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Transnational crime and the interface between legal and illegal actors : the case of the illicit art and antiquities trade

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CHAPTER 2

INTERFACES BETWEEN LEGAL AND ILLEGAL ACTORS: FROM BRICKS TO THE BAHAMAS

2.1 Introduction

In this chapter interfaces between legal and illegal actors will be viewed from several angles that will also be used in the following chapters. As was pointed out in the introduction, the interfaces between legal and illegal actors in transnational crime have not been systematically and empirically studied. However, a typology of interfaces was developed in several papers by criminologist Nikos Passas. He initially outlined a typology of interfaces in a paper for the *National Research Council* (NRC, Passas, 1998). In 2002 he published a new version of this typology, a chapter in a book entitled: *Upperworld and Underworld in Cross-Border Crime* (Passas, 2002). This book was edited by Petrus van Duyne, Klaus von Lampe, and Nikos Passas (Van Duyne et al., 2002). In 2003, Passas published the latest version of his paper in the *Security Journal*. This latest version will be used for our analysis in this chapter.

The typology serves several different purposes. First of all, it provides an analytical tool to describe interfaces between actors independent of the type of crime or the actors involved. This enables a comparison of interfaces in cases that may involve totally different crimes and perpetrators. Furthermore, it helps to organize data and serves heuristic purposes. In this study, the focus will be on the typology as an analytical tool to describe types of interfaces between legal and illegal actors. It needs to be stressed that the analysis here will thus be more limited and at the same time more in-depth than envisaged by Passas. More limited because it only uses the typology as a descriptive analytical tool and more in-depth because it attempts to define the typology more precise for this specific purpose.

Following a discussion of Passas' typology of interfaces, a revised typology and an extension of the typology will be outlined. From the perspective of the typology, there are always two actors that collide or collaborate. The type of collaboration or collision is labeled with one of the interface types. On the one hand one will have a legal actor and on the other hand an illegal actor. This is also the perspective on interfaces that can be implicitly or explicitly found in most studies on transnational crime. However, this does not say anything about the criminal nature of the activities that these actors are involved in. Usually, both legal and illegal actors are involved in criminal activities. However, in some cases, the interface between two actors is not primarily a certain interface as relationship, but an interface as a concrete intermediary person, organization or jurisdiction. This extension of the typology thus involves three different levels.

First of all, the role of certain individuals in transnational crime will be looked at. Thereafter, the role of legitimate organizations as interfaces between legal and illegal will be discussed. Finally, the role of jurisdictions as interfaces will be discussed. These different extensions share one core characteristic. They act as a lock through which activities are either legalized or instead become illegal. Therefore, they will be discussed as variations of a new analytical model to understand a part of the legal–illegal interface. In chapters 3 and 4, each variation will be analyzed in depth with a number of case studies. In chapter 5, a new analytical model will be developed that simplifies the role of these actors as interface.

2.2 Passas’ typology of interfaces

2.2.1 A definition of transnational crime

Before the typology of interfaces will be discussed, the definition of transnational crime used by Passas should be presented. In the original paper for the NRC, the following working definition of (transnational) crime was presented:

“misconduct that entails avoidable and unnecessary harm to society, which is serious enough to warrant state intervention and similar to other kinds of acts criminalized in the countries concerned or by international law (...) What makes crime transnational is that offenders or victims find themselves in – or operate through – different jurisdictions” (Passas, 1998:3).

This definition was neither entirely legal nor sociological. Thereby it evaded the drawbacks of a solely legal definition although at the same time it seemed to incorporate a moral or political element. The phrases ‘avoidable and unnecessary harm’ and ‘serious enough to warrant state intervention’ can be tricky when used in an empirical study. In Passas’ most recent work on interfaces, the term cross-border crime is used instead of transnational crime with another definition:

“cross border crime is conduct, which jeopardizes the legally protected interests in more than one national jurisdiction and which is criminalized in at least one of the states concerned” (Passas, 2003:20)

With this definition, most values that might creep into a definition are probably evaded. However, in some instances such a definition, if taken literally, would leave out some examples of conduct which are usually seen as cross-border or transnational crime. Passas did not mean his definition to be taken literally but the aim here is to design a definition that is inclusive even if taken literally. In many instances of what is usually interpreted as transnational crime, one of the countries involved has been chosen for the very reason that certain conduct does

not jeopardize the legally protected interests and is not criminalized in one of the jurisdictions involved. In that case, legally protected interests are taken literally. In that case, some of the examples of transnational crime would not necessarily fit the above definition. Tax evasion, capital flight and the use of child labor do not by definition jeopardize the legally protected interests in more than one jurisdiction. Furthermore, many transactions in the illicit art and antiquities trade provide additional examples. Many works of art that are not allowed to leave their source country end up in places like Switzerland or Hong Kong because their presence there does not intervene with any legally protected interests in those jurisdictions. The same goes for many examples for what is commonly regarded as money laundering. When the destination or source country of certain capital flows is for example Panama or the Bahamas, one will easily evade the above definition if there are only two countries involved. For many other transnational crimes, the same problem can be illustrated. If one takes the UN list of transnational crimes as a starting point, one can mention (at least): computer crime, theft of intellectual property, illicit traffic in arms, terrorist activities, and environmental crime. The disadvantages of the definition might be cured by a variation of an element from the old definition “similar to other kinds of acts criminalized in the countries concerned.” The variation on this element might be “or in one jurisdiction concerned while it is similar to acts which jeopardize the legally protected interests in the majority of countries.” This would lead to a less readable but not much longer definition:

Transnational crime is conduct, which is criminalized in at least one of the jurisdictions concerned and jeopardizes the legally protected interests in more than one of the jurisdictions concerned or in one jurisdiction while it is similar to acts which jeopardize the legally protected interests in the majority of countries

While including some transnational activities that preferably would fall within this research, this definition would bring back some of the subjectivity of the first definition. Although illicit activities under international law can be more or less defined, how can the other activities objectively be described? Somehow, one needs to define activities that on the one hand can be easily organized legally, using a number of loopholes in the international economic and legal system, while on the other hand some consensus exists that they are in fact illegal. At this point, no definition seems to be at hand which evades all the problems, while incorporating everything we should like to define as illegal and transnational. This might also explain the fact that there still is no official juridical meaning of the term transnational crime, as pointed out by Gerhard Mueller in his discussion

on the definitions and concepts of transnational crime (Mueller 2000).¹⁵ In the following chapters, the above definition will be used as working definition.

2.2.2 Legal and illegal actors

A crucial characteristic of all the mentioned definitions is that it does not separate between crimes committed by legal businesses or state actors, and crimes committed by other actors. The reason for this inclusive definition lies in the fact that many activities preferably defined as transnational crime are in practice organized by, or with, legal actors. Therefore, every definition which draws a clear-cut line between organized crime and for example corporate crime will be hard to justify on an empirical basis.

