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Organized Crime in the United States and its Modern Challenges

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Abstract:

The expansion of international crime, especially organized crime, is a perpetual scourge that affects most of the world states and concerns the international public opinion.

Organized crime is the most serious form of criminality that mankind has ever been confronted with, mainly due to its transnational dimensions and seemingly flawless functioning.

A debate on organized crime should address the existence of a worrying sociological phenomenon, besides, of course, the legal phenomenon.

The present study aims at presenting the most important legal instruments that the U.S. have settled at the level of federal legislation, in order to suppress organized crime, as a possible source of inspiration for European lawmakers.

One of the most important U.S. federal laws on organized crime is the Racketeer Influenced and Corrupt Organizations Act (abbreviated as RICO), which provides for extended criminal penalties and a civil cause of action for acts performed as part of an ongoing criminal organization. It was enacted as a distinct section of the Organized Crime Control Act of 1970. While its original use in the 1970s was to prosecute the Mafia, as well as other persons who were actively involved in organized crime, its later application has been more widespread.

Beginning with 1972, 33 U.S. States adopted state-level RICO laws in order to be able to prosecute similar criminal conduct.

Effective multilateral control of organized crime is achievable through the development of harmonized international legislation and coordination projects, complementary international law enforcement capacity, and similar sanctioning mechanisms, designed to improve the state and private sector crime control capacity worldwide.

Keywords: *organized crime in the US; the Omnibus Crime Control and Safe Streets Act (1968); the Organized Crime Control Act (1970); the RICO Act; enterprise; pattern of racketeering: the UN Convention against Transnational Organized Crime and the Protocols Thereto (New York, 2004).*

1. Introduction

The issue of organized crime is not new, but the scope, scale and spread of the phenomenon is now unprecedented.

Presently, just like in its tumultuous past, full of Al Capone myths, organized crime threatens the national security, economy and other interests of the United States. Particularly in the past several decades, organized crime has been evolving and taking on an increasingly *transnational nature*. With more open borders and the expansion of

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the Internet, organized crime threatens the United States not only from within the borders, but beyond.

Organized crime extends far beyond the Italian mafia, encompassing Russian, Asian, Balkan, Middle Eastern, and even African syndicates (groups). Even though organized crime has not received as much recent media or congressional attention as have other national concerns, such as the threat of terrorism, organized crime groups have not ceased their illicit activities.

Following the terrorist attacks of September 11, 2001, national priorities and federal resources in the U.S. have shifted from more traditional crime fighting, including that of organized crime, towards counter-terrorism and counter-intelligence. Subsequently, there has been a decrease in the federal law enforcement resources dedicated to organized crime matters and a decrease in the number of federal organized crime cases opened[1].

To this decrease of interest in organized crime there has added yet another core problem: there is no unified, consensus, clear definition of either organized crime or transnational organized crime (this occurs not only in the U.S., but also at the level of the E.U. criminal legislation).

However, it is possible to delineate three broad, overlapping *conceptions* on transnational organized crime (in short, TOC) prevailing in penal policy analysis and theoretical discussion.

First, one conception characterizes organized crime as "a set of *activities* which may be undertaken by any person or entity, whether economic or political, private or public. These activities ultimately generate a shadow socioeconomic system, supplying illicit goods and services to meet latent demand"[2].

In this conception, transnational organized crime encompasses a broad, but specific set of illicit transnational transactions, regardless of the actors conducting them.

A second conception on organized crime, often derived out of an analysis of U.S. and Italian experiences with the mafia, suggests it is more useful to conceive organized crime as "a set of *hierarchically-organized entities*, conducting diverse commercial activities unified by their underlying business model, the protection racket"[3]. This approach focuses on specific membership-based business groups (syndicates), which may even be characterized as "illicit firms", conceptually distinct from government and politics, and essentially concerned with conducting criminal activities. In this conception, transnational organized crime is simply any such entity engaged in this transnationally-organized criminal activity.

