The puzzle of yakuza's longevity: the endurance of the yakuza and its implications for theories of organised criminality

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The puzzle of yakuza's longevity:

The endurance of the yakuza and its implications for theories of organised criminality

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The work in the present thesis is my own.

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Abstract

While mainstream criminology has traditionally considered Japan a low-crime, law-abiding society, the Japanese crime syndicates collectively known as the yakuza have been active since the 17th century. Despite their longevity, research has often neglected this form of organised crime, both domestically and abroad. This study aims to solve the puzzle of the endurance of the yakuza within what is regarded as one of the safest societies in the world. Through recourse to government documents and primary bibliographical sources, as well as interviews with both current and ex-yakuza, researchers and journalists, this research explores the historical, social, economic, political, and legislative roots of the yakuza's resilience. This study considers the role of social capital and ethnicity, the impact of 25 years of economic stagnation, the part played by emergent neoliberalism, as well as the ways in which corruption and ideological positions have connected the yakuza to other elements within Japanese society, in explaining the yakuza's endurance. Moreover, the study also explores the significance of the increasingly restrictive anti-yakuza countermeasures that have been introduced in recent decades, and reflects on how these have variously impacted on the evolution of the yakuza and its prospects moving forward.

Introduction

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Acknowledgements

resilience and optimism have been inspiring; my funny uncles and my loving auntie; and all my cousins who have come to terms with the fact that their oldest cousin comes and goes, but always brings back souvenirs because she loves them dearly. The very fact that I can wander around so freely and carelessly without losing myself is precisely because I have such strong roots.

Minna, osewa ni narimashita.

Introduction

The yakuza who? Lessons in Criminology from Japan

Japanese organised crime syndicates, collectively known as the yakuza or bōryokudan, have been a constant, but often overlooked, feature of Japanese society, politics, and economy, dating back to before the constitution of the contemporary democratic institutions of Japan. The 'safest country in the world' (Shushōkantei, 2016) has also been home to one of the most enduring, extensive, hierarchically organised, and pervasive criminal syndicates present in a modern democracy. Although the roots of the yakuza in their most embryonic form can be traced back as far as the seventh century (Iwai, 1986), while their contemporary form dates back to the Tokugawa period (1603-1867) (Gragert, 1997; Hill, 2003; Iwai, 1986; Kaplan and Dubro, 2003), the yakuza's presence only emerged as a prominent political issue and became enshrined in law in the 1990s. At the same time, academic interest in these groups has hitherto been marginal, both domestically and internationally.

My own interest in this neglected topic arose after meeting some friendly yakuza members on a beach in Wakayama in 2009, during a period of study in Japan as an undergraduate: they were babysitting their boss' child, and I joined them in playing with small fireworks, after which we began talking. As they showed me their tattoos and proceeded to explain to me what the yakuza were, they were adamant that they were nothing like the Italian mafia. Upon returning to Italy, I began looking for literature on the yakuza in Italian or English, but given that this was virtually non-existent, yakuza movies became my primary source of information. In the West, as well as in Japan, the popular fascination with the mafia and the yakuza and the cultural tropes they represent is reflected in the much-admired gangster film genre. However, the yakuza's prominent role within national cinema has not engendered the same degree of intellectual curiosity accorded to the Sicilian mafia within the field of criminology. This dearth of academic work on the yakuza is particularly interesting in light of the interest showed in Japan by Western criminologists in recent decades. Indeed, the country's rapid modernisation process during the post-war period, which did not produce an increase in crime rates witnessed in other developing economies (Tsushima, 1996) and led to it being classified as a 'low-crime nation' (Leonardsen, 2004), has been discussed extensively.

Nevertheless, these aforesaid accounts of the low-crime levels in the country only marginally account for the impact of developed crime syndicates such as the yakuza. This situation raises several questions: how did these highly structured and visible criminal organisations manage to survive and thrive in a country that is regarded as one of the safest in the world? Are the institutions and the population complicit in perpetuating their survival? If so, what is the utility of the yakuza? On a more general level, how do the yakuza challenge common assumptions about organised crime?

The main purpose of this thesis is to ascertain the factors that facilitated the yakuza's longevity in what is typically described as a law-abiding and low-crime country. The intricate set of reasons that supported the flourishing of criminal syndicates across Japan are expounded through the categories of historical background, society, economy, politics, law and policing, and sentencing and prisons. This thesis addresses these issues through recourse to Southern Theory, in order to highlight the important contributions that empirical research from a non-Western jurisdiction can make to criminological theory.

North, South, Centre, Periphery: Situating Japan

The social sciences have traditionally been dominated by Anglophone academia. This frames America and Europe as the main producers of knowledge, while leaving a mere ten percent of knowledge production to the rest of the world, a tendency which has been exacerbated even further by globalisation (Aas, 2012). Criminology, in particular, has been – and continues to be – a discipline of the 'centre', which is to say that many peripheral criminological issues are excluded from mainstream criminological scholarship (Lee and Laidler, 2013). While this phenomenon has roots in the imperialist past, it continues today insofar as 'the theoretical hegemony of the North is simply the normal functioning of this economy of knowledge' (Connell, 2015:51), where the 'North' includes Western Europe and North America, and the 'South' is represented by Latin America, Africa, Asia and Oceania (Carrington et al., 2015). According to Young (2011), mainstream criminology, and especially North American criminology, has been spoiled by determinism and rampant positivism, which has culminated in the 'most atypical society' (ibid.: 80) producing the most influential criminological theories. Against this hegemony, new ways of doing criminology, which re-examine it as a discipline and re-calibrate its ontological orientation, open up space for different voices

and modes of resistance to the field's implicit Western and colonial heritage (Walklate, 2016).

Despite being the third-largest economy in the world (The World Bank, 2016) and, ideologically speaking, part of the first world, for the purposes of this study, I classify Japan as being in the 'periphery'. Postcolonial writers have distinguished between lands colonised for the purposes of settlement (i.e. North America and Australia) and those colonised with the express aim of economic exploitation, such as large parts of Africa and South-East Asia (Cunneen, 2011). Clearly, Japan cannot be included in either of these categories because it has never been formally colonised by Western powers (rather, it was a coloniser itself), but the US occupation and subsequent subordination of Japan had a strong influence on the construction of the modern Japanese state, which is epitomised by the fact that the Japanese Constitution was written by a foreign power[1]. Indeed, Yoshimi (2003) argues that the influence of the US remains strong in the Pacific Rim, stronger than in any other region in fact, and, hence, Asia can be considered as a space dedicated towards the perpetuation of continuous American hegemony. Moreover, the fact that Japan is not a leading academic knowledge-production node, especially with regards to the field of criminology, also justifies its categorisation as part of the global 'periphery'. Consequently, it perhaps comes as no surprise, then, that the yakuza have been hitherto relatively unexplored; however, the contention of this chapter is that they represent a valuable opportunity through which to test the validity of existing criminological theories.

While southern criminology recognises that criminological knowledge has had a pronounced bias towards theories and methods produced in the global North, the aim is not to dismiss these contributions, but rather to 'de-colonize and democratize the toolbox of available criminological concepts, theories and methods' (Carrington, Hogg and Sozzo, 2016:3). This hegemonic international division of scholarly labour is clearly showcased in the Asian region, which has long been considered as a space for merely applying or testing theories developed in the West (Braithwaite, 2015). Nevertheless, due to both the nascent interest in international and comparative criminology and the increased attention paid by Asian scholars to the study of crime, Asia has begun to assert – albeit slowly and cautiously – its importance in the field (Liu, 2009). For instance, projects of restorative justice have highlighted that Asian practices constitute a

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[1] For a rigorous analysis of occupied Japan, see Dower, 2000.

key resource for western criminal justice systems, as evidenced by the fact that, generally speaking, Asian societies have been more successful than their western counterparts in preventing crime (Braithwaite, 2015).

