Pirates: A Spectrum-Based Theory of Enterprise', *Crime and Delinquency*, 26 (1980), pp. 358-86; Dwight C. Smith, 'Wickersham to Sutherland to Katzenbach: Evolving and 'Official' Definition for Organized Crime', *Crime, Law and Social Change*, 16 (1991), pp. 135-54; Dwight C. Smith, 'Illicit Enterprise: An Organized Crime Paradigm for the Nineties', in Robert J. Kelly, Ko-Lin Chin and Rufus Schwartzberg (eds.), *A Handbook of Organized Crime in the United States* (Westport, Conn: Greenwood Press, 1994), pp. 121-50.

³⁵ Smith, 'Organized Crime and Entrepreneurship', p. 164.

³⁶ Stephen Fox, *Blood and Power: Organized Crime in Twentieth Century America* (New York: Penguin, 1989), pp. 357-405.

³⁷ Peter Reuter, *The Organization of Illegal Markets* (Washington DC: National Institute of Justice, 1985).

viable or useful. Federal officials began to make an often repeated claim that although the Mafia had once been the dominant force in US organized crime, it was now being challenged by several crime 'cartels' emerging amongst Asian, Latin American and other groups. This was essentially the analysis of the structure of organized crime put forward by President Ronald Reagan's Commission on Organized Crime (1984-1986).³⁸ As Gary Potter argues in *Criminal Organizations* (1994), the new interpretation was an adaptation of the foreign conspiracy interpretation rather than an overhaul in official thinking about organized crime. The official argument remained the same: forces outside of mainstream American culture threatened otherwise morally sound American institutions. Potter described the new official consensus as the 'Pluralist' revision of the foreign conspiracy interpretation.³⁹

As will be seen, the American media accepted the new interpretation along with its corollary that the government's successes against the Mafia must be accompanied by an effort to 'stay in front' of the emerging 'cartels'. In sum, as every mainstream commentator agreed, the U.S. government's basic approach to the problem of organized crime was sound but needed a harder line on all fronts: more wiretaps, informants, and undercover agents in order to get more convictions which would require more prisons. And, more criminal assets forfeited to help pay for at least some of this. 'Staying in front' required increased cooperation between local, state and national law enforcement and criminal justice officials, and, as this approach was exported to most other countries, it also required increased cooperation across borders.⁴⁰

The American conceptual understanding of the problem has not advanced much from the Reagan era as *The Globalization of Crime* report noted when it cited a 2008 Department of Justice strategy document to make the following point:

Law enforcement seems to have had trouble making the leap from focusing on groups to focusing on markets. Police officers, investigators and prosecutors are employed to make cases against individuals in a particular jurisdiction. They lack the authority and the tools to take on the entire trafficking flow. As hammers, they seek nails, and tend to conceptualize organized crime as the activities of a collection of particular people, rather than a market with a dynamism of its own.⁴¹

It will be argued that an adequate response to organized crime does indeed require making the leap from focusing on groups to focusing on markets but there is little likelihood of this leap being made while discourse is dominated by leaps from undeniable evidence about cooperation between criminals to unbelievable claims about the existence of a 'Crime Incorporated' or 'Pax Mafiosa'.

II

Harry Anslinger helped shape international perceptions of organized crime as much as he had helped shape Americans' perception of organized crime and many of his successors in the US international law enforcement community followed his example. After the Second World War the FBN's Director played a prominent role in the effort to centralize and consolidate international drug control through his influence on the United Nations

³⁸President's Commission on Organized Crime, *Organized Crime: Federal Law Enforcement Perspective* (Washington DC: Government Printing Office, 1983).

³⁹ Gary T. Potter, *Criminal Organizations: Vice, Racketeering and Politics in an American City* (Prospect Heights, Illinois: Waveland Press, 1994), p. 7.

⁴⁰ President's Commission on Organized Crime, *The Impact: Organized Crime Today*, (Washington DC: Government Printing Office, 1986).

⁴¹ United Nations Office of Drugs and Crime (UNODC). *The Globalization of Crime*, pp. 29, 283.