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[1] Kristin M. Finklea: *Organized Crime in the US: Trends and Issues for Congress*, study available at http://fas.org/sgp/crs/misc/R40525.pdf.

[2] Ethan A. Nadelmann,"Global Prohibition Regimes: The Evolution of Norms in International Society," International Organization 44, no. 4 (1990):479-526; R.Thomas Naylor, "From Cold War to Crime War: The Search for a New National Security Threat," Transnational Organized Crime 1, no.4 (1995): 37-56; Monica Serrano, "Transnational Organized Crime and International Security: Business as Usual?," in Mats Berdal and Monica Serrano, eds., *Transnational Organized Crime and International Security: Business as Usual?* (London: Lynne Rienner, 2002) *apud* James Cockayne: *Transnational Organized Crime: Multilateral Responses to a Rising Threat,* available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1008168.

[3] Louise Shelley: *Unraveling the New Criminal Nexus*, Georgetown Journal of International Affairs 6, no. 1/ 2005; T. Schelling: "What is the Business of Organized Crime?" in T. Schelling, *Choice and Consequence,* Cambridge: Harvard University Press, 1984.

Third, a final conception on transnational organized crime is agnostic as to whether organized crime is properly understood as an activity or entity, instead suggesting that international concern with organized crime should be triggered whenever organized crime has *transnational effects*.

These conceptions are not entirely incompatible, and all three possible definitions may on occasion be found in one analysis.

2. Transnational organized crime

The key international instrument for controlling transnational organized crime, the *UN Convention against Transnational Organized Crime and the Protocols Thereto* (adopted at New York, in 2004[4]), offers a definition of transnational organized crime which tips its hat to all three conceptions presented before. In articles 2 and 3, said Convention defines transnational organized crime as comprising those offenses which, to paraphrase, involve a structured group of three or more people with the shared aim to commit either a Convention provided offense (including money-laundering, corruption and obstruction of justice) or any other offense punishable by four years' deprivation of liberty or more; where those crimes are committed with a view to material gain; and where those crimes have transnational effects, are committed transnationally, or are committed by a transnational group. Accordingly, once a group meets the first two conditions of the test, it can meet the third condition of the test either on the basis of being a transnational entity; or on the basis that its activities are transnational; or on the basis that the effects of the activity are transnational. In 2005, the United States ratified the Convention as well as the companion Protocols on trafficking in persons and smuggling of migrants.

The above-mentioned conceptions are, as I have outlined, silhouette definitions that prevail mostly in penal policy analysis and theoretical discussion. That is why a look at a statutory definition of organized crime in the U.S. federal laws would be more appropriate for the purposes of the present study.

One mention needs to be made before any statutory definition is quoted: there is one key-feature to all organized crime activity, irrespective of its domain of activity or *modus operandi* and that is the primary interest in obtaining money. Organized crime groups profit from illegal enterprises, as well as from infiltrating into legitimate businesses. They may attempt to corrupt public officials in order to escape investigation, prosecution, or punishment. But notably, the main goal of organized crime groups is to make money; these groups are profit-driven rather than ideology-driven (an essential distinction between organized crime and terrorist groups).

Apparently, there is no clear current statutory definition of organized crime. The *Omnibus Crime Control and Safe Streets Act* of 1968[5], as amended (P.L. 90-351), defined organized crime as "the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking (i.e. usury), narcotics, labor racketeering, and other unlawful activities of members of such organizations".

This definition described organized crime in terms of the illegal activities rather than in terms of what constitutes a criminal organization. As such, this definition of

[4] Available at http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf.

[5] Available at: https://transition.fcc.gov/Bureaus/OSEC/library/legislative_histories/1615.pdf.

organized crime could have encompassed the activities of not only organized crime groups, but of terrorist groups and corrupt businesses as well. Consequently, the definition was repealed in the *Justice System Improvement Act* of 1979 (P.L. 96-157), leaving the United States with no statutory definition of organized crime.