The interest shown by police agencies and policy makers towards academic research on crime has been increasing (Von Lampe, 2012), insofar as some researchers have claimed that changing modes of governance and the need for knowledge – aimed at aiding risk management and the regulatory practices of the state – have had a disproportionate influence on criminological research, and turned criminologists into 'consultants [that] produce knowledge under contract for governments' (Walters, 2003:11). Although this view may sound somewhat hyperbolic, western institutional and academic perspectives do indeed appear to have become more interconnected in ever more significant ways compared to other parts of the world, where academia does not play the crucial role of informing institutions. This is the case in many Asian countries: due primarily to the almost non-existent commitment from governments to develop a knowledge base concerning crime and its control, Asian criminological researchers face various objective constraints. Criminology is mostly supported in its administrative manifestation, and, as such, lacks the cultural twist that one sees in Europe and the US (Lee and Laidler, 2013). Combined with the lack of material infrastructure, Asian researchers are often required to rely on key concepts and theoretical capital generated in the 'North' in order to be competitive in the global marketplace of ideas (Liu, Hebenton and Jou, 2013).

In the specific case of Japan, criminology 'has detached itself from penal law to deal with reality and now is seen as a peculiar [form of] sociology' (Ueda, 2012: 973). Japanese criminology is indeed a relatively new discipline, and, as such, has been marked by a strong European influence. Specialists in scholarly disciplines with a strong Germanic influence, as well as practitioners such as judges, prosecutors, and police officers, have contributed to the popularisation of discourse on crime primarily through two opposing trends: a scientific discourse, and a popular, non-academic one (Nakatani, 2006). After World War II, the field of criminology, as well as Japanese criminal justice more broadly, was also influenced by US academia (Konishi, 2013). Despite the influence from Europe prior to World War II, and the US in the post-war era, both of which have long and varied traditions in the study of crime, Japan never developed its own prominent criminological scholarship. Today, criminology is taught

in small departments and there are very few criminology and victimology research centres; given the lack of support from institutions, it is difficult for young researchers to find a position in the field of criminology. Collaborative research is also limited, and only a small number of Japanese criminologists attend international conferences and meetings (Yokoyama, 2013). This may stem from a general disinterest in the discipline within Asia (Liu, 2009), or reflect the fact that Japanese communities are typically perceived as being safe by their members (Ito, 1993). Indeed, data from the 2012 public opinion poll conducted by the Cabinet Office demonstrated that around 60% of the population considered Japan to be a safe place, a marked increased from 46% in 2006 (Naikakufu seifu kōhōshitsu, 2012), which thus confirms that there is no exigent need for extensive research on crime.

In this regard, it is also important to put forward some considerations on comparing crime across societies. On the one hand, there is the risk of being too ethnocentric, that is, when studying crime in a different country one makes implicit judgements about the way the phenomenon is – or the way it is handled – compared to what *we* do. On the other hand, there is the risk of being too relativistic, insofar as we set out from the assumption that we will never completely understand. As criminologists engaged in cross-cultural research, one way to move beyond ethnocentrism and relativism is to use interpretative questions when discussing and paying attention to what others are actually doing, and what their underlying reasons are for doing so (Nelken, 2009).

Particularly, citing culture as an explanation for the role of law in Japan has been increasingly challenged, both for taking the US as a point of reference and for failing to account for the dynamic character of law in Japan (see Vanoverbeke et al., 2014). While it is tempting to explain different practices and perspectives through the expedient of culture, it is just as easy to fall into the trap of Occidentalism or Orientalism, by using double standards or adopting our own standard. Often, there is not some homogenous culture that shapes our preferences, but rather a series of conditions lead us to face 'rational choice assumption[s] and pragmatic considerations' (Nelken, 2006: 948). In this research I intend to demonstrate that the choices that the Japanese government and society (which is often considered to be unique and enigmatic) have made in respect to the yakuza are the result of historical, social, economic and political dynamics, and, as such, have little to do with 'Japanese culture', or some generic 'Asian culture'.

The yakuza in academia

There has been an emergent interest in Japanese society since World War II: Japan, as the only non-Western society to have reached full industrialisation in the post-war period, has attracted interest from both industrialised and developing economies that have tried to understand the Japanese economic miracle. Efforts to explain this phenomenon predominantly focused on cultural elements, which goes some way to explain why Japan gained such popularity in popular culture and in English-speaking academia (Mouer and Sugimoto, 1986). Japanese crime – and especially its prevention – also gained popularity, insofar as Western criminologists began to examine the Japanese case in order to understand the country's low rates of crime (Karstedt, 2001). Japan, which has been classified by Western scholars as a 'low-crime nation' (Leonardsen, 2004), has been portrayed as something of an 'enigma' (Van Wolferen, 1989) due to its rapid economic growth and attendant low-crime rates, because prevailing thought is that economic development is positively correlated with higher crime rates and increased participation in young criminal gangs (Jackson, 1991).

Within this panorama, there is a notable lacuna in the English-language criminological literature with respect to the yakuza[2]. The major contribution to this issue is undoubtedly Hill's 'The Japanese mafia' (2003), in which the yakuza are initially compared to the Italian mafia, and discussed though the lens of Gambetta's protection business theory. Faced with the lack of sources on the subject, Hill built his research on original documents and data from fieldwork conducted in Japan in 1998. The book, based on his PhD thesis, covers the historical roots of the organisation, its contemporary organisation, and main sources of income. Furthermore, Hill (2003) explored the anti-yakuza countermeasures of 1992, evaluated their subsequent impact on the syndicates, along with considering the relationship between the yakuza and the Japanese state.

Moreover, although it is not a criminological book, Siniawer's 'Ruffians, Yakuza, Nationalists' (2008) nevertheless provides an account of the role of the yakuza as specialists of violence in the context of the politics of modern Japan (1860-1960).

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[2] Also in this case, the interest in the representation of the yakuza in popular culture preceded that of academia: yakuza-movies have been a popular genre in Japan since the 1960s, but the largest productions have now also begun to circulate in Western cinemas after Kitano Takeshi's movies, such as 'Brother' or 'Outrage', also became popular amongst the European and American public. Indeed, Kitano stated in an interview that one of the reasons he made 'Brother', the story of a yakuza in Los Angeles, was because when he was abroad he was often asked about the yakuza by foreign journalists (*The Guardian*, 2001).

Her research explored the political history of modern democratic Japanese institutions by following the *fil rouge* of institutionalised practices of violence and the role of those who enforced it, namely the yakuza and groups related to them. Hence, her work constitutes a key resource on the historical role played by the yakuza in the construction of the modern Japanese state.

One of the most significant recent contributions to knowledge on the yakuza is Rankin's article (2012), which to its credit used many primary and secondary sources in their original language that would otherwise not have been accessible to the majority of English-speaking academia. A further merit of the article is that it puts into context the illegal businesses the yakuza have been engaging in over the past two decades of economic stagnation. Rankin's work also brings to attention the latest happenings within the world of the yakuza, and therefore adds to Hill's work. For instance, it interestingly describes how the yakuza took advantage of the crisis at the Fukushima power plant[3] to gain monetary profit through the practice of labour-brokering.

Despite not being an academic source, it is also important to cite the journalistic work by Kaplan and Dubro (2003), which can be considered as a key Anglophone reference on Japanese organised crime, and, indeed, is widely cited in academic scholarship. Their book analyses the yakuza from their emergence, and reports on all the political scandals and businesses the yakuza have been engaging in from their origins to the economic crisis of the 1990s. Given that it is a journalistic account of the criminal syndicates, it does not utilise theoretical frameworks to explain the reasons for the origins and persistence of the yakuza, nor does it try to address the issue of visibility of the organisation, but it nevertheless provides a highly detailed account of the facts concerning the yakuza's structure, businesses, and history.

The yakuza are often cited en passé in works on organised crime as an example of mafia-type associations, but yet, with the exception of Hill's work, international studies on crime have hitherto given the Japanese syndicates scarce attention. Notwithstanding language barriers and the neglected criminological sector in Japan, the active disinterest displayed by Japanese scholarship also pertains to bipartisan political

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[3] The Tohoku Earthquake that struck Japan on March, 11th 2011 caused a tsunami that heavily damaged the Fukushima Dai-ichi power plant, and subsequently triggered three nuclear meltdowns and the release of radioactive material. Hundreds of thousands of people were evacuated from the area, and this event was considered the biggest nuclear disaster since Chernobyl in 1986 (Green peace, 2013).

agendas that have discouraged research on the yakuza in order not to compromise the image of Japan as one of the safest countries in the world.