Commission on Narcotic Drugs (UNCND). Previously, under the auspices of the League of Nations, the international drug control system had been based on the regulation of trade and manufacture of narcotic drugs. Anslinger, with the support of well briefed American delegates and key allies notably the Canadian Colonel Clement Sharman, used the UNCND as a vehicle for the internationalization of the US prohibitive strategy on drug control. As has been argued elsewhere, the UN drug conventions that followed in 1961, 1971, and 1988 were all steps in this direction.⁴²

The FBN's focus on the Mafia and Lucky Luciano in particular was part of an agenda to increase the size and power of international policing agencies so that the hopes and dreams of early 20th century American moralists could be realised and the 'plague' of drug use and addiction be avoided. Luciano had been a New York gangster during the 1920s and 1930s whose importance was exaggerated to ludicrous proportions. Journalists acknowledged their FBN sources in a series of stories or columns making claims about Luciano that would have resonated with readers used to the master criminal plotlines of pulp fiction and movies. A Ray Richards story on 25 February 1947 carried the headline, 'Lucky Luciano Heads Mafia's World Gang'.⁴³ He followed this up with a story on 11 April that opened with the following sentence, 'The execution squad of Lucky Luciano's huge Mafia Narcotics Syndicate is again spitting fatal lead'.⁴⁴ Another journalist writing for the United Nations made the link between the exaggerated claims about Luciano and the international policing agenda explicit in a 1949 article for the *UN World*, entitled, 'Lucky Luciano vs The United Nations'. This concluded that the American gangster's strength and power forced 'people all over the world to realize that sooner or later international criminal gangs must be opposed by an international organization of law'.⁴⁵

Most popular non-fiction accounts of the American Mafia during the 1940s and 1950s were written with the active participation of FBN agents, and made even more of the corporate analogies. These included the *Confidential* series of books by Jack Lait and Lee Mortimer, in which the misleading idea of gangster groups being organized in the same way as big business was elaborated. 'In many ways', they wrote, 'the Syndicate reminds one of a giant international trust or cartel. It is somewhat like, say, the Standard Oil Company, which is divided into subsidiary companies, such as Standard of New Jersey, Standard of Indiana, of New York, of California etc., and other operating units like Vacuum Oil, cosmetic companies, pipe lines, railroads, and gasoline filling-station chains.'⁴⁶ Ed Reid's claims in *Mafia!* (1952) were if anything even more preposterous. 'The Mafia', according to Reid, was 'the principal fount of all crime in the world, controlling vice, gambling, the smuggling and sale of dope, and other sources of evil'.⁴⁷

Frederick Sondern's *Brotherhood of Evil* (1961)), which received an endorsement by Anslinger in the form of a foreword was an early articulation of the argument that organized crime should be considered a national security issue:

⁴² Michael Woodiwiss, and David Bewley-Taylor, *The Global Fix: The Construction of a Global Enforcement Regime* (Amsterdam: Transnational Institute, 2005). Available online at <http://www.tni.org/sites/www.tni.org/files/download/crime2.pdf>.

⁴³ Ray Richards, 'Lucky Luciano Heads Mafia's World Gang', *Ludington Daily News*, 25 February 1947.

⁴⁴ Ray Richards, 'Mafia Killers Strike Again', *Ludington Daily News*, 11 April 1947.

⁴⁵ Bernstein, *The Greatest Menace*, pp. 128, 209.

⁴⁶ Jack Lait and Lee Mortimer, *Chicago Confidential*, (2nd Edition) New York: Crown, 1950), p. 189.

⁴⁷ Ed Reid, *Mafia* (New York: Signet. 1954), p. 1.

We are engaged in a war against organized crime which involves the whole nation; in a war against an army of subtle and defiant men whose power and wickedness have grown steadily throughout the last decade....the core of this army are the Mafiosi.⁴⁸

These messages, and thus the American conceptualisation of organized crime, were exported abroad. Evidence that British commentators had been convinced by the ideas that American organized crime was organized along big business lines and 'Made in Sicily' can be found in two books published in the early 1960s. These paraphrased the interpretations of Lait, Mortimer, Reid and Sondern. Kenneth Allsop's 'True Crime' best-seller *The Bootleggers* claimed that the Mafia was 'a national network of organised, corporation crime, intangibly but intrinsically in control of the industrial, political and social life of most large American cities'.⁴⁹ Christopher Hibbert in *The Roots of Evil: A Social History of Crime and Punishment* was convinced of the all-embracing influence of the Mafia over American society. He believed that by the beginning of the twentieth century the Mafia had become entangled with 'so much which could be intimidated or corrupted in American society that its entwining grasp on the life of the nation has never been completely broken' and that, moreover, it had been 'profitably involved in every more or less disreputable business and traffic in America'.⁵⁰