However, the use of an inclusive definition of transnational crime can also complicate the discussion on interfaces. When a more limited definition is used, transnational crime is simply cross-border crime committed by organized criminals. In case legal actors would get involved with these criminals, a legal–illegal interface would exist by definition. It is then assumed that these legal actors are less important than the ‘real’ criminals. However, in case one incorporates the crimes committed by legal actors, two problems arise. First of all, these crimes are often not committed in collaboration with illegal actors but with other legal actors. Secondly, one has to decide whether the legal actors as organizational entities, engaged in transnational crime, should be called legal at all. Especially when these actors are convicted of acting as a criminal organization (like e.g. in the Netherlands) or are convicted under certain RICO provisions (in the US), there are grounds to call them ‘illegal’ or to be more specific ‘criminal’.¹⁶ As can be illustrated by two simplified arguments, the mentioned problems cannot easily be solved. With respect to (originally) legal actors committing transnational crimes, one can argue that these actors should be viewed as legal, despite their illegal activities and possible conviction as criminal organization. This has the advantage that one does not ignore the fact that often part of the activities of the company or state institution was legal.¹⁷ However, when this legal actor committed crimes in collaboration with other legal actors, there is no legal–illegal interface. This would leave out a large number of examples of transnational crimes like cigarette smuggling, trafficking of toxic waste and the illicit arms trade.

¹⁵ To be sure, such a legal definition is not a necessity for a criminological study. However, if an accepted legal definition would be available, it would make comparative studies easier and the use of data from law enforcement agencies more useful.

¹⁶ For a discussion of the role of corporations as criminal actors see e.g. Punch (2004); Van de Bunt & Huisman (2004).

¹⁷ Often this ‘part’ will mean the major part of the activities of that state institution or company. However, in some cases this part can be a rather minor part, for example in case of some intelligence agencies or financial institutions.

On the other hand, one could call 'legal' actors illegal when they are engaged in transnational crime. Especially when these actors are convicted, this seems to be a sensible solution. However, this would create more or less the same problem. In case a so-called illegal actor committed his crimes together with other criminals, there is strictly speaking no legal-illegal interface. When for example a cigarette producer cooperates with smugglers, this would fall outside a study of interfaces because they would be both seen as 'illegal'. The same goes for crimes committed by legal actors. As they would be also defined as 'illegal' the moment they engage in crimes, there would be no interface anymore. One could also demand a conviction as 'criminal organization' before calling a legal actor 'illegal'. However, this would make the range of cases one can study depend on the successes and priorities of the criminal justice system. It is not hard to imagine that, for example, intelligence agencies will never be convicted as 'criminal organizations', despite their involvement in illegal arms deals or drug trafficking.

For the moment, the conclusion seems to be that a strict definition of actors engaged in transnational crime does not bring much clarity. However, in an attempt to create some order into this elusive topic, some basic assumptions should be outlined. As far as transnational crime is concerned, the definition of this phenomenon is based on certain activities which fall within the given categories. Within this domain of crime, actors are defined by their 'official' status to begin with. That means, legitimate state agencies, private companies and private non-profit organizations are defined as legal actors, and others defined as illegal or criminal actors. Specific exceptions to this rule will be discussed later.

Despite this inclusive definition of transnational crime and the flexible use of the concept of interfaces, there are some clear limitations. Many cases that have transnational characteristics do not fall into the category of transnational crime. Often the actor, for example a multinational corporation, operates in numerous jurisdictions. However, this does not make all the crimes the corporation engages in by definition transnational crimes. Furthermore, when companies or state-actors commit transnational crimes by themselves, without any connection to other legal or illegal actors, the interface can be lacking. However, in most cases there will at least be an indirect relationship with other actors. Besides these two technical limitations, one important additional limitation exists. As far as can be judged from studies on transnational crime, reports in the media, and popular accounts, important differences seem to exist between different countries or regions, with respect to transnational crime and the involvement of legal actors. Despite an inclusive definition of transnational crime, the number of legal actors that are found to be directly or indirectly involved is probably more limited in the Netherlands if compared with for example Italy, Russia or Turkey. This was illustrated by the Dutch Parliamentary Inquiry Committee on Police Methods in 1996 (Fijnaut et al., 1996, 1998), as well as more recent studies (Kleemans et al., 2002; Zaitch, 2001). However, this should not lead to ignorance with respect to the exceptions to this rule.

2.2.3 *Enterprise crime, political crime and hybrid crime*

Passas distinguishes between three kinds of transnational crime: enterprise crime, political crime and a combination of the two, hybrid crime. This distinction is based on different motivations for transnational criminals. According to Passas, this distinction is important for both theoretical and policy reasons. Firstly, no complete account of the root causes of such crimes can be offered without an account of motives. Secondly, different types of policy interventions would be required for long-term effective solutions. It can be hypothesized that each of these three types fosters different kind of associations between legal and illegal actors (Passas, 2003:22). The three different types will be briefly described using excerpts from Passas article. Thereafter, the potential use of these types in this study will be discussed.

Enterprise crime refers to criminal acts carried out within an entrepreneurial structure, motivated primarily by financial gain. This is by far the most common type. Illegal actors of this type take advantage of the demand for certain goods and services. At the other end of the legal-illegal continuum, the criminal activities of legitimate actors may reflect the organizational skills or level of their corporations. Since these actors are legal, their offences are quite often of a predatory nature. In this light, there is little surprise when legitimate and illegal entrepreneurs act together (Passas, 2003:22).

Political crime refers to transnational crime that is motivated by political or religious goals. The main goal ranges from overthrowing the government to political independence or land rights. When it comes to political transnational crime, we should expect connections with political and government agents and agencies. Typical examples can be found in cases of states accused of supporting terrorism (Passas, 2003:23).

Hybrid crime amounts to a combination of enterprise and political crime. It may be that financial and political motives are of almost equal importance (Passas, 2003:23).

It can be rather illuminating to point at the different goals of transnational offenders, like Passas does with the above three types. It stresses the wide scope of transnational crime, beyond the constraints of transnational illegal markets. Furthermore, for heuristic purposes, this distinction can be useful to understand these distinct types of crime as well as to raise new research questions. However, in this study the aim of the typology analysis is more limited, as was pointed out before. Furthermore, the definition of transnational crime used here already incorporates these different types and the rest of this study will draw sufficiently on all three different types. Besides that, the different goals do not necessarily lead to different interfaces. They will lead to interfaces between different actors but that does not mean that different types of interfaces are found between these actors. For these reasons, the distinction between different types of transnational crime will not be used in this study.

2.2.4 Antithetical interfaces

Among the legal and illegal actors engaged in transnational crimes, several types of interfaces can be found. Passas divides these in two broad categories: antithetical and symbiotic interfaces. The different types are presented in figure 1. The distinction between antithetical and symbiotic can be compared with the distinction between parasitical and symbiotic interfaces described by Bruinsma and Bovenkerk, and the developmental model described by Lupsha, from the predatory stage, through the parasitical stage to the symbiotic stage (Bruinsma & Bovenkerk, 1996; Lupsha 1996). However, in contrast to Lupsha, Passas does not describe a developmental process from antithetical to symbiotic but rather two different types of relationships between legal and illegal enterprises.

Figure 1 shows the antithetical interfaces on the left. There are four different antithetical interfaces: the *antagonistic*, *injurious*, *predatory*, and *parasitical* interface. The arrow on the left shows the direction of the relationships between the legal and illegal actors. The antithetical interfaces aim at situations where the illegal actor is harming the legal actor in some particular way. On the right are eight different symbiotic interfaces: *outsourcing*, *(systemic-) synergy*, *legal actors committing organized crimes*, *legal interactions*, *funding*, *collaboration*, *reciprocity*, *co-optation*. The arrow in the middle of the symbiotic interfaces points in two directions because the relationships between the legal and illegal actors are not restricted to one-way relationships.