Yakuza in debates around organised crime: dominant key theses

Given the hegemonic relationships inherent to knowledge production, as evidenced by the peripheral positioning of southern criminology and the weak presence of Japanese organised crime in academic research, where are the yakuza situated within international debates on organised crime? Let us start by delineating the key theses on organised crime.

In general, the debates on organised crime and its definitions have been longstanding and inconclusive, due to the infinite number of perspectives, which are each distinctly shaped by the political background and analytical perspective on which they are founded (Ruggiero, 2012). 'Organised crime' has been a popular topic of academic and popular discourses since the beginning of the twenty-first century: in the US, academic interest peaked in the 1960s and 1970s, when organised crime was embodied by the Italian-American mafia groups, while it entered the political discourse in Europe only in the 1980s (Fijnaut and Paoli, 2004), most notably after the killings of the Italian judges Falcone and Borsellino in 1992 (Van Duyne, 2011). From that moment, this threat – generically designated as 'organised crime' – became worrisome for populations, governments and international agencies alike (Edwards and Levi, 2008; Paoli, 2002), and secured its place within the field of criminological research (Fijnaut and Paoli, 2004).

Organised crime can be interpreted according to which feature one chooses to focus on: be it the *who*, the *what*, the *how*, or the *where*. In the US, one of the first approaches to organised crime was organisation-based, whereby a centralised (mainly Sicilian) criminal organisation was thought to dominate illegal markets (Lyman and Potter, 2000). According to this perspective, organised crime is not part of society, but rather constitutes an external threat posed by a group of outsiders: these groups are characterised by bureaucratic organisation, ethnic homogeneity, the use of corruption to undermine the establishment, and the pursuit of monopolies (Kleemans, 2014).

After the initial phase, in which the emphasis was very much on the *who* (did it), scholars began to focus on the *what* (which illegal services were provided) and the *where* (where the illegal transaction took place). The 'illegal enterprise approach' has

been utilised in European scholarly debates pertaining to the Italian mafia, as well as the conceptualisation of organised crime more generally, and treats criminal associations as an illegal enterprises whose only aim is to generate illegal profit (see Arlacchi, 1988). Reuter (1983) used this approach to contest the fact that the Mafia monopolises major illegal markets: in his view, illegal markets are populated by small and ephemeral enterprises. However, this interpretation easily forgets the historical, cultural, and social roots of groups such as the Sicilian mafia, and, moreover, fails to explain the reasons for their prolonged existence.

Situational analysis has been used to change the focus from the motivation of offenders to the constraints and opportunities available to them in the environment. This approach conceptualises sets of criminal activities, rather than organised crime in general: for instance, it analyses the methods through which drugs are smuggled, rather than focusing on the organisation that smuggles the drug (Kleemans, 2014). However, this approach appears to be more suitable for street or occasional crime, and cannot always be applied to organised crime activities, due to the fact that organised crime is more resourceful. Furthermore, situational analysis is contingent upon social, economic, and political factors that would require modification in order to include organised crime groups (Von Lampe, 2011). Studying organised crime for the purposes of situational crime prevention involves deconstructing this complexity, in order to identify the various opportunity structures that are used during their commission. The express purpose of this analysis is to identify promising preventive pinch-points.

Albanese (2014) summarised various perspectives from the last few decades and defined organised crime as a 'continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand. Its continuing existence is maintained through the use of force, threats monopoly control, and/or the corruption of public officials' (*ibid:* 4). In Europe, the most powerful and longstanding criminal groups are the Italian Cosa Nostra and 'Ndrangheta. According to Paoli (2004), these groups are independent government bodies that regulate the internal life of each associate family, and are patently different from the authority structure of their members' biological family. Mafia groups impose a 'status contract' on new members, who become 'men of honour' and assume a new identity altogether. Secrecy is the most fundamental duty for men of honour, and notably in the case of Cosa Nostra, secrecy must be absolute (*ibid.*). Gambetta (1993) points out that criminal organisations like the Mafia are providers of private protection, ensuring the sanctity of property rights and

economic transactions in weak states that are unable to provide these services. This approach has been used to explain the longevity of the Mafia in Southern Italy: mafia groups respond to the demand for private protection, and as providers of this service they are tolerated – and in some cases supported – by the population, economic actors, and even the government (Kleemans, 2014). However, despite the political dimension of mafia groups being undeniable, the analogy between mafia and state should not be extended too much further, insofar as 'mafia associations represent cases of a political community that is not yet fully institutionalised' (Paoli, 2003:172). Although mafia-type associations do not have a single goal and can be defined as 'multi-functional organisations' (Paoli, 2007:857), there is agreement among scholars that the ambition for the exercise of political dominion – both locally and nationally – is integral. This is supported by extensive research, which has shown that the mafia is a criminal group that aims to control and monopolise markets in their territory of origins (Campana, 2011), while, simultaneously, seeking to establish social and political governance over their territory (Gambetta, 1993; Varese, 2010), to the point that they compete with the state for the monopoly of power (Varese, 2001). The mafia seeks power especially at a local level, by using violence and exploiting the social capital of the society in which they are embedded (Sciarrone and Storti, 2014), while, in order to monopolise markets, mafia groups use corruption, or, alternatively, violence and cooperation (Allum and Sands, 2004). Infiltrating the state is an efficient way to compete for power, but it is difficult, if not impossible, to gather precise data about the extent of their infiltration given its highly secretive nature. The study conducted by Fijnaut and Paoli (2004) points out how the ability of criminal groups to infiltrate the legitimate economic and political sectors through corruption – especially in Europe – has been overstated, and that, in light of the difficulties in securing data, studies cannot go beyond that of providing estimates and speculation. However, Italy is an exception in this respect, in that Italian organised crime has an evident tendency of infiltrating legitimate and informal economies – as demonstrated by the mafia-related corruption scandals that regularly shake-up Italian politics.

Today, criminologists have shifted their focus away from traditional views on 'organised crime' towards analysing the network of organised crime: Kleemans and Van de Bunt (1999) state that social relations are fundamental to understanding the phenomenon of organised crime. This perspective focuses on the relations between offenders and their resources, and has the advantage of allowing for different modes of

cooperation, as well as being able to explain the flexibility and resilience of criminal groups (Kleemans, 2014). Furthermore, by using this perspective in conjunction with social network analysis, it has been possible to conduct studies on the presence of both criminal actors in legitimate contexts and legitimate actors in illegitimate contexts (Morselli and Giguere, 2006). Hobbs (1997) proposed a model that posits that criminals organise themselves through temporary social arrangements in groups that constantly form, change and disrupt, while Felson (2006) suggests looking at the acts that the group engages in rather than focusing on the group's structure. Indeed, the results of recent studies have shown how criminal cooperation actually operates on a small-scale and involves diverse links, actors and settings (Felson, 2006; Morselli and Giguere, 2006; Paoli, 2002)[4]. Merging traditional approaches to organised crime with the social network approach allows researchers to explore the ways in which illegal actors or organisations interact with legitimate social institutions, which, in turn, highlights the dimensions of embeddedness and the multiplexity of crime (Papachristos and Smith, 2014).

On a theoretical level, the yakuza interrogates extant understandings of modern criminal networks and 'archetypical' forms of crime such as the Italian mafia. Leaving aside the illegal activities – the *conditio sine qua non* of every criminal group – the yakuza shares the following features with the mafia: 'status contract' and the new identity of the novice; hierarchy; tendency to govern the territory and provide protection services; infiltration of the state structure; ceremonialism; and links to traditional values. Conversely, the yakuza are distinguished from the mafia by their lack of secrecy.