Best-selling fiction published in many languages probably did more to promote the idea of an omnipotent Mafia internationally than 'factual' accounts. Mickey Spillane who sold more books overseas than any other American author during the 1950s described the Mafia in *Kiss Me Deadly* (1952) as a 'slimy, foreign secret army, 'that stretched out its tentacles all over the world with the tips reaching into the highest places possible'.⁵¹ The popular French writer Georges Simenon echoed this theme in *The Brothers Rico* (1954)⁵² which was produced as a film in 1957, shown in France as *Les Freres Rico* and in Spanish-speaking countries as *Los Hermanos Rico*. Television also played a significant part in the transmission of similar ideas. From 1966 to 1968, the British Broadcasting Corporation's *Vendetta* was shown weekly on British television before being exported abroad and bizarrely featured Vatican police officers travelling the world to combat the Mafia in a range of exotic locations.⁵³

The work that established a strong, abiding and culturally pervasive Italian ethnic identity to organized crime was Mario Puzo's *The Godfather*.⁵⁴ Both film and book depict an Italian-American crime family bending American industrial and governmental institutions to its will. Corporate bosses, judges, police officers and other gangsters either obey the Godfather or they are 'made offers they can't refuse'. Don Corleone and his family are put squarely at the centre of America's organized crime problems. *Forbes* magazine estimated that the novel had sold more than 20 million copies worldwide by 2002.⁵⁵ The films of the book, *Godfather: Part I* (1972) and *Godfather: Part II* (1974) were even more successful, breaking numerous box-office records both at home and

⁴⁸ Frederick Sondern, *Brotherhood of Evil: The Mafia* (London: Panther, 1961).

⁴⁹ Kenneth Allsop, *The Bootleggers*. (London: Hutchinson, 1961), p. 355.

⁵⁰ Christopher Hibbert, *The Roots of Evil: A Social History of Crime and Punishment* (Harmondsworth: Penguin, 1963), p. 362.

⁵¹ Mickey Spillane, *Kiss Me Deadly* (New York: E.P. Dutton, 1952).

⁵² Georges Simenon, *The Brothers Rico* (New York: Doubleday, 1954).

⁵³ Don Black and Terry Walstrom, 'John Barry: The Man with the Midas Touch' (Bristol: Redcliffe Press, 2008), p. 182

⁵⁴ Mario Puzo, *The Godfather*, (New York: G.P. Putnam, 1969).

⁵⁵ Michael Maiello, 'The Godfather's Returns', *Forbes.Com*, 19 December 2002, available at http://www.forbes.com/2002/12/19/cz_mm_1219godfather.html, accessed on 23 February 2011.

abroad but in the process misdirecting the perception of American organized crime for many years to come.

A set of assumptions about the Mafia had been constantly repeated in most forms of American media communication – newspapers, books, radio, television, and movies – and by the 1970s had been successfully transmitted overseas. *Time* magazine developed the idea of organized crime as corporate in an article entitled, ‘The Conglomerate of Crime’ in 1969 which claimed that ‘In money terms, the organization is the world’s largest business’ and quoted Meyer Lansky, a Jewish-American gangster and the ‘gang’s leading financial wizard’ as ‘being overly modest’ when he claimed in 1966: ‘We’re bigger than U.S. Steel’. Measured in terms of profits, ‘Cosa Nostra and its affiliates’ were ‘as big as U.S. Steel, the American Telephone and Telegraph Co., General Motors, Standard Oil of New Jersey, General Electric, Ford Motor Co, IBM, Chrysler and RCA put together’.⁵⁶ The journalist Hank Messick elaborated on this theme in his biography of Lansky in 1971. He wrote that Lansky had been ‘for years the Chairman of the Board’ of the ‘National Crime Syndicate’ and that Lansky was responsible for US organized crime becoming ‘a cancerous part of our economic and political systems’. By the end of the book, after detailing Lansky’s business activity in the Caribbean, Messick concluded that, ‘Thanks largely to the genius of one man, the Syndicate International had become a terrible reality’.⁵⁷