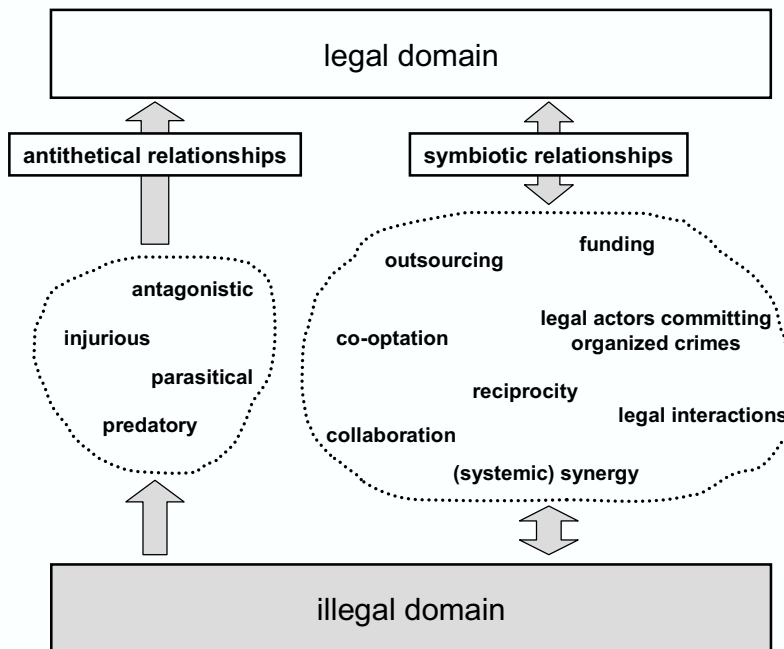


figure 1: Passas' interface typology

In the paragraphs below, the different types of interfaces will be discussed one by one. First, Passas' description of the interface will be given. Thereafter, the interface will be discussed. The discussion will focus on the analytical validity of the different types as well as the empirical examples provided by Passas.

Antagonistic relationships

“Antagonistic relationships obtain when there is competition between legal and illegal actors. Actors may be vying for market share acting independently, as in the case of state-run lotteries, casinos, and illegal gambling operations. Similarly independent is the antagonistic relationship between crooked financial institutions on the internet or offshore offering illegal services to clients who would otherwise do business with conventional banks (e.g. the European Union Bank in the Caribbean). In the political, ideological or religious spheres, the competition may be for legitimacy. Actors may seek to gain popular support and following in the same geographic area by legal and criminal means. Illustrations of such antagonisms can be found in political conflicts, such as those in Northern Ireland, the Middle East, former Soviet Republics, Angola, Peru, parts of Northern India or Sri Lanka” (Passas, 2003:24).

The antagonistic interface as developed by Passas is analytically useful to clarify the relationship between legal and illegal actors in many situations of transnational crime. There are many situations where local political groups are linked to cross-border criminals. Recent conflicts, like the war in former Yugoslavia, have shown intricate links between governments and organized crime (e.g. Kelly et al., 2005; Thamm, 1999). According to some authors these links should not be seen as atypical examples, but rather as a common version of modern wars (Crefeld, 1998; Rufin, 1999). Many illicit trades also involve antagonistic relationships. The smuggling of arms, antiquities, and untaxed cigarettes leads to competition between legal and illegal actors.

However, some of the examples mentioned above do not fit the definition of this interface. The reason is the absence of a transnational character. Gambling, for example, is not by definition a transnational activity. The same goes for political conflicts, although there will often be connections with actors abroad. If so, these need to be made explicit; otherwise the examples seem to involve merely national crimes. Especially during the Cold War, both the US and the Soviet Union supported all kinds of foreign political organizations that were either legitimate political actors or ‘terrorists’ or ‘insurgencies’ according to the authorities in the countries concerned.

Predatory and parasitical interface

“The relationship is predatory when the aim or effect is to destroy or bleed to death an organization, for example to control and fraudulently bankrupt a business. The relationship is parasitical when the aim is to preserve the viability of the target, such that illegal benefits can be extorted on a more or less regular basis. For example triad members selling protection to Asian business owners; or surplus line insurance companies selling a mixture of sound and bogus policies to foreign institutions keen to enter the US market” (Passas, 2003:25).

These two interfaces described by Passas have some overlap with each other and potentially with other interfaces. The *aim* of preserving the viability of the target does not rule out that the *effect* may be that the target is destroyed or bleed to death. Furthermore, the aim may be to destroy the target while the effect may be that the target survives. For these reasons, I suggest a more limited definition of the predatory interface. The predatory interface involves relationships in which the aim is to destroy or bleed to death an organization.

Empirically, it is harder to find examples of this interface than of the antagonistic interface. Passas does not mention empirical examples of the predatory interface and this may suggest the rare occurrence of this interface. Attempts to destroy or bleed to death organizations are not by definition transnational if they occur. In some cases there may be some link to activities or policies abroad of legal actors. In the 1980s, a range of incidents of arson at stores owned by SHV (a Dutch company) by a left-wing terrorist organization (RARA) in the Netherlands forced the company to stop doing business in South Africa. However, it can be questioned whether this should be designated as an example of a predatory interface or rather as injurious or parasitical. The aim is not primarily to destroy the legitimate actor involved but rather to blackmail this actor to force the actor to change its policies.

The parasitical interface can be used to interpret cases of extortion. On a local level, many examples of criminal organizations, like the mafia in the US or Italy, can be pointed at that extort legitimate enterprises (see e.g. Jacobs, 2001). However, in this study it should be evident that such cases have some transnational connections. Triad members selling protection to Asian business owners does not by definition involve transnational crimes.¹⁸ Even if there is indeed a transnational element, this crime will often involve actors from the same ethnic background. Within that context the denotation ‘transnational’ loses some of its meaning. The report of the parliamentary inquiry commission in the Netherlands described how different Chinese groups on the one hand violently

¹⁸ The debate on the precise nature and importance of the Triads will be left aside here. See further: Bresler (1981) and He (2003).

fought each other, while on the other hand were involved (among many other things) in extortion of Chinese restaurant owners and other Chinese businesses (Fijnaut et al., 1996). A similar situation of rather ‘national’ transnational crime can be found with some instances of terrorism. During the 1980s a number of terrorist attacks was performed in the Netherlands by the Provisional Irish Republican Army (PIRA) and ETA. In 1979, the British ambassador in The Hague was shot outside his official residence. In 1988, the PIRA performed two attacks on British subjects. In the city of Roermond, a vehicle with three British military was shot at and left one of them dead. In Nieuw Bergen, a car bomb killed two members of the British army. Finally, in 1990, two Australian tourists, driving a car with British number plates, were shot in Roermond (Muller, 1994:382-383). During 1989 and 1990, the ETA performed a range of attacks on Spanish objects and subjects. In October 1989, the car of the Spanish consul in The Hague was destroyed by a bomb. During the same month, bombs exploded at two Spanish institutions in The Hague. In December 1989, three grenades were fired at the residence of the Spanish ambassador in The Hague. Finally, in June and July of 1990, two office buildings in Amsterdam, that housed Spanish companies, were heavily damaged by explosives (Muller, 1994:385-386).