In the *Organized Crime Control Act* of 1970 (P.L. 91-452), and more specifically within Title IX— *the Racketeer Influenced and Corrupt Organizations Act* (commonly known as RICO), organized crime is described in terms of an "enterprise" and a "pattern of racketeering activity."

Although RICO provides a definition for an "enterprise," it does not describe the attributes of a criminal enterprise that distinguish it from a legal enterprise. In addition, this definition describes organized crime more in terms of the illegal activities than in terms of the criminal organization.

The Organized Crime Control Act of 1970 (P.L. 91-452) strengthened the ability of the federal government to combat and prosecute criminal organizations. It provided for Special Grand Juries to investigate multi-jurisdictional organized crime; these grand juries are able to produce reports outlining public corruption and organized crime conditions in their respective districts. Said Act also allowed for witnesses to organized crime to be granted immunity from prosecution in exchange for testimony. Further, it authorized security for government witnesses or potential witnesses in organized crime cases. This measure laid the groundwork for the Witness Security Program (the WITSEC). The WITSEC program allows for the protection and relocation of witnesses and their families, whose lives may be in danger as a result of their testimony in organized and other major crime cases.

Title IX of the *Organized Crime Control Act* of 1970 created the *Racketeer Influenced and Corrupt Organizations Act* (RICO). Within the U.S. federal law RICO has been perceived as the single most important piece of organized crime legislation enacted. RICO allows for the prosecution of anyone who participates or conspires to participate in a criminal enterprise (organization) through at least two acts of "racketeering activity" within a 10-year period of time. The predicate offenses for racketeering include various state and federal crimes listed in the U.S. Federal Code.

Since its enactment, RICO has been one of the dominant legal instruments used in organized crime prosecutions. The RICO statute itself is *sui generis*. It consists of eight sections, one of which, Section 1961, cites as predicate statutes, fifty-two other federal statutes, five generic references to federal labor and securities laws, and nine state offenses of murder, kidnapping, gambling, arson, robbery, bribery, extortion, narcotics and obscenity.

Concretely, the Act specifically prohibits any person from:

- using income received from a pattern of racketeering activity or through collection of an unlawful debt to acquire an interest in an enterprise affecting interstate commerce;

- acquiring or maintaining through a pattern of racketeering activity or through collection of an unlawful debt an interest in an enterprise affecting interstate commerce;

- conducting or participating through a pattern of racketeering, racketeering activity or collection of an unlawful debt, the affairs of an enterprise affecting interstate commerce;

- conspiring to participate in any of these activities (18 U.S. Code, 1962 (a) [1988]).

Criminal sanctions for violations of the statute are frequently more punitive than sanctions that could be imposed for violations of the incorporated offenses. Any interest

acquired by the defendant through RICO violations is subject to forfeiture (confiscation) under RICO. Furthermore, under RICO, courts of law can enter restraining orders before conviction, in order to prevent transfer of potentially forfeitable property. The Government can also pursue a wide range of civil actions under RICO, including: divestiture, dissolution, reorganization, and treble damages (*i.e.* recovery of three times the amount of actual financial losses) to parties injured.

The key elements generally required for an indictment under RICO are that the defendant, by committing two or more acts constituting a "pattern of racketeering activity" directly or indirectly maintains an interest in or participates in an "enterprise". RICO complaints must allege that each predicate act (i.e. individual offense) is a "racketeering activity" as delineated by the RICO statute. Under RICO, the commission of at least two predicate acts is necessary to constitute a "pattern".

Although it has been "the law" in prosecuting organized crime acts, RICO was criticized for introducing fresh but vague legal concepts such as "enterprise" or "pattern of racketeering" without specifically defining them. Chief Justice Rehnquist was reportedly concerned about the number of RICO cases on the federal docket. Judge David B. Sentelle, of the United States Court of Appeals for the District of Columbia, gave a luncheon address entitled "RICO: The Monster that Ate Jurisprudence" and equated RICO's creator with Dr. Frankenstein. Even other four justices of the Supreme Court expressed doubts about the clarity of the term "pattern of racketeering"[6].