Although *Time* was an international publication and Messick’s book sold well in US and international markets, such ideas about Lansky were much more widely spread by the Hollywood movie *Godfather II* (1974). A global cinema audience saw Hyman Roth, the Lansky character, narrow his eyes and whisper, ‘Michael! We’re bigger than U.S. Steel!’⁵⁸ Evidence that such ideas had been successfully transplanted overseas can be found in the title of British journalist Martin Short’s television documentary series and book on the Mafia, *Crime Inc.* He began the book thus: ‘Organized crime is America’s biggest business. According to some estimates, its profits are greater than those of *Fortune* magazine’s top 500 business and industrial corporations added together.’⁵⁹ Both *Time* and Messick bypassed empirical research and relied on the law enforcement community for their claims and estimates. Short in his acknowledgments noted that his book could not have been written, nor could the television series have been made, ‘without the help and support of the FBI, the DEA [Drugs Enforcement Agency] and the Organized Crime and Racketeering Section of the Department of Justice’.

The ‘Pluralist’ revision of the foreign conspiracy interpretation, described previously, gave a new generation of journalists and television documentary makers a way to update, pluralize and internationalize their organized crime formulas. In *Mafia*

⁵⁶ *Time*, ‘Nation: The Conglomerate of Crime’, 22 April. 1969. Available at <http://www.time.com/time/magazine/article/0,9171,898525,00.htm>, accessed on 23 February 2011.

⁵⁷ Hank Messick, *Lansky* (London: Robert Hale, 1973), pp. 9, 277.

⁵⁸ According to Lansky’s most diligent biographer, Ronald Lacey, there can be no certainty about the veracity of the gangster’s comments. He was being recorded on tape by FBI agents) during the early 1960s and spent much of the time discussing his medical ailments. The tapes were running on the evening of 27 May 1962 when Lansky was recorded commenting on a television studio discussion of organized crime. Lansky sat in silence through the discussion, according to the FBI report, until one of the panellists ‘referred to organized crime as only being second in size to the government itself’. Lansky remarked to his wife that ‘organized crime was bigger than US Steel’. The comment reported by the FBI was thus very different from the paraphrased versions in *Time* and the *Godfather II* movie. The comment did not survive on tape since it was standard FBI procedure to take notes from tapes and then record over them. Lacey’s research makes it abundantly clear that Lansky’s deals and operations were not remotely comparable to those of corporations. Ronald Lacey, *Little Man: Meyer Lansky and the Gangster Life* (London: Arrow, 1992), pp. 284-5.

⁵⁹ Martin Short, *Crime Inc.: The Story of Organized Crime* (London: Thames Methuen, 1984), pp. x, xiii.

Wipeout: How the Feds Put Away an entire Mob Family, for example, Donald Cox, wrote in 1989 that 'A new Oriental Mafia was rising from the ashes of the old Italian-Sicilian Mafia in urban America to rule the underworld'.⁶⁰ In 1991 the Canadian Yves Lavigne reflected the pluralist revision on organized crime within the North American hemisphere in *Good Guy, Bad Guy: Drugs and the Changing Face of Organized Crime*. He claimed 'other organized crime groups had emerged to take their cut' from profits previously monopolized by the La Cosa Nostra. His list included prison gangs, outlaw motorcycle gangs, Chinese triads, Colombian drug cartels, and black drug syndicates. 'They have a common goal: money and power through drug trafficking.' Lavigne's moral extremism is illustrated in the conclusion to this book where he makes the suggestion that 'the high cost of investigation, interdiction, law enforcement, prosecution, and incarceration' should be eliminated 'by executing drug producers, smugglers, and dealers on sight – on street corners, in parks, in their homes. Blow their planes out of the sky. Torpedo their ships. It would be the ultimate solution. At this stage of the game, it's the only solution.'⁶¹