Injurious interface

“Injurious relationships occur when actors undermine, attack or harm each other. This is typified by groups, which may sabotage a foreign corporation they consider as exploitative or corrupt. Another example is when offenders commit robbery in order to finance a guerrilla. The above injurious and antagonistic interface may overlap in practice: a combination of antagonistic and injurious relationship is when activists employ violent means against the state, its symbols or citizens” (Passas, 2003:25).

The injurious interface to some extent includes all other antithetical interfaces. All antithetical interfaces involve situations where actors harm or attack each other. Therefore, for analytical purposes, either the injurious interface should be defined more narrowly or the other interfaces should be eliminated. As there are wide differences between the relationships that can be understood as antithetical interfaces, it seems most productive to define the injurious interface more narrowly, while leaving the other interfaces intact. For that reason I define injurious interfaces as: interfaces that involve actors that harm, attack or undermine each other, in other ways than covered by the predatory, parasitical or antagonistic interface.

With respect to the examples mentioned in the quote above, the transnational nature of the crimes needs some explication. Groups that sabotage a foreign corporation are in principle involved in mere (local) vandalism. The fact that a corporation operates in more than one country does not mean that any illegal

acts against, or by, this corporation involves transnational crimes. The offenders who commit robbery to finance a guerrilla are not engaged in transnational crime as long as robbery and guerrilla take place in the same country.

2.2.5 Symbiotic interfaces

Outsourcing

“Outsourcing refers to a division of labour between legal and illegal actors, where one party offers specialized services to the other. This mainly covers cases where the ‘dirty work’ is done by ‘criminals’, while the main benefit is reaped by a legal actor. It can be a one-off or a continuous relationship between a client and a provider. The dirty work may be delegated to actors outside an organization or agency for reasons of convenience, efficiency or plausible deniability. The blame is thus externalised, if the misdeed or the offenders are ever discovered (e.g. Iran-Contra and other intelligence-related activities, such as the use of death squad by the Turkish government against Kurd nationalists (Bovenkerk & Yesilgoz, 1998); use of agents or subsidiaries to bribe foreign officials in order to avoid scrutiny under the law). In the above cases, legal actors are the clients. The reverse, however, is also possible. Legal actors may provide financial or other support to criminal groups. It is possible that only one of the parties is aware of the quasi-contractual relationship. The Abu Nidal organization, for example, has used a network of legitimate companies whose proceeds financed terrorist activities without the knowledge of the managers and workers of these companies” (Passas, 2003:25).

This interface involves a relationship between legal and illegal actors that can be found very frequently in studies of transnational crime. It is analytically clear. Besides the examples mentioned above, numerous other examples can be found in the field of intelligence organizations and the international arms trade as well as the transnational trade in, and disposal of, toxic waste. One can also imagine examples of legal actors providing specialized services to criminals. The trafficking of human beings from China to the US depends largely on the services of state officials, delivering passports and exit permits (Zhang & Gaylord, 1996; Ghosh, 1998). The last example mentioned by Passas does not seem to fit the definition of this interface. In case of legitimate companies used to raise funds in a legitimate way although for a terrorist organization this can hardly be seen as ‘dirty work’ that is outsourced. This example can probably better be interpreted as an example of the funding interface that will be discussed hereafter.

Collaboration

“In case of collaboration, the links become stronger and more direct as legal and illegal enterprises or actors work together for the commission of the same offence. For instance, police officers may work with drug traffickers or an art gallery owner may fence stolen cultural property. Under this category, we can also examine various types of professionals – such as lawyers, politicians, accountants, bankers or casino managers – who knowingly offer their services to criminal operators.” (Passas, 2003:26)

Collaboration, like outsourcing, is a type of interface that can be found very often in studies on transnational crime. Analytically this interface is clear as well. Nevertheless, the last examples mentioned above, about professionals offering their services, do not by definition fit the definition of collaboration. These professionals basically offer specialized services to criminals and would rather be examples of outsourcing than collaboration. If these professionals are really working together with their clients, this can be defined as collaboration. The only exception could be the politicians. One could imagine that politicians might sometimes sincerely share the goal of the criminals and are more than providers of a particular service. For example when terrorist groups have legal counterparts in politics they can help each other. Whether one chooses to refer to these examples only as collaboration or also as outsourcing depends on the inclusiveness of the definition of outsourcing. When outsourcing is supposed to consist of situations where criminals do the ‘dirty work’ for legal actors, the mentioned examples of collaboration are clearly different from outsourcing. However, one could question the difference between the two. What distinguishes the criminal who specializes in the disposal of toxic waste for legal actors, from the lawyer who specializes in the disposal of black money in tax havens for criminals? Often, he will do the same thing for legal companies. Surely in that case, this would also be called ‘dirty work’. Furthermore, as the definition of transnational crime does not discriminate between legal and illegal actors, there is no ground to treat them differently here.

Co-optation

“In this category, there may be some arm-twisting or voluntary interactions. So, while it involves mutual benefits, there are uneven power relations between the parties. For example, a deal may be struck for a company to operate unimpeded in a country or at all, if a government agency is allowed to monitor its computers and collect information on its clients. For example, BCCI has been accused of being a bedfellow of intelligence services in several countries. Some BCCI managers have argued that this was the only way

BCCI could hope to survive and do business internationally...” (Passas, 2003:26)

Co-optation can be a useful concept to distinguish some relationships from collaboration or outsourcing. Many examples can be mentioned of transnational corporations engaged in some kind of transnational crime, like for example money laundering, cigarette smuggling, and smuggling toxic waste. Soudijn described a case of a high-placed customs official at Paris airport who enabled the smuggling of at least 30 illegal Chinese immigrants by a smuggling organization.

“This official had officially been appointed to prevent illegal immigration to the United States and Canada. By virtue of his position, he consulted regularly with Embassy personnel and the US customs authorities. He even had the right to deny migrants permission to continue their journey if he had any doubts” (Soudijn, 2006:69).

For each illegal immigrant that was smuggled he was paid a fee of \$ 2,000. Due to the uneven power relations, this case can be understood with the co-optation interface, instead of cases of corruption where the power relations between parties are more even. Those latter cases are better understood with the reciprocity or outsourcing interface. However, the examples provided by Passas do not always speak for themselves. In case transnational corporations engage in illegal activities abroad this does not by definition involve transnational crimes, although it does in many cases.

Reciprocity

“This is the case when there are consciously mutual benefits between the legal and illegal actors (e.g. legal brothel manager working with smugglers or aliens). This type included possibly the most common interface, whereby legitimate or conventional actors are the clients for goods and services offered by criminals (e.g. drugs, gambling, weapons, prostitutes, etc). Other examples of reciprocity include dictators or government officials, who receive rich commissions and kickbacks in exchange for favours to transnational corporations. The latter are then allowed to exploit the land, people or entire country for financial benefits (...). Similar offers of safe haven and protection are made to illegal entrepreneurs and criminal organizations too (examples may be found in Bolivia, Aruba, Italy or Russia)” (Passas, 2003:26).