This lack of definitions led to a case-by-case interpretation to clarify statutory concepts, so that the tests and interpretations that evolved were inconsistent among different jurisdictions. However, state case-law demonstrates that increased use of RICO by local prosecutors began to make inroads into areas of illicit businesses that before were virtually impenetrable[7]. The prosecutors explained that they resorted to RICO because these statutes provided for versatile sanctions to a wide variety of offenses and that such sanctions were not available under other laws. A survey conducted among state prosecutors led to the conclusion that the major part of criminal cases (27%) where RICO laws were applied were represented by drug cases in which the primary offense was trafficking/distribution. Gambling offenses accounted for 16% of the activity prosecuted by using RICO statutes. 10% of the cases involved prosecution of fencing/provision of illegal goods, especially rings of automobile "chop-shops". For the remaining percentage of cases RICO was used to prosecute diverse fraud acts: consumer fraud (the largest part), investment fraud and bank fraud[8].

Following the passage of RICO, the U.S. Congress has enacted legislation regarding asset forfeiture (confiscation) and money laundering, both of which have increased the federal government's ability to combat organized crime. The asset forfeiture and money laundering statutes have provided a useful means for the federal government to further attack the financial structure and goods of organized crime groups[9].

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[6] Paul E. Coffey: "Selection, Approval and Analysis of Federal RICO Prosecutions", Notre Dame Law Review, vol. 65, issue 5 Symposium, Law and the Continuing Enterprise: Perspectives on RICO, May 2014, article available at: http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=2174&context=ndlr.

[7] Van Houten,P., Murphy, R.T., and Johnson, R.: "Sixth Survey of White Collar Crime: RICO", American Law Review, 28 (3), 2009, pp. 637-677.

[8] Donald J. Rebovich, Kenneth R. Coyle, and John C. Schaaf: *Local prosecution of Organized Crime: the Use of State RICO Statutes*, a statistics analysis available at https://www.ncjrs.gov/pdffiles1/Digitization/143502NCJRS.pdf.

[9] Forfeiture comes in two forms: civil and criminal. Both result in the confiscation of property derived from or used in criminal activities. Criminal forfeiture is confiscation accomplished as part of

Although RICO included provisions for asset forfeiture, the *Comprehensive Crime Control Act* of 1984 (P.L. 98-473) expanded upon these provisions. Specifically, Title II of Chapter III, the *Comprehensive Forfeiture Act* of 1984, amended RICO by specifying that proceeds (both tangible and intangible) obtained directly or indirectly from racketeering activity were subject to forfeiture.

The rules for civil forfeiture proceedings were later revised in the *Civil Asset Forfeiture Reform Act* of 2000 (P.L. 106-185), improving the federal government's ability to prosecute organized crime cases. Money laundering, the primary method of concealing the illicit proceeds from organized crime activities or placing them back into further illegal activity, was established as a federal criminal offense in the *Money Laundering Control Act of 1986* (P.L. 99-570). This Act also established criminal and civil penalties for money laundering, as well as procedures for forfeiting the illicit funds. It appears that these laws have all provided effective legal instruments, as the Department of Justice and the Federal Bureau of Investigation have indicated that the three most prominent tools relied upon when investigating and prosecuting organized crime are RICO, money laundering, and asset forfeiture statutes[10].

It is important to state that in the U.S. combating organized crime is not a task handled by one federal agency or just one department.

Many agencies have had their share of contribution in tackling the threats posed by organized crime. The Department of Justice, specifically the U.S. Attorney General's Organized Crime Council, is responsible for creating internal organized crime policy[11]. The council is chaired by the Deputy Attorney General and has representatives from the Federal Bureau of Investigation (FBI); the U.S. Drug Enforcement Agency (DEA); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the U.S. Immigration and Customs Enforcement (ICE); the U.S. Secret Service; the Internal Revenue Service (IRS); the U.S. Postal Inspection Service; Diplomatic Security; and the U.S. Department of Labor, Office of the Inspector General.