In 1988 Gerald Posner in *Warlords of Crime - Chinese Secret Societies: The New Mafia* went beyond North America to write that, as a result of his research, he was absolutely convinced that 'Chinese Triads are the most powerful criminal syndicates in existence and that they pose the most serious and growing threat confronting law enforcement'. He concluded with comments on the seriousness of the Triad 'threat' from US law enforcement officers, including a DEA agent: 'Chinese criminals have hundreds of years of history and tradition behind them. They are willing to take risks, and they follow their leaders with blind obedience. It's just a matter of time before they take over. What you've seen so far is just the head of the dragon, you can be sure of that.'⁶² An earlier book on the Triads, written in 1980 by the British writer Fenton Bresler, *The Trail of the Triads*, had already articulated the only serious solution under consideration: 'Unless and until the law enforcement agencies of the world come alive to the problem that faces them and expend their time, budget and resources that are required, the 1980s are due to be the decade in which the Triads become as powerful a force for evil as ever the Italian Mafia has been in the past.'⁶³ DEA agents and administrators were the most numerous and prominent of the many members of the international law enforcement community that he acknowledged.

In 1994 James Walsh in an article in *Time* combined the themes of international threat and American past success against organized crime in an article entitled, 'Triads Go Global'. He quoted an FBI agent as follows: 'I think we're at a point right now that is kind of like the formative years of the Cosa Nostra in this country. We're at the stage where we can, perhaps, nip this thing in the bud....People said we'd never crack them. We did.'⁶⁴ In 1998 Jeffrey Robinson, again acknowledging US law enforcement sources in *The Laundrymen: Inside the World's Third Largest Business*, updated the theme of organized crime groups as multinational corporate enterprises. 'After all', he concluded, 'in order to deal drugs the way they do, the global traffickers have set up huge corporate

⁶⁰ Donald Cox, *Mafia Wipeout: How the Feds Put Away an entire Mob Family* (New York: Shapolsky Publishers, 1989), p. 387.

⁶¹ Yves Lavigne, Yves, *Good Guy, Bad Guy: Drugs and the Changing Face of Organized Crime* (Toronto: Ballantine Books, 1991), pp. 7, 499.

⁶² Gerald Posner, *Warlords of Crime - Chinese Secret Societies: The New Mafia* (London: Macdonald - Queen Anne Press, 1988), pp. xiv, 260-1.

⁶³ Fenton Bresler, *The Trail of the Triads* (London: Weidenfeld and Nicolson, 1980), pp. 217-8.

⁶⁴ James Walsh, 'Triads Go Global', *Time*, February 1994.

structures, taken several pages out of the best management books, and constructed their multinational organizations accordingly'.⁶⁵

Claire Sterling, an American reporter based in Italy, did most to popularize and internationalize all three themes permeating the popular literature: organized crime groups as giant multinational corporations of crime, organized crime as an international security threat, and the need for 'best practice', usually American, organized crime control techniques to be applied by police forces across the globe. In *Octopus: the Long Reach of the International Sicilian Mafia*, written in 1990, she argued that, 'Starting in 1957, a small band of criminals presumed to be operating within the confines of a small Mediterranean island grew into a multinational heroin cartel operating around the planet.' According to Sterling, drugs alone made the Mafia 'the twentieth richest "nation" in the world - richer than 150 sovereign states'. Increased international cooperation was her implied solution to the threat of the 'octopus' that was the Mafia: 'The head and the limbs would all have to be chopped at once. This would take an act of iron will such as the international community has rarely displayed. It could happen but there isn't much time.'⁶⁶

In 1994 Sterling's book *Crime without Frontiers: The Worldwide Expansion of Organized Crime and the Pax Mafiosa* developed these themes and illustrated the shift from the total preoccupation with the Italian Mafia to the view that similarly structured criminal groups were forming a global partnership - Sicilian and American Mafias, Colombian drug cartels, Chinese Triads and Japanese Yakuza had joined with the Russian Mafia to mount a full-scale attack on Russia and Europe to plunder both. This arrangement she termed the *Pax Mafiosa* and 'America', she emphasized, 'was the first to realize the futility of trying to cope on its own. It has been urging other nations for years to work together on drugs, money laundering, counterfeiting, fraud - to perceive modern organized crime to be the planetary phenomenon it is.'⁶⁷ US officials, notably Irving Soloway of the State Department, had already articulated a similar analysis.⁶⁸ Although these ideas had no empirical support, they dominated international discourse on organized crime at the highest levels.⁶⁹