The reciprocity interface has one major analytical problem, similar to the injurious interface discussed above. The definition of the reciprocity interface covers almost all other symbiotic interfaces because these interfaces involve situations of mutual benefits that both actors are aware of. The only exception is

the synergy interface that will be discussed hereafter. To distinguish between reciprocity and the other interfaces, the definition should be more restricted. I therefore suggest the following definition: reciprocity than aims at interfaces involving situations of conscious mutual benefits, not covered by any of the other symbiotic interfaces.

The empirical examples mentioned by Passas illustrate the overlap between the different interfaces. A brothel manager working with smugglers of aliens, for example, can also be interpreted as outsourcing. The smuggler of aliens is providing the specialized service of illegally delivering women for the brothel. Dictators or government officials, who are well rewarded with commissions and kickbacks in exchange for favors to transnational corporations, can best be seen as examples of co-optation relationships. Moreover, although committed by transnational actors, these examples do not involve transnational crimes by definition. When commissions lead to an unlimited permit to harm the environment, this may cause environmental crimes in several countries. However, paying commissions only to be able to operate in a country, without any further benefits, does not by definition constitute a transnational crime. It may do so when actors come from particular countries with legislation against paying such commissions, but most countries do not have such legislation.¹⁹ Of course, the permission to operate in a country may lead to opportunities which are not available at home, but which are standard practice in the host country. In that case, one could argue whether opportunities like child labor lead to the conclusion that the transnational corporation (TNC) does anything illegal? However, this might be a somewhat contrived argument. As Michalowski and Kramer argue:

“The differences in the laws of the home and host nations, and the ability of the TNC’s to influence the legal climate in host countries, renders the laws derived at the level of nation-states an unsatisfactory basis for determining the scope of criminological research on TNC’s” (Michalowski & Kramer, 1987:34)

The observation of Michalowski and Kramer will be further discussed in chapter 4 where the role of jurisdictions and other geographically defined entities is analyzed. That chapter will show how activities which would normally be defined as transnational crime in a particular country; both according to the definition used here as well as to the laws of the country concerned, are *de facto* legalized by the policies of the government of this country.

¹⁹ On October 31st 2003, the United Nations Convention against Corruption was adopted. This is one of the bases of legislation against corruption and similar behavior. Since then only 34 countries became party to this convention. None of the major industrialized countries, except for France, have become party.

(Systemic) Synergy

“We can speak of synergy when legal and illegal actors benefit each other while they go about their business independently promoting their interests and objectives. The practical effects of synergy are similar to those of outsourcing. In this case, however, there is no conspiracy or client-provider relationship. The synergy is the consequence of structural factors. There may be no knowledge, intent or reasonable suspicion of such a link (in some cases, suspicions may be ‘cured’ by efforts to avoid any knowledge). Legitimate actors merely reap benefits from others’ criminal activities. For example, financial institutions in the West may receive from overseas substantial funds that are the proceeds of crime. In such cases, the laundering has taken place elsewhere, and intermediary transactions have hidden the traces of illegality.(...) The smuggling of cigarettes across borders in order to avoid taxes and customs dues ultimately helps tobacco companies sell cheaper products to their clients and thereby increase their market share, which in the end creates an elaborate underground economy. (...). The reverse is also possible. That is, criminal actors can benefit from the activities and practices of legal actors. For instance, secrecy jurisdictions and tax havens do not serve only the criminals. If that were the case, there would be little resistance to calls for action against such jurisdictions (or indeed, the very existence of such jurisdictions)” (Passas, 2003:26–27)

This situation extends the range of interfaces to a large number of legal actors. Casino’s, lease companies, banks, insurance companies, and cigarette producers are among the actors that are connected with numerous illegal actors through the synergy interface.

The synergy interface is analytically clear. However, in practice, as with most other interfaces, it can be hard to draw a line between synergy and some other interfaces. In particular outsourcing and collaboration are sometimes hard to separate from synergy. The international smuggling of cigarettes shows the different variations. Cigarette producers know that in general a certain amount of their products is smuggled around the world and that they benefit from this smuggle. In case of some specific countries, where taxes are extraordinary high (absolute or relatively), smuggling becomes impossible to ignore for producers. Synergy starts at this point and moves in the direction of collaboration as relations between smugglers and producers become tighter. An example of a case between synergy and collaboration is the export of cigarettes from British producers to Andorra. Between 1993 and 1997 exports skyrocketed from 13 million to 1,520 million packets. Even taking into account sales to tourists in this tax haven, there’s no way that the 60,000 inhabitants of Andorra could get through those

quantities.²⁰ It is without much doubt that those cigarettes are re-exported to Britain and the producers are aware of this and are consciously involved in supplying large smuggling networks. Actual cooperation was proven in a lawsuit against the Canadian branch of Reynolds Tobacco. They admitted to be involved in setting up a smuggling line between the US and Canada.²¹

Funding

“Funding relationships are also possible, with legitimate organizations providing, knowingly or not, essential financial support for the operation of criminal groups. A recent example is provided after the September 11, 2001 attacks on the USA by agencies around the world, which are looking for charities and other legal entities (e.g. farming businesses) that may have fuelled the Al-Qaeda network” (Passas, 2003:27)

It seems that funding should be split in two to avoid overlap with outsourcing, or outsourcing should be defined more narrowly. In case legitimate organizations unknowingly provide financial support for criminal groups, the same situation appears as in the example of the Abu Nidal organization. According to Passas, this was an example of outsourcing. However, the relationship can also be described as parasitical. In my view, it seems not fully consistent to label extortion of money from a legal organization in case of terrorist groups as outsourcing, when in any other situation this simply means parasitical behavior. In case the legitimate organization knowingly and willingly provides financial support, one can argue about the precise interface. In case they both share the same goal, it can be called collaboration. When their goals differ, it might also be called collaboration but one can prefer funding to emphasize the separation of tasks and possible goals. As a theoretical example, one can even imagine an individual or corporation that funds terrorism to make money with it. In that case they purchase large amounts of stock options, while knowing that a planned terrorist attack will strongly disturb stock markets as well as other markets.

Numerous charities that directly or indirectly support terrorist organizations can also be understood with the funding interface. Some charities have for example supported the IRA or Provisional IRA (Hachey et al., 1996; Tupman, 1998a, 1998b).

²⁰ See further: Rowell, A. & C. Bates (2000) Tobacco smuggling in the UK, *Action on smoking and health* http://www.ash.org.uk/html/smuggling/html/uksmuggling.html#_Toc495558652 (Visited July 23rd 2005).

²¹ J. Gatehouse (1998) ‘RJR Reynolds pays \$15M in fines after subsidiary helped smugglers’ *National Post*, December 23rd; US Department of Justice (Press Release) ‘R.J. Reynolds affiliate pleads guilty, pays \$15 million in criminal fines and forfeitures as part of cigarette smuggling operations’ December 22nd 1998 see: <http://www.usdoj.gov/opa/pr/1998/December/605usa.htm> (Visited, October 24th 2005).

Legal interactions

“No criminal actor commits only and always crime. Diversification is required not only for money laundering purposes, but also for the reduction of risk and maximization of benefits. Some may do so in order to leave the life of crime eventually, others seek protective shields, while still others strive for respectability. So they all have legal aspects or faces (e.g. Cali drug traffickers). Inevitably, then, they interact with conventional actors” (Passas, 2003:27).