Although many federal and state departments and agencies are engaged in fighting organized crime, the primary agency involved in combating organized crime remains the FBI.

The Transnational Criminal Enterprise Section in the Criminal Enterprise Branch of the Criminal Investigative Division is responsible for investigating organized crime. This Organized Crime Section is divided into three principal units investigating (1) La Cosa Nostra, Italian organized crime, and racketeering; (2) Eurasian/Middle Eastern organized crime; and (3) Asian and African criminal enterprises.

3. Enterprise Theory of Investigation (ETI)

As a key analytical instrument, the FBI uses the Enterprise Theory of Investigation (in short, ETI) to investigate organized crime. ETI involves two steps: (1) identifying a criminal organization and the criminal activities of this organization and (2) identifying

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the prosecution of the property owner. Civil forfeiture is accomplished through a civil proceeding ordinarily brought against the property involved in the illicit activity.

[10] Kristin M. Finklea: *op. cit.*, p. 11.

[11] See the Department of Justice, Organized Crime and Racketeering Section website at http://www.usdoj.gov/criminal/links/ocrs.html.

the financial assets of the criminal organization for possible forfeiture (confiscation)[12]. This investigative technique complements in fact the RICO statutes, by that both ETI and RICO are aimed at dismantling criminal organizations. Furthermore, ETI identifies financial assets that may be subject to forfeiture under civil RICO statutes. This aspect of ETI is directed at combating money laundering and thus the financial lifeline of organized crime.

The U.S. Department of Justice Organized Crime Council, chaired by the Deputy U.S. Attorney General, has identified *eight strategic threats* to the United States posed by international organized crime. The term "international organized crime" includes not only those organized crime groups operating outside the borders of the United States, but within the U.S. borders as well. The Council noted that international organized criminals may penetrate the energy and other strategic sectors of the economy; provide logistical and other support to terrorists, foreign intelligence services, and governments; smuggle/traffic people and contraband goods into the United States; exploit the United States and international financial system to move illicit funds; use cyberspace to target U.S. victims and infrastructure; manipulate securities exchanges and perpetrate sophisticated frauds; corrupt public officials in the United States and abroad; and use violence or the threat of violence as a basis for power.

Specifically, the Organized Crime Council indicated to the U.S. Congress that laws and regulations on organized crime should be expanded, updated, or amended as to grant the government the abilities to investigate and prosecute organized criminals that affect American society from outside U.S. borders. This suggests that federal law enforcement currently may not have the extraterritorial jurisdiction or the most effective instruments to combat the evolving organized crime threats to the United States.

The factors which allow criminal organizations to remain immune from efforts to crumble their illegitimate empires can be grouped into three broad categories: (A) obstacles to successful prosecution inherent in the size and highly developed structure of criminal organizations; (B) obstacles derived from the organization's influence in local government agencies charged with law enforcement responsibilities; (C) obstacles attributable to public apathy[13].

The study will further on focus on a few representative federal offenses that are commonly committed by organized crime groups in the U.S.

One such specific offense is *money laundering*. Accordingly, laundering of monetary instruments (18 U.S. Code § 1956.)[14] states that: "(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity — (A) (i) with the intent to

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[12] Remarks by Chris Swecker, Acting Executive Assistant Director Law Enforcement Services, Federal Bureau of Investigation in U.S. Congress, House Committee on Homeland Security, Subcommittee on Management, Integration, and Oversight, *9/11 Reform Act: Examining the Implementation of the Human Smuggling and Trafficking Center*, 109th Cong., 2nd sess., March 8, 2006.

[13] Earl Jr. Johnson: "Organized Crime: Challenge to the American Legal System", Journal of Criminal Law and Criminology, vol.53, issue 4, 1962, available at: http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=5118&context=jclc.