The acceptance of the 'global pluralist theory'⁷⁰ of organized crime and other assumptions about American crime control superiority allowed the United States to remain the most prominent nation in setting the international agenda on the analysis and control of drugs, organized crime and transnational organized crime (TOC). The process was given a significant boost by President Bill Clinton in 1995. First he gave a speech to the United Nations on 26 June that elevated organized crime from a national security threat to an international security threat. 'Our enemies', he stated, 'are international criminals and drug traffickers who threaten the stability of new democracies and the future of our children'.⁷¹ On 21 October he added institutional

⁶⁵ Jeffrey Robinson, *The Laundrymen: Inside the World's Third Largest Business*. (London: Simon & Schuster, 1998), p. 401.

⁶⁶ Claire Sterling, *Octopus: the Long Reach of the International Sicilian Mafia* (London: W.W. Norton, 1990), pp. 11, 45, 314.

⁶⁷ Claire Sterling, *Crime without Frontiers: The Worldwide Expansion of Organized Crime and the Pax Mafiosa* (New York: Little, Brown & Company, 1994), p. 251.

⁶⁸ No author, *Washington Times*. 'Crime syndicates form East-West international link', 22 November 1993.

⁶⁹ Amandine Scherrer, *G8 against Transnational Organized Crime* (Burlington VT: Ashgate, 2009).

⁷⁰ Woodiwiss, *Organized Crime and American Power*, p. 386.

⁷¹ William J. Clinton, *Public Papers of the Presidents*, Volume 1 [From the U.S. Government Printing Office via GPO Access], 'Remarks on the 50th Anniversary of the United Nations Charter' in San Francisco, California, 26 June 1995 at <http://frwebgate3.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=02546030087+0+1+0&WAIAction=retrieve>, accessed on 23 April 2010.

momentum to the process of combating international organized crime by signing Presidential Decision Directive (PDD) 42. This ordered all U.S. government agencies to develop a more aggressive and coordinated attack on international organized crime. PDD 42 directed the Departments of Justice, State and the Treasury and other US agencies to work towards raising international standards to combat organized crime; to continue to build alliances with like-minded countries; and to put pressure on countries who failed to respond to increase their efforts to meet those standards.⁷²

The earliest significant result of their efforts was to keep the elaboration of the United Nations Transnational Organized Crime (UNTOC) Convention⁷³ at the centre of discussion. The convention came into force in 2003, having been ratified by the required number of states. Nations that ratify the UNTOC Convention commit themselves to the type of American measures deemed to be effective in combating organized crime by the United Nations. The experts that advised government representatives to support this process never thought to point out that the United States government had clearly not controlled organized crime in the United States itself.

United States government officials continue to issue statements to the media and to co-operate with journalists writing about organized crime in ways pioneered by Anslinger. They thus continue to shape popular and professional perceptions of the problem. In the years following the ratification of the UNTOC Convention the support for crude conspiracy theories has been replaced by conceptualisations that pluralise the problem still further. The administration of President Barack Obama announced a strategy to combat transnational organized crime in July 2011 with the following definition of the problem (author's emphasis):

Transnational organized crime refers to those self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or at least in part by illegal means, while protecting their activities through a pattern of corruption and/or violence, or while protecting their illegal activities through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms. *There is no single structure under which transnational organized criminals operate; they vary from hierarchies to clans, networks, and cells, and may evolve to other structures.*⁷⁴

What had once been defined as a singular threat to American security had now been redefined as a large number of multiple threats to international security. The absence of a centralizing demonology is to be welcomed but the reconceptualization continues to justify continued co-operative efforts against organized crime that show no sign of being effective in minimizing the harms of organized crime.

III

There were, however, some important positives about the international community's emerging perspective on transnational organized crime. The authors of the UNODC *Globalization of Crime* report, discussed at the beginning of this paper, put some clear distance between themselves and the crude *Pax Mafiosa* analyses of those like Sterling. These, according to the report, 'even suggested that the leadership of the traditional

⁷² Jonathan M. Winer, 'The U.S. New International Crime Control Strategy', *Trends in Organized Crime*, 4 (1998), pp. 63-70,

⁷³ See page 1.