The examples of legal interactions illustrate the diverse nature of activities and relationships of criminal actors. It underlines the necessity to look at such criminal actors as parts of a wider social environment of which legal actors are integral parts. However, it is not fully clear how this interface can analytically add something to the others. Basically, there is an interface but no transnational crime in case of legal interactions. The example of money laundering is an exception here because it is not legal. Therefore it should fall under the type of outsourcing, collaboration or synergy. In case illegal actors invest in legitimate organizations this is either illegal (and thus involving one of the other interfaces) or it is legal because the funds have been successfully laundered before (and thus there is no legal-illegal interface anymore). For the reasons mentioned here, this interface will be left out of the revised typology that will be drafted at the end of this chapter.

Legal actors committing organized crimes

“In this instance, there is no interface between legal and illegal actors. Rather, legal actors engage in well-organized and sophisticated crimes on their own; legal actors behave in a typical illegal-actor fashion” (Passas, 2003:27)

Legal actors that commit organized crimes are crucial to a good understanding of the interfaces between legal and illegal. Many of such actors will be discussed in chapters 3 and 4, and in chapters 7 to 9. However, analytically this interface seems to be inconsistent or at least unnecessary within the general typology of interfaces and the definition of transnational crime which is used. This definition does not discriminate between legal and illegal actors. Therefore, the crimes by legal actors do not need any specific attention. Furthermore, as Passas mentions, there is no interface between legal and illegal here.

2.2.6 Conclusion section 2.2: the interface typology

The typology discussed above, provides an analytical tool to interpret a wide range of relationships between legal and illegal actors. Most of them cannot be

defined meticulously and a thin line separates some interfaces from others. However, each interface aims at a particular kind of relationship between legal and illegal and concrete examples were mentioned in the text. Some of the interfaces appeared to be not fully consistent with the typology, in particular *legal interactions* and *legal actors committing organized crime*. The funding interface partly overlaps with the parasitical interface, as far as the legitimate organization does not know or is opposed to the tapping of funds from its resources. Furthermore, as far as the legitimate organization voluntarily funds the criminal organization, there seems to be a situation of collaboration. However, one can prefer to use the funding interface for situations where the legitimate actor voluntarily funds the criminal actor but does this for the pursuit of another goal. The revised typology of interfaces is given in figure 2.

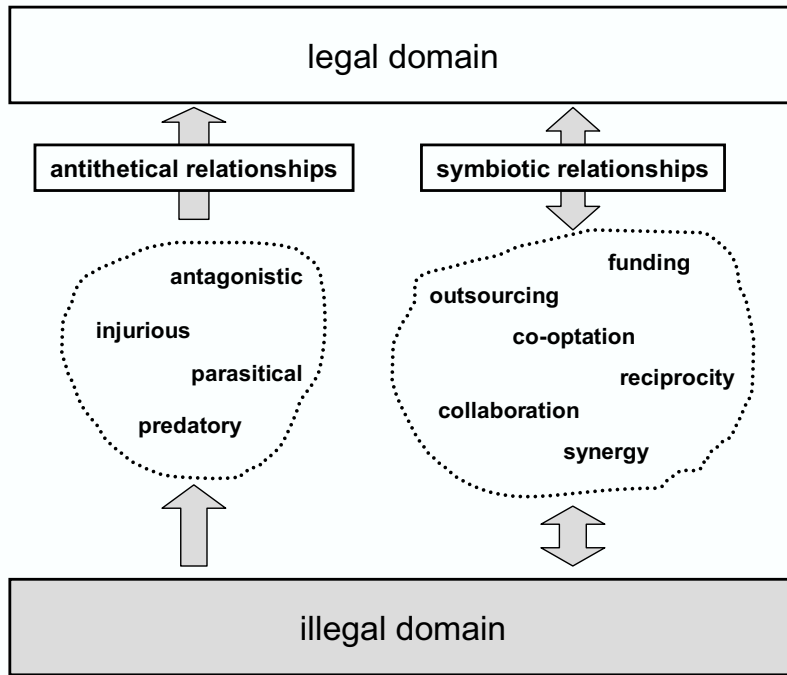


figure 2: the interface typology

The remaining four antithetical and six symbiotic interfaces provide a framework to define and understand examples of interfacing relationships in the literature on transnational crime or in empirical studies. Nevertheless, many objects of study cannot be related to only one interface. Often, one can discern several different interfaces in one case. This is especially true for large cases like the BCCI affair and the Banco Ambrosiano case that will be discussed in chapters 3 and 4.

2.3 Three extensions of the interface typology: individuals, organizations, and jurisdictions as interface

Many legitimate organizations maintain different interfacing relationships with numerous illegal actors (or did so in the past). Examples that can be mentioned here are intelligence agencies like the CIA or financial institutions like the BCCI (Block & Weaver, 2004; Passas, 1996). In addition to these actors there are single individuals that act as intermediaries between legal and illegal actors. Many can be found in the illicit art trade, but also in the arms trade or in the toxic waste trade (Gerstenblith, 2004; Phytian, 2000; Szasz, 1986). Finally, at a macro level, one can understand whole countries as interfacing structures between legal and illegal or hinges between the legal and illegal side of transnational deals in arms, art, cigarettes or waste (Blum et al., 1998; Bülow, 2003).

From this perspective, the typology of interfaces consists of a number of bricks with which the overall legal–illegal interface is build. Hereafter, an attempt will be made to show how some bricks can be organized on a number of different levels. On each level the same process can be found. This process involves a transformation of legal into illegal activities or a transformation of illegal into legal activities. All three variations consist of an important addition to the typology of interfaces. They will be briefly outlined here while a detailed discussion will follow in chapters 3 (on individuals and organizations) and 4 (on jurisdictions). Chapter 5 will use the analyses from chapters 3 and 4 to develop an analytical model of these individuals, organizations, and jurisdictions as interface. Thereafter, one particular field of transnational crime, the illicit art and antiquities trade, will be studied to see whether the typology and its extension help us to understand the legal–illegal interface.