[14] The text of the offense can be checked at: http://www.ffiec.gov/bsa_aml_infobase/documents/regulations/ml_control_1986.pdf.

promote the carrying on of specified unlawful activity; or (ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or (B) knowing that the transaction is designed in whole or in part— (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or (ii) to avoid a transaction reporting requirement under State or Federal law, *shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both*.

(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States— (A) with the intent to promote the carrying on of specified unlawful activity; or (B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part— (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or (ii) to avoid a transaction reporting requirement under State or Federal law, *shall be sentenced to a fine of not more than $500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, or imprisonment for not more than twenty years, or both*. For the purpose of the offense describe in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true.

(3) Whoever, with the intent— (A) to promote the carrying on of specified unlawful activity;

(B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or (C) to avoid a transaction reporting requirement under State or Federal law, conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, *shall be fined under this title or imprisoned for not more than 20 years, or both*. For purposes of this paragraph and paragraph (2), the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a Federal official authorized to investigate or prosecute violations of this section.

Penalties - (1) In general. Whoever conducts or attempts to conduct a transaction described in subsection (a) (1) or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of— (A) the value of the property, funds, or monetary instruments involved in the transaction; or (B) $10,000".

To summarize, money laundering involves concealing the nature, location, source, ownership, or control of proceeds from an illegal activity or placing them back into further illegal activity.

The fraudulently obtained proceeds are laundered through a variety of methods to become "clean money." With the expansion of the Internet and increased globalization,

the methods of money laundering continue to become increasingly complex and difficult to detect. The Financial Crimes Enforcement Network, under the Department of the Treasury, indicates that the routes for money laundering include banks, check cashers, money transmitters, businesses, and casinos. Money launderers use methods such as complex wire transfers, shell companies, and currency smuggling to hide their dirty money.

Money laundering became a federal crime in the *Money Laundering Control Act* of 1986 (P.L. 99-570). It came to the Congress's attention that organized criminals were camouflaging their proceeds, and the Congress strengthened the federal criminal statutes to better combat criminal organizations. Recently, the scope of the money laundering statute has come under examination.

Until more recently, the statute prohibited financial transactions of proceeds from illicit activities, but it did not define what constitutes "proceeds." The U.S. Supreme Court ruled in *United States v. Santos* (June, 2nd, 2008)[15] that in the money laundering statute, the term "proceeds" refers to *profits* rather than gross receipts (income).

Legislation enacted in the 111th Congress has since amended the money laundering statute. The *Fraud Enforcement and Recovery Act* of 2009, or FERA (P.L. 111-21), clarifies both the money laundering and international money laundering statutes. Namely, it indicates that "proceeds" includes *gross receipts of illegal activities*. Some experts have argued that expanding the predicate offenses for international money laundering could diversify the means that the federal government is able to rely upon when investigating and prosecuting organized crime that is increasingly crossing international lines. However, recently enacted legislation has not addressed these predicate offenses.

Another representative organized crime offense is *cigarette trafficking,* codified at 15 U.S. Code § 375-378.

Law enforcement agencies have noted that criminal syndicates' participation in the trafficking of contraband cigarettes poses a significant threat to American society. A number of different organized crime groups are involved in cigarette trafficking. This illicit activity indirectly threatens the American economy and American communities. Cigarette smuggling leads to lost tax revenue. Businesses, in turn, compensate by raising taxes for the consumer, ultimately placing the increased economic burden on the consumer. Excessive economic burdens on the consumer are of particular concern now because of the current economic recession. Consequently, revenues that would assist in funding government programs are being illegally redistributed because of organized crime activities. Congress has repeatedly debated legislation to revise the *Jenkins Act*[16]

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[15] In an illegal lottery run by respondent Santos, runners took commissions from the bets they gathered, and some of the rest of the money was paid as salary to respondent Diaz and other collectors and to the winning gamblers. Based on these payments to runners, collectors, and winners, Santos was convicted of, *inter alia,* violating the federal money-laundering statute, 18 U. S. C. §1956, which prohibits the use of the "proceeds" of criminal activities for various purposes, including engaging in, and conspiring to engage in, transactions intended to promote the carrying on of unlawful activity. The case is available at: https://www.law.cornell.edu/supct/html/06-1005.ZS.html.