The yakuza, like the mafia, is a 'multifunctional entity' (Paoli, 2007:177). Analysing the traditional structure of the yakuza and the changes that arguably came about in the aftermath of economic stagnation can thus add to our understanding of criminal organisations, more specifically, the factors that shape their structure. The White Papers of the Japanese police (NPA, 2015a) described recent changes in the organisation of the yakuza, namely that more and more people have formed strong links with the yakuza without officially joining the organisation. The structure of the yakuza itself lends support to such claims about its pervasiveness: the ramifications of the most

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[4] Indeed, the increased use of social network analysis has pushed some criminologists to try to understand criminal groups as 'criminal networks' rather than 'organised crime' (Coles, 2001).

prominent yakuza group, the Roku-daime Yamaguchi-gumi, touch upon virtually every region in Japan through their affiliated groups (Keisatsucho soshikihanzai taisakubu, 2016). A study of the yakuza's structure and operations could lead to a different outcome, one in which the three main yakuza groups (Roku-daime Yamaguchi-gumi, Inagawa-kai and Sumiyoshi-kai; see appendices 1 and 2) that are expanding and seeking to absorb smaller groups (Yokoyama, 2016) use their reputation to act as monopolists, not only in their territory of origin, but also in terms of controlling and governing the markets in those areas they are expanding into. Furthermore, the yakuza allow for new insights on criminal organisations' methods of local governance, along with the role of criminal organisations in shaping not only modern states, but also local realities, as Martone (2014) observed in relation to the Camorra. The social network and embeddedness of the yakuza may also be studied by looking at the yakuza's social behaviour: the yakuza identify themselves with particular 'brand images', and, as such, must adhere to a specific set of behaviours and social obligations, such as participating in various ceremonies throughout the year (Hill, 2014).

This thesis aims to explore the challenges that the yakuza pose to extant theories on organised crime – namely, their structure and membership, their levels of visibility, their involvement with institutions and legal actors – in order to understand what specific elements are conducive to their longevity.

Researching organised crime

Researching organised crime is a complex task from the very onset of the research process, since the vague definition of organised crime does not allow for the researcher to grasp the precise object of their study (Rawlinson, 2008b). Scholars have tried to overcome this hurdle by adopting operational definitions of organised crime, but often the researcher is only able to proceed with their enquiry once political issues have been settled through the criminal justice system, which, in turn, makes academic enquiry deeply vulnerable to shifting political paradigms (Hobbs and Antonopoulos, 2014). While the ambiguity pertaining to the term constitutes its chief political value, on the other hand, it represents its principal analytical weakness (Edwards and Levi, 2008). Research conducted on mafia-type associations have a more defined target, given that syndicates such as the Sicilian Cosa Nostra or the Calabrian 'Ndrangheta have strong cultural connotations, resilient connections with their territory of origin, and are strictly

defined by Italian law. The study of these organisations pose different issues: Gambetta (1993), in his ground-breaking work on the mafia, pointed out access, unreliability of the participants, and danger to the researcher as the key reasons that determined the extensive use of judicial and historical sources as the basis of the studies on Sicilian mafia groups. Indeed, this also explains why scholars tend to investigate organised crime from the point of view of the police, as carrying out fieldwork activities (interviews or direct observation of policing practices) with law enforcement removes, at least in part, access problems and safety issues. When making contact with members of a criminal organisation represents too much of a risk for researchers, or when levels of secrecy are simply too high, interviews with police officers and magistrates become crucial. Sergi and Lavorgna (2016) conducted research on the Calabrian 'Ndrangheta through interviews with anti-mafia police officers and prosecutors, and were able to trace the history, contemporary criminal activities, and behaviour of the group. Meanwhile, the levels of violence in the Brazilian criminal underworld were so high that Willis (2015) conducted his fieldwork almost permanently in a bulletproof vest, while accompanying the Homicide Division of the police. Nevertheless, research can also be conducted from the viewpoint of criminals: fieldwork can consist of researchers simply talking to criminals, or directly observing the everyday life of criminal groups, while there have also been cases of researchers inhabiting and taking part in the underworld (Fijnaut, 1990). Dick Hobbs, for example, has conducted extensive ethnographies with offenders (1988, 1995, 2013) and operators of the night-time economy (Hobbs et al., 2005), arguing that it is only by living, socialising, and even carrying out minor functions for a network involved in illicit trading that researchers can begin to understand the dynamics and mechanisms of illegal markets. In fact, Hobbs maintains that to understand the functioning of illegal trading, one must look beyond the data generated by the criminal justice system to 'designate, categorise, and convict' (2013: 6), since these data alone do not capture the quality and intensity of the relationships between those involved in illegal markets, nor do they provide any insights into the knowledge and beliefs that form the basis of their organisational decisions (ibid.).

Nevertheless, it is not uncommon for researchers carrying out fieldwork with offenders and prisoners to have to confront the assumption that the participants in their study cannot be trusted in their narrations because of their deviant behaviour. The experiences of researchers talking to (ex)offenders is often characterised by the

eagerness and openness of their participants' accounts (Waldram, 2007); indeed, Jacobs (2006) points out how on different occasions offenders gave unsolicited accounts of sensitive information and serious crimes that they had committed because they needed to get it off their chest. Not being able to talk to their peers, criminals often turn to researchers, because of the social distance between them that allows them to talk freely. Indeed, both respondents who are still offenders and those who used to engage in criminal activities are especially eager to share their own version of facts when it is made clear that the researcher has no power over them and no reason to harm him/her (Waldram, 2007).

Although reliability is always a problem when conducting in-depth interviews, it is particularly relevant in studies involving criminal actors whose accounts cannot be cross-referenced. Triangulation is ever more used in criminology as a reliable method for enhancing the validity of the data collected, either through the use of multiple methods of triangulation – such as written documents, follow-up or group interviews, CCTV pictures and video footage, accounts from other people (Brookman, 2011) – or multiple triangulations – actor triangulation or triangulation of context (Lindegaard, 2011). In the event that time and monetary constraints do not allow for such a thorough triangulation process, a more 'informal' way to check the validity of the stories collected involves observing patterns in the responses of different participants, as conducted by Zhang and Chin in their study (2002). As a result of time and monetary restrictions, the present research adopted precisely this method, which consisted of observing similarities and contradictions between the participants' responses.

Criminological fieldwork can be carried out in numerous ways, hence the lack of a unitary 'criminological research method'. Moreover, methodologies applied in criminology are the same as those used across the broader field of the social sciences – questionnaires, interviews, observation, and documentary analysis. While, undoubtedly, criminologists must deal with a distinct set of obstacles, such as negotiating the politics of law and order, and being exposed to illegal acts and potentially risky situations, the design and implementation of the research plan is not centred on these aspects. Furthermore, the traditional distinction between qualitative and quantitative research is ambiguous, insofar as qualitative methods can be used to obtain quantitative data and vice-versa (King and Wincup, 2008). As many social scientists have noted, the distinction between quantitative and qualitative methods is often only a façade, as most methodologies can in fact be categorised as mixed-methods (Maruna, 2010). The

reasons for the divide between these two ostensibly antagonistic research designs has its roots in the politics of sociology rather than in practice, as the dichotomy does not exist at an epistemological level. As Hanson (2008) proved, the categories that are commonly used to characterise quantitative and qualitative methods (the former being based on objectivity, systematisation, quantification and generalisation) can, in practice, easily be deconstructed and assigned interchangeably to quantitative and qualitative methods (i.e. qualitative methods are much more systematic than they are often portrayed to be, anything qualitative can be quantified, quantitative research typically refers to a particular theoretical field and is not always generalisable). Most notably, in the field of criminology a combination of qualitative and quantitative methods has become increasingly popular, and is often referred to as triangulation, which, broadly speaking, comprises looking at things from different perspectives and using different methods (Newburn, 2017). At the same time, given the many potential risks to the researcher, ethnography is often discouraged in relation to researching organised crime, which, in turn, leads to a great deal of studies being based on official data despite the reticence of some researchers towards documents redacted by governmental agencies (Rawlinson, 2008b).