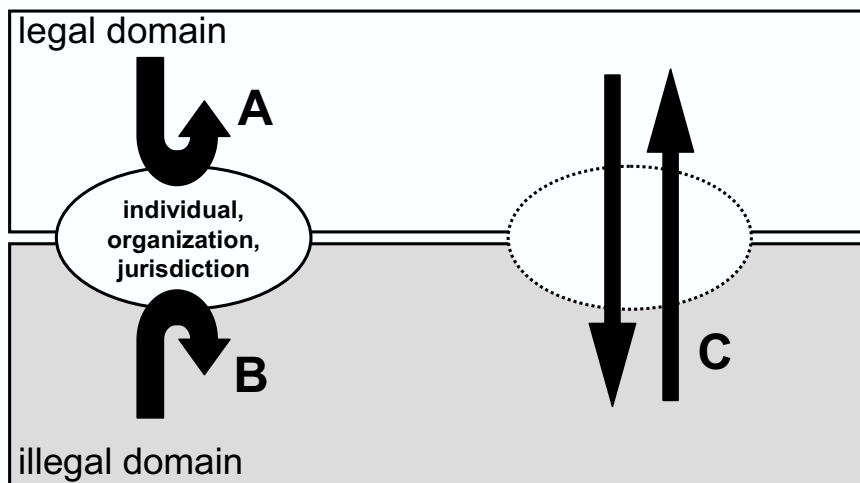


figure 3: individuals, organizations and jurisdictions as interface

In Figure 3, the role of individuals, organizations, and jurisdictions is shown. Normally, interfaces are considered to be located between legal actors on the one hand and illegal actors on the other hand. The typology discussed above provides labels to distinguish the different interfaces between these legal and illegal actors. However, often individuals, organizations or jurisdictions can be seen as located between the legal domain on the one hand and the illegal domain on the other hand. Through these entities, activities either become legal or instead illegal. The organization can for example be a bank through which criminal funds are laundered, or a state that officially acts as end-user for arms that are ultimately destined for an outlawed destination. Depending on one's point of view, one could label the arrows next to A (connecting the legitimate organization with the legal actor) or B (connecting the legitimate organization with the illegal actor) as examples of interfaces from the typology. Besides that, one could also label both sets of arrows as interface. However, this seems to be inconsistent as ideally there can only be one line separating legal from illegal. As will be argued in the next chapter, neither perspective does really catch the reality of many cases, like for example BCCI. The arrows at both sides of the circle are actually part of an activity that runs from legal to illegal or the other way around. The large arrows next to C illustrate this fact.

2.3.1 Solo in transnational crime

One of the major issues in the study of transnational crime concerns the organization of crime. A range of ideas can be found from Donald Cressey's idea of large hierarchically organized criminal groups to Peter Reuter's idea of disorganized flexible illegal markets (Cressey, 1969; Reuter, 1983). During the 1990s, the idea of transnational crime as a sort of multinational (criminal) organization became popular. Whereas in the 1960s, organized crime was understood as a sort of criminal IBM; during the 1990s organized crime was by some others pictured as a criminal version of the flexible and powerful multinational corporation (Sterling, 1994; Williams, 1994).

Besides this strong current, other ideas about structures in organized or transnational crime can be found in the literature. One of the competing perspectives is based on network theories. The number of articles and studies on networks in transnational and organized crime has significantly increased in recent years. In the Netherlands, a number of authors have used network theories to enrich studies on organized and transnational crime, primarily based on police files (Kleemans et al., 1998, 2002; Bruinsma & Bernasco, 2004).

Despite the differences between the mentioned approaches, they have at least one crucial element in common. All different approaches tend to focus on actors instead of activities. They differ with respect to the assumed structure of these actors. The actual objects of study are partly defined by the expectation to find structures like criminal organizations, criminal networks, or mafia like groups.

Furthermore, one tends to focus primarily on ‘real’ criminals. Criminal elements within state institutions, legal companies or other non-criminal entities are seen as exceptional phenomena outside the scope of organized crime, or as facilitators helping out their criminal clients without being part of the actual organization of crime. Through definitions of organized, white-collar, and corporate crime, boundaries tend to be drawn between activities that can hardly be separated in practice without bringing arbitrary elements into these definitions. The given tendency can be opposed by looking primarily at activities instead of actors. In the words of Dwight C. Smith:

“The observer who looks first at events and then at the persons associated with them is more likely to adopt a scientific, value-free and causal analytical style. The observer who defines a universe by the people it contains is more prone to bias and nontestable assumptions – in short, to conclusions that are based more on ideology than on logic” (Smith, 1991)

When the focus is shifted to activities, the whole subject of interfaces tends to shift from the sideline to the centre, because many illegal markets have only vague boundaries with the legal upper world. However, this is not to say that all different actors are no longer relevant to discuss. On the contrary, without actors it is impossible to discuss the illegal activities and especially the way in which they sometimes get laundered or instead become illegal. What is meant here is that it should be activities that define the field of study and thereafter one should look at the actors involved to describe and analyze these activities. As soon as one shifts the focus from actors to activities, the role of a number of independently operating individuals can be given a proper place within the whole of transnational crime. In a number of transnational crimes, these individuals play a crucial role which is clearly different from the typical criminal organizations. Pointing at these individuals is not meant to be an argument opposing any theory of structures of transnational crime. To the contrary, any argument to support one particular type of structure as typical for transnational crime, or a specific transnational crime, would again mean a focus on actors.

The remarks about actors may seem to contradict with the previous discussion in which legal and illegal actors were used. However, two things need to be separated clearly here and in the following chapters. The definition of transnational crime does not discriminate between ‘legitimate’ and ‘criminal’ actors but simply focuses on criminal activities in different jurisdictions. This definition guides the types of activities that will be used in this study to elaborate on interfaces. However, the individuals, organizations, and other entities involved in these activities are still labeled as legal or illegal. The reason for this artificial distinction is the fact that only by using this distinction, one can show most clearly how legal and illegal are intertwined in practice.

The interest in the role of individuals has been lacking in most studies for a number of reasons. First of all, organized crime research and more recently transnational crime research, has often been primarily dealing with large structures that were mentioned before. This can be partly explained by the types of transnational crime that have been of primary importance to the criminal justice system and most criminologists. In recent years many research projects have focused on smuggling of humans and related topics (Soudijn, 2006; Staring, 2001; Van Dijk, 2002).²² At the same time, drug trafficking and dealing has been a major topic for criminologists for years (Korf, 1993; Bovenkerk, 1998; Klerks, 2000, Zaitch, 2001). Most other types of transnational crime enjoy much less interest: the illegal arms trade, the trade in 'blood' diamonds, the trade in toxic waste, the illegal art and antiquities trade, and until recently the smuggling of cigarettes.

All this seems to distract the attention from the main topic here, the role of independently operating individuals in transnational crime. However, this topic is directly related to the above in two ways. First of all, the role of the mentioned individuals is especially present in the description of types of transnational crime that fall outside the focus of most criminological studies of transnational crime. Secondly, these types of crime are known for their connections with legal actors, governments as well as corporations (Block & Weaver, 2005; Kochan, 2005; Naylor, 1993, 2001; Peleman, 2002; Pretterebner, 1989). Therefore, from a perspective of interfaces, these crimes are particularly relevant.

The individuals have different roles with different transnational crimes. One role is to act as black market brokers for legal actors, or between legal actors. These legal actors use the broker because for some reason they cannot organize the illegal activities themselves. Examples can be found in the arms trade, where arms are exchanged between states, terrorist groups, opposition movements or other actors (Morstein, 1989; Naylor, 1995b). The broker finds ways to arrange this exchange, evading embargoes, export regulations, international treaties, and other inconvenient provisions which are officially binding the legal actors, and benefiting the innovative illegal actors. In chapter 3, this example and others will be discussed in more detail, using a number of examples from the illegal trade in art, arms and toxic waste.

2.3.2 Legitimate organizations as interface

In the situation described above, the broker acts as an interface between the legal actor and the black market in for example arms, art or diamonds. For some reason, legal and illegal actors are unable to do business without getting

²² Judging from recent criminological studies, as well as media coverage of smuggling of humans, trafficking, and related topics, it seems as if migration is nowadays primarily of interest as a criminal phenomenon. For a more philosophical approach see for example Hedetoft & Hjort (2002); Schlesinger (2004).

themselves into legal difficulties, or at least into embarrassing situations. Partly the opposite situation can be found with a number of legitimate actors. These actors do business with illegal actors as well as with legal ones. However, their status is perfectly legal, as is usually their appearance. The transactions with both sides of the law are not unrelated, but are part of a process whereby illegal goods are transformed into legal merchandise. Whereas the dealer in 'hot' items is able to get rid of them at the backdoor, the items are perfectly legal when they go through the frontdoor to the customers. Analogous to the laundering of money, these goods are in a way laundered so that they can enter the legal trade again, and be sold for regular prices which are usually substantially higher than at the black market. The legitimate actor can be described as an interfacing organization between the legal and illegal domain.