[16] The Jenkins Act requires anyone that sells and ships cigarettes (to anyone except a licensed distributor) across a state line to provide monthly reports of these sales to the buyers' state tobacco tax administrators.

to enhance reporting requirements for the sale of cigarettes and smokeless tobacco products as well as legislation to provide stronger penalties for smuggling such products.

A third representative U.S. organized crime offense is *counterfeiting* and the related offenses. They are codified at 18 U.S. Code Chapter 25, § 470-514 on Counterfeiting and Forgery.

There is evidence that organized criminals are becoming increasingly involved in the production and distribution of counterfeit and pirated goods. In Los Angeles County alone, Russian, Asian, and Lebanese organized crime groups are among those that have been involved in intellectual property rights crimes[17]. Industries targeted are broad, including the music and motion picture industries, clothing companies, luxury goods manufacturers, and the tobacco industry. The federal government has taken several steps so far in fighting against these crimes. In March 2004, the Department of Justice created an Intellectual Property Task Force to combat the increase in intellectual property piracy and counterfeiting by organized crime groups. Also, the Office of the United States Trade Representative (briefly, the USTR) has indicated that an Anti-Counterfeiting Trade Agreement (or ACTA) is being concluded with other countries, including Australia, Canada, EU, Japan, Jordan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland, and the United Arab Emirates.

According to the USTR, one benefit of the ACTA is that it will help combat the piracy and counterfeiting that is an "easy source of revenue for organized crime"[18].

Counterfeit currency is another example of a domain in which many organized crime groups are involved. Asian organized crime groups in Los Angeles and New Jersey have been linked to the production of the so-called "supernotes," or fake $50 and $100 bills. This can not only lead to a loss in actual money (for those paid in the counterfeit currency), but it can damage the value of the U.S. dollar. Some experts and policy analysts[19] have suggested that one possible legislative option to help counter the involvement of organized crime in piracy and counterfeiting may be to expand the organized crime and money laundering statutes to include large-scale piracy and counterfeiting tied to other criminal activities.

4. Conclusions

These are but a few outlines of the many facets of U.S. organized crime and its contemporary challenges. While having no empty claims to cover a topic such as organized crime comprehensively, the present study has aimed at presenting the most important federal law instruments (from both a substantive and procedural perspective) used by the U.S. law enforcement authorities in order to combat the phenomenon subject to analysis.

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[17] Intellectual property rights (IPR) include copyrights, trademarks, trade secrets, and patents.

[18] Office of the United States Trade Representative, *Anti-Counterfeiting Trade Agreement (ACTA)*, August 4, 2008, http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2008/asset_upload_file760_15084.pdf?ht=.

[19] Gregory F. Treverton, Carl Matthies and Karla J. Cunningham *et al*., *Film Piracy, Organized Crime, and Terrorism*, RAND Corporation, Safety and Justice Program and the Global Risk and Security Center, 2009, http://www.rand.org/pubs/monographs/2009/RAND_MG742.pdf.

There is no doubt that organized crime in the U.S. poses a significant and growing threat to national and international security, with dire implications for general safety, public health, democratic institutions, and economic stability across the globe. Not only are organized criminal networks expanding, but they also are diversifying their activities, resulting in the convergence of threats that were once distinct and today have explosive and destabilizing effects. The U.S. federal laws enacted in order to fight against and suppress organized crime will hopefully serve as a source of inspiration for European national legislators, who strive, in their turn, to find the best legal solutions to a problem that seems more intricate and pervasive than ever, i.e. transnational organized crime.