

# “Regulating organised crime”

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- “Regulating Crime: The New Criminology of Crime Control.” Special editors: Joshua D. Freilich and Graeame R. Newton.
- *The Annals of the American Academy of Political and Social Science*, Volume 679, September 2018.
- “Controlling criminal behaviour might better be accomplished by regulation instead of by punishment.”

# Penal law or regulation?

1. Enact criminal laws, typically prohibitions, or
2. Establish some form of regulatory framework to rein in the market or solve the problem. Since the general perception is that alcohol also has positive qualities, that industry is useful, and that banks serve an important societal function, criminal laws are hardly a solution. Instead, a regulatory scheme offers a way to counteract the negative aspects in otherwise desirable activities, goods or entities.

# Regulatory schemes offers a way to counteract the negative aspects in otherwise desirable activities, goods or entities

Businesses, cartels

Work place safety

Health and safety

Savings, financial sector

Vice

Weapons

Taxes and benefits

“The regulatory society”

“The risk society”

# Regulatory schemes that change markets also create opportunities for crime

- The nature of a rather significant percentage of organized crime is to exploit regulated markets by offering services and goods without complying with the relevant regulations.
- Offers of "tax-free" goods such as tobacco, alcohol, or unreported employment (insurance, safety).
- Drugs, weapons, explosives
- Sexual services, gambling, human smuggling/trafficking
- Collecting money, security
- Stolen goods
- Criminal businesses continually provide the market with what the regulatory scheme seeks to prevent, tax, or otherwise regulate.

# There is a need for crime proofing

Regulatory schemes seldom takes place with any significant attention to the simultaneous prevention of misuse by organized crime.

Regulations primarily seek to rectify the problems which are the subject of the regulation, not address the abuse which can follow in its path.

Crime proofing can proactively assess the risk of exploitation of legislation (Savona).

# Situational crime prevention (Clarke)

Ask the questions the opposite way:

- make it easier – reduce the efforts – to commit crime?
- decrease the risk of committing crime?
- Increase the reward to commit crime?
- Create provocations to commit crime?
- give room for excuses to commit crime?

# There are often good reasons for regulation

Crime proofing =  
Better ground for decision.

- Even if regulations can be misused by organised crime
- there are often good reasons for regulations
  - It is politically impossible to find an another solution

## The “second step” of crime proofing

Instead of changing the fundamental provisions of the regulatory scheme – e.g. prohibition, restrictions, taxes – it is possible to add various "supplements" to prevent crime.

One way is to use situational crime prevention; it is based on investigating the specific criminal problems to discover the situational factors which enable or facilitate the offense (Clarke 1997).

# Situational crime prevention on a macro level

The next step is to intervene and affect these situational factors on a micro level, and thus render commission of the offense impossible or make it more difficult, or affect the perpetrator's motivation.

However, such situational factors can also be influenced on the macro level (Freilich and Newman 2016). One way of doing so is through a regulatory scheme.

# Examples

Illicit incomes, cash registers, manipulation, certified cash registers,

Support: Field control of the use of cash registers and also the registers

Benefits for renovating houses, earlier refund, today deduction, fraud

Support: Notification from the tax authority to the owner

# Example

Limited company's used to have a capital of at least 10 000 EUR.

Reduced to 5 000 EUR

No obligations to have a proper audit

Proposition: Reduction to 2 500 EUR

# Summary

Regulation could both create opportunities for crime, but could also be used to prevent crime.

Crime proofing is a way to assess crime risks in regulation.

The second step in crime proofing could be to use compensatory measures (regulation, control)

One further way is to make a taxonomy of compensatory measures.