Thus, while the methods used in criminological research are the same as those used in other areas of the social sciences, it is undeniable that researchers engaging in fieldwork with organised crime members face some additional challenges. First, interviewing is deemed to be an effective method to research organised crime, and even though it involves considerable safety issues for the researcher, 'there seems to be a consensus that valuable information is produced from interviews and that no other research method could lead to similar findings, especially when it comes to the perceptions, attitudes, and motivations of offenders' (Von Lampe, 2008: 3). Listening to first-hand accounts of people involved in organised crime is a valuable complimentary method compared to other forms of research. Researchers also face some challenges in terms of identifying and getting in touch with potential participants, but can get round these if they are sufficiently methodical (ibid.). For instance, Arsovska (2008), while reading Belgian police files, came across the character of a famous boss in the Albanian mafia in Belgium in the 1990s. After a failed attempt to reach out to him via police contacts, she met a person who knew two close friends of the boss, and managed to secure an interview with the prominent criminal, who was also willing to introduce her to other criminal figures close to him. In another instance, Rawlinson (2008a) used her

network of expats and acquaintances from her interpreting jobs, as well as acquaintances from the more pleasurable activity of hanging out in bars known to be frequented by people related to the underworld, in order to access Moscow's crime groups. Indeed, using networks based on ethnic kinship can also prove useful for reaching one's target population: Zhang and Chin (2002) used their contacts in the Chinese community in the US and in the Fujian province, in combination with a snowballing technique, in order to access 'snakeheads' (human smugglers) working between China and the US. In order to reach a wider population of smugglers, four interviewers who were previously involved in human smuggling, and who lived in the community and spoke the same dialect of the target population were hired, thus enabling access to a larger amount of population as a result of their direct links to the community. While monetary incentives were also offered in this case, most of the time these were not the determining factor in participants' decision to agree or refuse to take part in the interview. Social networks can also prove useful for accessing participants (see Wang, 2013).

The sampling issues associated with a 'hidden population' is a well-discussed topic in methodological debates for researching crime-related activities. Because of the characteristics of this subset of the population – namely, the lack of a sampling frame (meaning that the size and boundaries of the population are undetermined) and the presence of important concerns regarding the participants' privacy and safety (as they are part of a criminal group that engages in illegal behaviour) – traditional recruiting methods based on chain-referrals are often used in criminology, such as snowball sampling, key informant sampling, and targeted sampling (Heckatorn, 1997). Erickson (1979) delineated some of the limitations of chain referral methods, which tend to be biased because of the choice of the initial sample, or as a result of the level of cooperativeness of the referred subjects. To resolve these biases, Heckatorn (1997, 2002) introduced the RDS (Respondent Driven Sampling) in which participants are rewarded for their own participation in the study, as well as for eliciting participation from peers, for which they receive a secondary incentive. This method works particularly well with hidden populations who implement high levels of secrecy, as peers of the primary respondent can decide independently whether to participate or not, while, for their turn, the primary respondent is not subjected to the pressure of naming peers to the researcher, which, for obvious reasons, can be risky.

Desk-based research

Although an increasing number of research projects are using ethnographic methods to collect original data on criminal phenomena, desk-based research still plays a major role. This is especially the case when interviews can neither be conducted with law enforcement nor with people involved with criminal groups, such as when the sensitivity of the topic raises significant risks to participants and researcher (see Wang and Antonopoulos, 2015). Desk-based research is also the most common methodology employed in studies that involve extremely secret criminal groups that present evident access issues, such as the 'Ndrangheta or Camorra, (see Campana, 2011; Lavorgna and Sergi, 2014), or for research estimating the size and revenues of illegal markets (see Calderoni et al., 2014; Giommoni, 2014; Mancuso, 2014). Research on organised crime relies extensively on law enforcement, as these state agencies possess the largest amount of data on criminal activities. However, the data collected from these sources are necessarily flawed, due to the fact that the concept of organised crime itself is a political construction that serves a particular function for the state. In the same vein, police activities are influenced by political and organisational priorities, which, in turn, impact on the independence of the data collected and subsequently passed onto academics (Hobbs and Antonoupulos, 2014).

However, in the case of the yakuza, both the external borders of the groups and their internal hierarchies are clear and autonomously defined, and, indeed, play an active role in the construction of their image. The disbandment or formation of a group is openly ratified, prior to the Public Safety Commission subsequently including it in the list of bōryokudan groups: in this way, the state and the yakuza implicitly recognise each other's authority. This is important, because it means that researching the yakuza does not require the filtration of the political construction of the deviant group, due to the fact that the Japanese syndicates willingly label themselves as such. Having said this, over the course of the last two decades there has been a shift from the yakuza being perceived as semi-legal to increasingly being considered full-blown illegal, which makes an academic investigation into the yakuza particularly timely. In fact, if on a social level the yakuza have always been considered as 'other' from civil society, the legal sanctioning of the yakuza as (almost) illegal has only occurred relatively recently. It thus follows that the legislation that engendered this profound attitudinal shift ought to be examined in detail, in order to understand the present situation of the syndicates and their relationship with other civil bodies. This need was also driven by the paucity

of English-language sources on anti-yakuza legislation after Hill (2003). In this regard, Diet debates were deemed useful for estimating the positioning of governmental actors *vis a vis* the issue of organised crime in Japan. The Japanese Diet website is a valuable source of information, insofar as records for all the debates are freely accessible, and keywords can be used to conduct a more detailed analysis.

In this research, data were collected from the two most important governmental publications on crime in Japan. The National Police Agency (NPA) and the Ministry of Justice (*Hōmushō*) publish yearly reports on crime entitled the *Keisatsu Hakusho* (White Paper of the Police) and the *Hanzai Hakusho* (White Paper on Crime), respectively. While the former is a shortened version of the latter, they are based on the same data and both are published by the Research and Training Institute of the Ministry of Justice. The methods of data collection are known to be scrupulous, and, in fact, are considered to be even more valid than FBI statistics. Despite this, it has been reported that since these statistics are supposed to represent a well-functioning criminal justice system, local police branches often underreport the number of crimes in order to comply with the imperatives of the central police agency and the Ministry of Justice, which solicit improved clearance rates (Finch, 2000). I mitigated this bias by comparing different sets of data and examining them in relation to the expertise of my interviewees.

Journalistic accounts were also deemed to be useful sources for the present research. Although news on Japan in mainstream media outlets in English rarely discusses crime or the yakuza, specialised journals, such as the Japan Times, occasionally contain relevant articles on crime-related topics. Naturally, Japanese media outlets provide a richer amount of data. Reporting on the yakuza is not a constant feature of large media outlets, such as the *Asahi* or *Mainichi Shinbun*, but there are specialised online newspapers (i.e. *Shūkan Shinchō*, *Nikkan Gendai*) that provide interesting data. Furthermore, a series of magazines known as the *jitsuwa-kei zasshi* ('real stories-like magazines') also proved to be useful for the present study. These magazines are commonly sold in convenience stores all over Japan, and feature articles on the yakuza, on celebrities and scandals, as well as soft-porn manga and pictures of naked women. Their target audience are company workers, who can find solace in the stories of the yakuza. Suzuki Tomohiko, a journalist who has reported on the yakuza for years, explains the interest of the *sararīman* ('salaryman', meaning company worker) in these magazines as a form of social revenge: the over-worked *sararīman* employed and

exploited by the large corporation sees the struggles of the low-ranking yakuza member as a metaphor for his own life, albeit one that is painted with more vibrant colours (interview, Tokyo, 16 April 2018). Of course, while the articles relating to the yakuza require close examination before the information can be considered reliable data, Suzuki (who also worked for some of these newspapers) insists that the information provided in them is genuine. The bigger issue pertains more to the fact that the news reported in these magazines are hardly ever significant enough for academic enquiry. Although Japanese academics belittle the use of such informal sources, after hearing from Suzuki about the serious work of the journalists who cover these stories, it is my contention that they provide valuable insight into the yakuza, or, at the very least, into the way the yakuza are portrayed. It is relatively unusual that a criminal syndicate would have fortnightly reports on their news in a magazine, and, as Hill (2003) already pointed out, these sources should thus not be ignored. Indeed, the very fact that they are allowed to distribute their magazines nationally is a valuable indicator of the state of these criminal syndicates.