⁷⁴ National Security Council, 'Strategy to Combat Transnational Organized Crime', 25 July 2011. Available at <http://www.whitehouse.gov/administration/eop/nsc/transnational-crime>. Accessed on 31 August 2012.

hierarchical groups were coordinating their activities in a vast global conspiracy'. Moreover, the portrayal of organized crime provided 'a kind of local rival army with which to war, and glossed over any structures that did not fit the model'. The report also stressed that the media fascination with the image of an underground empire had continued to grow and that the fear this generated might have become a source of funding for further law enforcement against these groups. It was only with growing scrutiny over time that this image had begun to crumble, and that 'what had appeared to be concerted action was, in many instances, determined to be the activity of a range of actors responding to market forces'.⁷⁵

By avoiding the *Pax Mafiosa* trap, the authors of *The Globalization of Crime* were able to reach the following conclusions that marked a major advance of governmental thinking on organized crime:

1. Because most trafficking flows are driven more by the market than by the groups involved in them, efforts that target these groups – the traditional law enforcement response – are unlikely to be successful on their own.
2. Because TOC markets are global in scale, global strategies are required to address them, and anything else is likely to produce unwanted side-effects, often in the most vulnerable countries.
3. Because globalized commerce has made it difficult to distinguish the licit from the illicit, enhanced regulation and accountability in licit commerce could undermine demand for illicit goods and services.⁷⁶

These three points were further elaborated in the report. With reference to point 3, it pointed out that a 'number of the most significant flows' were by-products of licit commerce that had globalized at a rate 'in excess of the collective ability to regulate them'. Moreover, supply chains were not subject to audit and trade secrets had come to be regarded as matters of national security. It was in this 'murk and muddle', that 'transnational trafficking' germinated. The report implied that a productive way forward would be to put an end to the parallel trade in illicit goods as part of the larger project of bringing transparency and accountability to global commercial flows. More immediate progress, it was argued, could be made by focusing first on a few of the most problematic commodities. These could include trafficking in environmental resources, such as the trafficking of endangered species from Africa and South-East Asia to Asia as a whole, and the trafficking of timber from South-East Asia to Europe and Asia, or trafficking in arms and pharmaceuticals among others. The report stressed that each market flow was unique and that interventions required to address it could not be prescribed without 'detailed consideration of the particularities, but the potential for taming the illicit by regulating the licit should be explored in each instance'.⁷⁷

The UN report thus emphasized throughout that most of 'transnational organized crime' was 'rooted in market forces, not the plotting of professional groups'.⁷⁸ If the United Nations new emphasis on markets was to become the dominant perspective, it holds out the hope that a more convincing theoretical understanding of organized crime could emerge. The most important thing for governments and international organizations funding studies of organized crime now is to look first at *events* called organized crime rather than *people* called organized crime before making their recommendations for its control. Dwight C. Smith in a neglected but important

⁷⁵United Nations Office of Drugs and Crime, *The Globalization of Crime*, p. 28.

⁷⁶ *Ibid.*, p. 276.

⁷⁷ *Ibid.*, p. 278.

⁷⁸ *Ibid.*, p. 276.

journal article on the evolution of an 'official' definition for organized crime, published in 1991, argued that the distinction between looking first at *events* called organized crime rather than *people* called organized crime was critical. The observer who looked 'first at events and then at the persons associated with them' was more likely 'to adopt a scientific, value-free and causal analytical style'. In contrast, the observer who defined a universe by the people it contained was 'more prone to bias and to nontestable assumptions - in short, to conclusions that were based 'more on ideology than on logic'.⁷⁹

The Globalization of Crime's conclusions noted above appear to be based on evidence as well as logic and, if future research is framed in the way suggested by Smith, there is reason for some optimism as international organized crime control evolves. However, the international community's continuing endorsement of the international global drug prohibition system is not supported by the evidence cited by the UNODC report and is still based on the kinds of bias, nontestable assumptions and ideology evident throughout the evolution of thinking on organized crime.