These legitimate organizations provide an open gate for illegal actors to get their goods into the legal market, laundering them in the process. The trade in so-called 'blood' diamonds can serve as an example here (NIZA, 2001; Tailby, 2002). Besides different markets in which goods are laundered, one can point at the primary laundering business, money laundering. This activity is usually seen as an organized crime itself, and is of crucial importance to many transnational criminals (Beare, 2003; Blickman, 1997; Naylor, 1996; Passas, 1995). While there are many ways for criminals to launder the proceeds of their crime themselves, the banking sector is probably responsible for the biggest share of the business. In some cases, the activities of these banks have become public and led to major scandals. Examples are the Nugan Hand Bank, Banco Ambrosiano, the BCCI and the European Union Bank (Blum et al., 1998; Henry, 2003; Kwitny, 1987; Paoli, 1995; Passas, 2001). Recently, new examples were added to this list in relation with money laundering practices by Russian criminals and US banks (Kochan, 2005; Block & Weaver, 2004).

Finally, there is the specific role of intelligence agencies. Though these agencies do not directly fit in the category of organizations mentioned before, their role is in a way comparable. Intelligence agencies often provide an intermediary structure or interface between all kinds of criminals and state officials (Auchlin & Gaberly, 1990; Block & Weaver, 2004; Bülow, 2003; McCoy, 1972; Naylor, 2001; Roth, 2000).

2.3.3 Jurisdictions as interfaces

In the previous paragraph, some holes in the fuzzy boundaries between 'upper world' and 'underworld' were discussed. Interfacing organizations show the permeable boundary between legal and illegal. They make clear that, in addition to incidental interfaces between legal and illegal actors, there are in fact organizations that provide more or less institutionalized interfaces. However, despite the often impressive scale of illegitimate activities around these organizations, one can move beyond this level with regard to interfaces. Beyond

individual organizations, there are numerous jurisdictions that can be seen as macro-level interfaces. As there are 'holes' in economic branches like the art trade or the banking industry, there are also whole jurisdictions that serve as 'holes' in the global system. For the illegal trade in arms, a range of countries are relevant which can provide satisfactory end-user certificates or other services for 'hot' deals. An example is Singapore, which "would long ago have sunk into the sea, had it actually kept all the weapons its officials had signed for" according to a standing joke in the arms trade (Naylor, 1995b). Naylor discusses the activities of a Swedish arms producer that used both Swiss bank secrecy as well as the services of Singapore as official end-user of its arms, to keep the business running against all national and foreign regulations. In connection with Belgium he writes:

"(Belgium) earned a triple notoriety – the products of its own industry were available essentially on a come-on, come-all basis; it played host to a large assortment of traffickers in other countries' weapons; and it was the world centre for the organization of the mercenary forces that were doing so much to drive up the demand for the equipment being offered." (Naylor, 1995b)

Besides suitable territories for all kinds of products, there is a market for convenient banking services. This market provides an effective hole in the regular banking structures around the world. All kinds of exotic places like the Cayman Islands, the Bahamas or closer to home, Switzerland and Liechtenstein, have an enormous potential to provide both legal actors as well as transnational criminals with essential services (Block & Weaver, 2004; Kwitny, 1987; Naylor, 1987). According to Jack A. Blum:

"the Cayman Islands are the world's fifth-largest banking centre. The Islands are home to 520 banks and more corporations than people. The Netherlands Antilles are the fourth largest source of foreign investment in the United States. The British Virgin Islands are home to nearly 180,000 corporations" (Blum, 1999).

The role of these territories is an issue which runs through accounts of all kinds of different transnational crimes. Not only to launder the proceeds, but to assist in the operation of these crimes. Despite the ease with which funds are laundered through these jurisdictions, it should not be forgotten that in absolute numbers, most laundering probably still takes place in the US and the UK as well as other highly regulated economies.

The typology of interfaces at the beginning of this chapter can be applied to these territories or states in the same way as to the interfacing organizations described earlier. Between actors in these countries and actors in the rest of the world, all kinds of symbiotic or antithetical interfaces can be distinguished:

outsourcing, collaboration, and reciprocity. On a more abstract level, the synergy interface is omnipresent. The legal trade in arms, art, cigarettes, and diamonds is benefiting from the activities of illegal counterparts that are facilitated by actors in the discussed territories, even if they are not involved in them. It increases the market for all these commodities, while they (the legal actors) do not bear the risks of the increase as far as it is a result of criminal actions.

2.4 Conclusions

This chapter started with a discussion of the typology of interfaces developed by Passas. He defined a typology with four antithetical and eight symbiotic interfaces between legal and illegal actors. Each type from the typology was described and discussed. As a result, I decided to leave two symbiotic interfaces out of the typology. The definitions of the other interfaces were clarified although the boundaries between the different types cannot be drawn meticulously in practice. However, each type aims at a distinct type of relationship between legal and illegal. All types together provide an analytical tool with which the legal–illegal interface can be described in all kinds of situations, for all kinds of different crimes. Therefore, the typology provides at least an analytical tool to describe different relationships between legal and illegal actors.

However, beyond the particular interfaces between a single legal and illegal actor, I have argued that one can look at interfaces at a number of other levels. First of all, there are categories of individuals who act as intermediaries or brokers between legal and illegal actors. Secondly, there are legitimate organizations that connect the legal and illegal part of transnational transactions. Meanwhile, these individuals or organizations launder the merchandise which is the subject of the transaction. The legitimate organizations can be seen as an interfacing organization between the ‘upper world’ and ‘underworld’. With this, they can be understood as holes in the boundaries between the legitimate and illegitimate part of a line of business. Thirdly, there are territories, or even whole states, that also provide loopholes in the international system. These territories can be seen as macro-level interfaces between different legal and illegal actors.

In the following chapters, the different extensions of the typology will be discussed in more detail. In chapter 3, individuals and legal organizations are discussed as interface between legal and illegal actors. Chapter 4 will focus on jurisdictions as interfaces. Thereafter, the findings from these chapters will be used to develop an analytical model, the so-called *lock model*, with which to understand the role of ‘institutionalized’ interfaces. In chapters 6 to 9, the empirical study of the illicit art and antiquities trade will be described and used to test the findings from the previous chapters. Finally, chapter 10 will summarize the conclusions from the whole study and formulate recommendations for future criminological studies as well as public policies.

CHAPTER 2

The new typology and the lock model should be seen as an instrument useful for ordering, classification, and description of observations and data in the field of transnational crime. As such, it is not meant to be, presently, a theory producing hypotheses on how the world of transnational crime functions, but as a classification instrument, helping to understand and describe what is happening there. Testing a classification typology boils down to investigating whether it is indeed useful for the function it has to serve: understanding and describing the structure and functionality of interfaces in a field not well researched up to now. The degree to which the typology succeeds in producing a comprehensible overview of that field is the yardstick against which we measure the quality of the typology.