It's a man's world: the role of female researchers in criminology

The nature of the relationship between the researcher and the participants in a study is a crucial aspect of the research process, because if there is a lack of trust between both parties, then the researcher cannot place any confidence in the information collected, and the informant cannot trust the researcher with the sharing of potentially sensitive information. This is particularly true when researchers engage with marginalised groups, or outsiders, as the willingness to share with a researcher is necessarily based on trust and an honest rapport (Brunson and Pegram, 2015). Researchers have reflected on how the intersections of gender, ethnicity, social class, and even social capital influence the relationship between the researcher and the researched (Hobbs and Antonopoulos, 2014). In particular, there is the perception that female field-workers will be denied access or face considerable problems when working in either sensitive areas with a track record of poorly protecting women's rights or in fields that are deemed dangerous. Schwedler (2006), who was in the field in the Middle East for around four years, argued that the prevailing wisdom is that a Western female researcher will encounter far greater problems than men when conducting first-hand research in the area, but that this is not necessarily true, and, in fact, women may enjoy easier access than their male

counterparts.

In the case of the present research, there is little doubt that being a white female accorded me favourable treatment with journalists and people related to the yakuza. When discussing the potential meetings with both active and ex-yakuza members, I was often told that because I was a young woman I had nothing to worry about, as the yakuza are never aggressive towards women. Moreover, my ethnicity and citizenship (white Italian) also had its benefits for my encounters, as conversations about Italy often broke the ice with many of the participants. However, one soon realises that, despite being helpful in certain respects, this attitude is actually far from flattering, insofar as it derives from interviewees' perceptions that female researchers are neither harmful nor competent enough in their field of study. In other words, despite the sensitive information my informants were willing to provide, there was often a lingering feeling that they were doing so because my supposed incompetence would prevent me from doing anything with it. Of course, such patronising attitudes are nothing new for female researchers studying social groups that are especially patriarchal, which tends to be the case with criminal groups: Rawlinson (2008a), for example, reported how the 'mix of courtesy and condescension' adopted by a Russian director of a criminal protection racket who she was trying to interview left her humiliated, both as a woman and as a researcher (ibid.: 17). Nevertheless, the researcher can only attempt to make the best out of a bad situation and seek to exploit her perceived inferiority to gather the much-needed information. For instance, Sue Lloyd-Roberts, a prominent journalist with extensive experience of fieldwork, pointed out how she was not ashamed to use the sexist stereotypes associated with women – including breaking out in tears, which is something women are ordinarily shamed over, insofar as it supposedly indicates weakness of character or an inability to control one's feelings – to avoid annoying or dangerous situations (see Lloyd-Roberts, 2016). Gurney (1991) purports that being a female researcher is a double-edged sword, in the sense that women are perceived as being less threatening, and thus participants are more willing to welcome them, while, at the same time, they are also perceived as being less professional, which, in turn, may jeopardise the data they collect. I do not agree with the second proposition, as the fact that female researchers are framed as being less able to actually use the data they collect may actually lead the respondent to talk more freely. Ethical issues for female researchers also pertain to 'the extent to which they can and should behave in a way that betrays their own values, which may only serve to reaffirm the values of a society they

would normally hold up for criticism' (Rawlinson, 2008b: 299-300). Female researchers may have to put up with sexist behaviours to avoid losing their sources (Piacentini, 2004). For instance, how should one reply to a respondent that in private correspondence sends ostensibly funny videos that are predicated on sexist stereotypes? In such a case, the researcher, on the one hand, wants to develop a good relationship with the participants to benefit her study, but, on the other hand, she is not willing to respond positively towards a video that goes against everything she believes in. However, this attitude was not registered only by individuals directly involved with the yakuza: biting my tongue and forcing a smile have proven necessary coping mechanisms on numerous occasions when discussing my position as a female researcher in criminal-related topics with fellow academics and researchers. The previously identified condescending attitude shown towards women working in a male-dominated field such as criminology (see Miller & Brunson, 2000) was often painfully evident in my own case.

Doing fieldwork with the yakuza

The nature of the methodological issues that researchers encounter when researching organised crime seems, at least in theory, minimised in the case of the yakuza. First of all, the target of the investigation is immediately clear: yakuza groups are not the only active criminals in Japan, but yakuza groups are recognised and designated by Public Safety Commissions across Japan, their members are registered, and, overall, they are a visible and well-defined organisation. Although, since the strengthening of the anti-yakuza countermeasures, less and less of the external agents who work with the yakuza are willing to be known for doing so, overall, the police still have an abundance of clear information on the syndicate. For the same reason, the yakuza does not fit the profile of a hidden population (see Heckatorn, 1997): the size and boundaries of the target group are well-established, while the risks and concerns related to privacy are also reduced. Nevertheless, the recent aforesaid policy shift and subsequent trend of the yakuza 'going underground' means that it is becoming increasingly difficult to study them.

As for the risks involved in conducting an ethnography of criminal groups, given that the yakuza enjoyed a semi-legal status for many decades, and, most importantly, the fact that the yakuza have always prided themselves on being a group that does not engage in violence against common citizens, conducting fieldwork in Japan presents

less risk of physical danger to the researcher. Regarding the present research, given that the available data on the yakuza are either limited, dated or potentially flawed, ethnographic fieldwork was deemed necessary for collecting new and insightful information into the current situation of organised crime in Japan. I formally interviewed thirteen participants: five ex-yakuza members (in Tokyo and Kyushu), a current yakuza boss of a large group in Tokyo, the ex-lawyer of the Yamaguchi-gumi, three journalists, a yakuza researcher, one ex-criminal who is now the director of an NPO for ex-prisoners, and a director of a documentary on the yakuza (see appendix 1). Moreover, I had informal conversations with academics, bar owners, and personal acquaintances working in yakuza-related night-time entertainment. Having had long-term experience of Japanese language and culture, acquired through my undergraduate and postgraduate studies, and most importantly, through my experience of working in Japan, I did not find any significant obstacle to engaging with the interviewees and other people I met. I had lived in Tokyo and in the Shizuoka prefecture before, and had often visited the Kansai region; therefore, I was able to rely on the networks of people that I had built over time. My previous experiences in Japan helped me break the ice with the interviewees, who were curious about why I was interested in this marginalised group in Japanese society. My taste for Japanese food and spirits, allied with my delusional conviction that I am good at singing *enka* songs at karaoke bars, also proved to be helpful in that I was able to take part in social gatherings and dinners that play an important function in social bonding. Given that the language in which an interview is conducted, as well as the use of dialects, can affect people's understanding of the questions and answers posed, my advanced fluency in Japanese proved to be useful in terms of both removing this immediate access issue and allowing me to conduct all the interviews without the help of an interpreter. Standard Japanese is spoken by the majority of the population, and I am accustomed to understanding all dialectical inflections, with the exception of Aomori natives – but, luckily, none of my interviewees were native to that prefecture.

The major academic accounts of the yakuza published in English are Hill's 'The Japanese Mafia: Yakuza, Law, and the State' (2003) and Siniawer's 'Ruffians, Yakuza, Nationalists' (2008). The latter of these was based mainly on historical sources, as it described the politics of modern Japan from the creation of the modern state to the 1960s, while Hill examined documents as well as carrying out interviews with Japanese police and the yakuza in 1998. Arguably, Hill's experiences in conducting fieldwork

differed from mine for two main reasons: first, as argued in the previous section, male and female researchers encounter different obstacles in the field; secondly, despite the first set of anti-yakuza countermeasures being promulgated prior to Hill's fieldwork, the stricter amendments and new regulations were only rolled out in the 2000s/2010s, and, hence, law enforcement was still highly accommodating towards the yakuza when Hill was in Japan. Indeed, Hill talks of having had relatively easy access to both yakuza informants and senior officials in the National Police Agency.