In 1998 the United Nations set the goal of 'eliminating or significantly reducing the illicit cultivation of coca bush, the cannabis plant, and the opium poppy by the year 2008'. The UNODC report's evidence showed this goal was as distant as ever. It provided an estimate of between 172 million and 250 million adults who used illicit drugs in 2007 and the classification of between 18 to 38 million of these as 'problem drug users'.⁸⁰ It chose not to discuss the illicit flows in synthetic drugs such as 3,4-methylenedioxymethyl-amphetamine (MDMA) or the increase in domestic cannabis cultivation in many developed and developing countries - both of which had increased since 1998.⁸¹ The report also chose not to offer statistics to show the costs incurred by the law enforcement, criminal justice, prison, border, intelligence and military communities in the failed attempts to stem these flows.

IV

Throughout this paper's discussion of the evolution of popular and professional perspectives on organized crime two patterns have emerged. The first involves the frequently repeated claims that conspiratorial forces had centralized control of illegal markets and therefore governments had no alternative but to crush these national security threats, with more professional and usually more centralized policing of illegal markets. But the claims rarely stood up to empirical scrutiny and the new forms of policing have not as yet controlled illegal markets to any great extent. The second pattern has involved invoking the victims or potential victims of illegal market activity in ways that tend to exclude discussion of regulatory approaches. An example of this second pattern is a recent call on the international community to remember the thousands of victims who have suffered from the impact of drug trafficking and transnational crime worldwide. In 2011 UNODC Executive Director Yury Fedotov, speaking at the World Policy Conference in Vienna, told delegates that, 'Whether in Afghanistan, Libya, Somalia or Benin, these people

⁷⁹ Smith, 'Wickersham to Sutherland to Katzenbach', p. 136,

⁸⁰ United Nations Office of Drugs and Crime, *The Globalization of Crime*, p. 35.

⁸¹ Robin Room and Peter Reuter, 'How well do international drug conventions protect public health?' *The Lancet*, 3979 (2012), pp. 84-91.

look to us – the international community – for security and for sustainable development. We cannot afford to fail them’.⁸²

Federov, as well as updating rhetorical techniques used by early 20th century American idealists, was implicitly defending the international drug control system. It is often claimed by the system’s defenders that the problems caused by addictive or recreational drugs would be far worse without the global drug prohibition regime. These claims do not square with the historical record. Alcohol is a dangerous and addictive substance and this was one of the main reasons, Americans prohibited it in 1919. The ease with which prohibition was nullified by smugglers and production at home helped bring about a strongly supported campaign to repeal the 18th Amendment and end alcohol prohibition in 1933. As a result of this, fewer Americans died as a result of drinking contaminated alcohol, federal, state and local tax and license receipts exceeded a billion dollars yearly by 1940, and there was no noticeable increase in drunkenness and alcohol-related problems. Corrupt, often murderous, networks of criminals declined at home and the alcohol smuggling networks linking the United States to suppliers in Europe, Canada, Mexico, and the Caribbean had been eliminated with the stroke of a pen.⁸³

It is possible to argue that if the system of global drug prohibition were to be replaced by a regulatory system that reduced the profitability of illicit drug flows the revenue saved could be usefully redeployed to tame the illicit with more effective and more achievable regulation of the licit. Certainly, the expertise exists to design and evaluate alternative systems. In the meantime, the 1931 verdict of Henry Barrett Chamberlin in the *Journal of Criminal Law and Criminology* is as appropriate to transnational organized crime now as it has been about organized crime in the United States for more than a century,

Organized crime is today a great, unmanageable threatening fact in the lives of our communities. It is not enough to ask whether the machinery of law enforcement is good, we must go further, call in question the wisdom of the laws themselves and discover whether or not some of our experiments are not as menacing in their effects as criminal activities. It may be found that some of the best intentions of our idealists have supplied the pavement for the hell of organized crime’.⁸⁴

⁸² ‘We must remember victims of organized crime and drug trafficking, says UNODC chief’, *UNODC Everywhere* available at <http://www.unodc.org/unodc/en/frontpage/2011/December/we-must-remember-victims-of-organized-crime-and-drug-trafficking-says-unodc-chief.html>, accessed 27 November 2013.

⁸³ Peter Andreas, ‘Illicit Globalization’, p. 4

⁸⁴ Henry B. Chamberlin, ‘Some Observations Concerning Organized Crime’, *Journal of Criminal Law and Criminology*, 22 (1931-1932), pp. 352-70.