The main part of the fieldwork for the present research was carried out in Japan between 2017 and 2018. I conducted the first interview in May 2017 when visiting Japan briefly for a conference, and subsequently spent six months as a host researcher in Risshō University in Tokyo. My stay was sponsored by the Japan Foundation Endowment Committee, the Great Britain Sasakawa Foundation, and the British Association of Japanese Studies, whose grants covered airfares, accommodation, living expenses, and commuting. Initially, my host, Dr Maruyama, introduced me to an ex-convict who spent two decades in prison and is now the chair of a charity that support ex-prisoners. I was then introduced to ex-yakuza members who had been affiliated to Tokyo-based groups. On another occasion, a Japanese friend who works as a movie producer introduced me to a person working in the movie industry, who then introduced me to a documentary director that had just filmed a documentary on an Osaka-based group, which explored the difficulties the organisation was facing in light of the new regulations. Because of his work connection, through him I was able to talk to Mr Suzuki, one of the youngest and most active journalists covering yakuza-related news. I managed to get in touch with Mr Mizoguchi, one of the most prominent journalists working with the yakuza, thanks to a friend who works as an editor in a Tokyo publishing company, who used his work connections to reach Mr Mizoguchi's agent. This led to my introduction to a yakuza boss, who was a leader of a large group operating in the Tokyo area and a high-ranking figure in one of the biggest yakuza groups in Japan. I met him on several occasions, but the main interview was conducted at the headquarter of the group, where I was welcomed very kindly. I was able to reach other informants via introductions by other participants, who often offered to make the connection spontaneously. On two occasions, I was able to reach two informants – Mr Miyazaki and Mr Yamanouchi, the ex-lawyer of the Yamaguchi-gumi – simply by emailing them. Essentially, most of the research was conducted through informal introductions and by clearly discussing my background and presenting the scope of my

research. This is not surprising given that researching criminal groups often requires using the social networks of the respondents (Atkinson and Flint, 2004), and that detailing the individual biography of the researcher is a common strategy for negotiating access (Hobbs, 2001).

All the participants were male: this is not surprising since yakuza affiliation has always been closed for women, and it is only in very rare instances that women take full part in the operations of criminal syndicates. Similarly, researching organised crime in Japan is a predominantly male domain, a fact which was strongly reflected in the researchers and journalists that I met. With the exception of one ex-yakuza who was in his late 20s, the age of the participants fell within the range of late 40s-70s. As for the geographical spread, the interviews were conducted in Tokyo and the surrounding area, and in Kyushu, as a result of the fact that these two areas have a high concentration of yakuza groups and specialised journalists and researchers working on organised crime.

Prior to beginning my fieldwork, Mr Hirosue, an author and researcher on the yakuza, had warned me about the questions that should not be asked to either active or ex-yakuza members. Above all, *yubitsume* (the self-inflicted practice of severing one's own fingertip, starting with the pinkie, as an act of repentance or punishment) is a sensitive topic, and the interviewer should avoid asking any questions about the circumstances that led to it. This is because it is highly likely that a participant who is missing one or more of their fingertips made a mistake sufficiently serious enough to warrant the amputation of their finger, and that they will be embarrassed by having to recall the episode. Furthermore, I was instructed to avoid questions on *shinogi* (income) and *shabu* (drugs), unless – and this often happened – the respondent willingly introduced the argument (Hirosue, private correspondence, 2017).

In some cases, the interviewer should also be prepared to share parts of their lives with their informant. Although in the literature this is often described as a practice that tends to happen between women, scholars have noted that male participants can also expect a disclosure of information from the researcher (Russell, Touchard and Porter, 2002). My fieldwork confirmed this observation. Given the sensitiveness of the topic, and in an effort to establish the basis for a trusting relationship with my informants, prior to the interview, details about myself and my research were shared to them. On one occasion, Mr Mizoguchi, a journalist, introduced me to a trusted yakuza boss with whom he had long been acquainted. He called the boss and introduced me to him, assuring him that I could be trusted, after which I talked to him on the phone and

set a date and a place for our meeting. On the day, two of his men picked me up and escorted me to him in a nearby cafe, where we sat in a secluded table while three of his men had coffee by the entrance. After an hour of general conversation, he asked me about the research, at which point I naively thought that I could start the interview. He proceeded to explain that we were only having a preliminary meeting, and that he would not take part in an interview in a public place. Feeling very embarrassed and apologising for my misunderstanding, we continued to chat about travelling. At the end of the meeting, he invited me to meet him the next day at his group's headquarters to conduct the interview. In this case, the willingness to disclose personal information was crucial in negotiating the participation of the informant, which in the first meeting followed an inverted dynamic in which the participant 'assessed' the researcher.

Studies on organised crime usually rely on the valuable assistance of police agencies to gather information on criminal groups and their activities. In the case of the present study, it proved easier to get in touch with a Tokyo yakuza boss than it did the police. Fieldwork with Japanese police has been conducted by a considerable number of scholars in the past (see Ames, 1981; Bayley, 1978; Miyazawa, 1992), who all reported on the relative ease with which they gained access to the agency. With greater relevance to the present research, Hill (2003) recounted that he was easily able to get in contact with 'serving officers at nearly all levels within the police hierarchy', both amongst Iwate prefectural police and the National Police Agency in Tokyo (ibid.: 3). In this regard, my experience was also wholly different. After having met and talked to a member of the NPA at an international conference, who appeared eager to help me in way that she could, I left the event promising that I would be in touch once the fieldwork started. I messaged soon after my arrival in Japan, but despite a promising initial correspondence and having agreed to refer me to someone in the relevant office, she subsequently stopped replying to my emails altogether. I sought advice from research-active lecturers and professors and from independent researchers, and was told that recently it had become very difficult to get in touch with members of the NPA, especially in regard to yakuza-related affairs. A common explanation for this was that, as we are approaching the 2020 Tokyo Olympics, the government and the police were not eager to spread news about the yakuza, be it good or bad, as any publicity would just give popularity to the issue (that had otherwise almost been forgotten, especially internationally were news on the yakuza are hardly ever translated and broadcasted). Although it would have been relevant to include law enforcement's perspective in the

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research, I agree with Dick Hobbs' observation that too often academic enquiry on organised crime considers law enforcement agents as the only source of credible knowledge on criminal groups, and, as such, too heavily relies on commentaries on the policing of organised crime rather than examining the activity itself (Hobbs, 2013).

I also considered the number of participants, their role in relation to the yakuza, and the lack of interviews with the NPA, a number of considerations on the reliability of the information collected are in order. I was lucky enough to meet prepared, helpful participants who rarely declined to provide information, and although a longer period of fieldwork would have enabled an increased number of interviews, having representatives from both the yakuza and the legal world, from different parts in Japan, provided a good variety of responses. Secondly, participants were originally from, and operated in, areas where the yakuza is particularly active. The participation of a yakuza-related participant from the Kobe area would have been valuable, but the time constraints did not allow it. Nevertheless, I was able to collect accounts from large and medium-size urban areas, as well as the countryside, which made up, in part, for the lack of geographical coverage. Triangulation was obtained through the confrontation of first-hand information with official reports, and by comparing accounts with each other. Since the interviews were semi-structured, it was easy to introduce topics that had been discussed with a different informant and to ask for validation of that data. Furthermore, since I am still in contact with almost all the respondents, I was also able to clarify unclear parts after the culmination of the fieldwork.

Ethical clearance

Researching sensitive topics, by challenging fixed views of the world, is often a necessary step to move forward the field of inquiry. At the same time, having to pose 'difficult' questions puts the researcher in a position where they must actively question their research methods, as the methodological issues raised by 'sensitive' studies are not commonly encountered. Moreover, conducting research in sensitive fields places a heavier responsibility on researchers, who must be more cognisant of the ethical responsibilities *vis a vis* their participants (Lee, 1993). Given that I was a PhD student who was conducting fieldwork that potentially posed risks for both myself and my participants, I had to complete Birkbeck's ethical clearance and risk assessment, submit a detailed fieldwork plan, and establish in collaboration with an expert a robust and

secure data management plan. Concerns were raised over my own safety, as my research on organised crime was deemed to be the first complex criminological project to go through the School and College procedure. Prof Michelle Everson, the School Ethics Officer, referred to the College Ethics Committee due to overt sensitivity of the project. My supervisor, Dr Sappho Xenakis, provided a thorough explanation of why the fieldwork was reasonable and the risks manageable, and passed on to me some conditions that had to be met in order to receive the College Ethics Committee's approval. Permission to conduct fieldwork was eventually granted, and my research proceeded as planned.

As I stated in the documents submitted as part of securing ethical approval, in my research I followed the guidelines set out by the British Society of Criminology's Statement of Ethics for Researchers (2015), which highlights the importance of the rights of the participants, who should freely participate without the risk of being harmed or having their dignity compromised. Informed consent is a crucial step in the interviewing process and thus the first concern of the researcher should be to provide the participant with all the necessary information. The British Society of Criminology's Statement of Ethics for Researchers (2015) states that informed consent 'implies a responsibility on the part of the researchers to explain as fully as possible, and in terms meaningful to participants, what the research is about, who is undertaking and financing it, why it is being undertaken, and how any research findings are to be disseminated. It is reasonable to expect that researchers should provide all participants with a full explanation of the study.' In compliance with this statement, the participants in the present research were informed about the nature of the research, and were given an 'Explanation and Information Sheet for participants' (in the original: *Kenkyū Tejun no Setsumei- Sankaisha Jōhō Toriatsukai Dōisho,* see appendix 3), which clarified how the data that was collected would be used, informed the participant that they could withdraw their consent at any time, asked for their permission to record the interview, and discussed anonymity. Anonymity is of especial importance in the present research, as participants were sharing information about their past or present criminal actions, and discussing topics that were potentially harmful to their reputation.

The assurance of confidentiality is ordinarily a crucial factor in negotiating interviews. Despite the fact that there is no legal obligation in the UK to report crimes (British Society of Criminology, 2015), often researchers who work abroad fear that the data collected from a criminal population may be requested by governmental agencies

to carry out investigations or arrests. In order to avoid drawing attention from law enforcement, researchers have either requested that their participants not disclose specific names and details of criminal activities, or used a methodology that did not involve the recording of names of people or places (Israel, 2004). Given the situation with the yakuza in Japan, it was not considered necessary to recur to extreme measures to preserve confidentiality, since the police already possess the names and addresses of all the yakuza leaders. The only precaution that was adopted was to not ask about criminal activities they had undertaken or their future criminal plans. The reasons for this were twofold: on the one hand, this would have placed the researcher in an uncomfortable position towards bth the participant and the law; on the other hand, although it would have undoubtedly been useful to possess such information, there would have been no way to corroborate this data, and, in fact, it is highly likely that participants would have provided incorrect information about such sensitive topics. Even ex-yakuza, who have already served time for their crimes, were not keen to disclose too many details about their criminal activities, especially if these involved inflicting physical harm on another person.

In the case of the present research, it is important to note that the fact that I was a PhD candidate at Birkbeck and that I was clear that the information collected would be used for a study investigating the longevity of the yakuza in English, reassured all the participants, who did not show any concern for the anonymisation process. Furthermore, since the yakuza are a semi-legal organisation, being or having been a member of the yakuza, or simply being someone who worked with them, does not bear the same repercussions as being a member of a more secretive criminal group, which also may have encouraged participants to disclose sensitive information with me. Nevertheless, all the names of those who were either currently or formerly involved with criminal activities were anonymised to mitigate any concerns over privacy.

While the aforementioned precautions ensure that research is conducted in accordance with the ethical guidelines, the manner in which a method is used carries no less importance. Researchers must conduct interviews with due care for the respondent's state, especially when the topic discussed is as sensitive as the criminal past (or present) of the respondent. As Harvey (2008: 496) argues, 'during the interview […] there must be privacy, respect, and a non-judgemental attitude'. Other scholars have highlighted the importance of not showing a horrified or amazed reaction when participants recount unethical behaviour in which they have engaged (see Varese,

2001). This was particularly true when I interviewed former members of the yakuza who had abandoned their career in the syndicate to become priests. For these individuals, their new faith gave them a deeper perception of the crimes they had committed, especially in the case of those who inflicted violence against other people. Many of the participants who used to be involved in criminal activities were eager to explain the reasons why they initially joined the yakuza, which were often connected to a sense of abandonment and loneliness, and the humanity that emerged out of their accounts was often disarming.

Given the sensitivity of the information collected, to efficiently store, protect, and transport the data, a data management plan was organised with the professional support of Research Data Support Manager, David McElroy. This included the use of encryption software (FileVault) that would have protected the data in the event that the laptop had been stolen, which, luckily, did not happen.

Final considerations

Conducting criminological research in the field presents difficulties because of the longstanding issue of the inadequacy of extant definitions of organised crime. However, some criminal organisations are clearly defined and allow the researcher to overcome this first hurdle: in this sense, the fact that the yakuza are a visible organisation whose officials are known to the police, and whose members are registered, makes them a straightforward object of research.

Traditionally, criminological research in Japan has primarily been conducted with law enforcement, however, as scholars with notable expertise in criminological fieldwork, such as Hobbs (2013), have pointed out, 'the view from the backseat of a police car tends to be the back of a police officer's head' (ibid.:5), which is to say that such research provides insights focused on police work rather than active criminal groups. Despite the visibility of the yakuza and their track record of avoiding causing harm to normal citizens, the number of researchers that have conducted fieldwork with Japanese syndicates can be counted on one hand. The main contribution in this regard comes from Hill's work, who confirmed that, even as a foreigner, access to the group was relatively easy to negotiate, while information was easy to collect. However, as many Japanese researchers have confirmed, this is no longer the case, as the turn of the screw by law enforcement has taken its toll on the yakuza's activities and attitudes

towards outsiders. Comparing the present fieldwork to that conducted by Hill in 1998, it is notable that the legislative shift has also engendered a shift in attitudes towards the yakuza. In light of this, the present research has a number of limitations: first of all, it does not include the views of the NPA. Despite the academic literature on the Japanese police being much richer than that available on the yakuza, at present the NPA does not seem keen to release interviews to researchers. While, at first, I convinced myself that the inability to reach police officers stemmed from poor networking on my part, Japanese researchers assured me that the lack of collaboration has become common in recent years, and in any case the information that police officers released were often skewed to present their department favourably, and thus were of little use for researchers. This lack of engagement with researchers outside the NPA can be attributed, in part, to both the increased international attention on Japan due to the upcoming 2020 Tokyo Olympic games and Abe's parallel project of making Japan the safest country in the world. Secondly, time and money constraints meant that it was not possible to conduct careful triangulation for all the information collected.

At the same time, conducting research with Japanese organised crime presents researchers with fascinating opportunities. Firstly, access to yakuza researchers, yakuza (ex) members and journalists appears to be granted with relative ease to foreign researchers. While Japanese researchers who publish their results in Japanese journals and newspapers are potentially threatening, foreign researchers who plan to publish abroad in a different language are viewed as comparatively innocuous. Secondly, the community of people working on this topic is quite small, and, hence, fieldwork of only a few months is more than sufficient to meet all the main players. Thirdly, powerful criminal organisations, which have considerable levels of visibility, are easy to get in touch with (see also Rawlinson, 2008a). Most notably, high-ranking officials in these organisations appear to be happy to welcome and talk to foreign researchers. In this case, female researchers may be at an advantage, even if this upper-hand is predicated on patriarchal views towards women.

Finally, looking at future research in the field of organised crime, it is important to remember that not all criminals in Japan are yakuza: together with yakuza members who officially leave the organisation to receive reduced prison sentences and 'apprentices' who have not been sworn into the group, the phenomenon of *hangure* (disorganised crime) is allegedly on the rise according to police and researchers (see Hirosue, 2017; Mizoguchi, 2013). While these 'disorganised' criminals lie outside the

scope of studies on the yakuza, given their increasing prominence in the Japanese underworld, a study on this phenomenon would appear to be timely.

Chapter outline

The overarching argument of this thesis is that the yakuza were able to develop as one of the legitimate actors within the Japanese state due to a 'mutual dependency' with society and institutions, allied with a series of social, political, and economic practices that allowed for their visible existence without having to resort to violence, which, in turn, further legitimised them.

In order to solve the puzzle of the yakuza's longevity, I begin with an overview of the historical roots of the yakuza that demonstrates those elements that have traditionally sustained them, as well as delineating the origins of the interplay between the yakuza, society and institutions. I argue that the yakuza have played a central role in the construction of the modern Japanese state, bargaining their services with the state's tolerance, and discuss the mythology surrounding the group as being one of the crucial points of connection with conservative politicians and their similar political agenda. The chapter on Japanese society focuses on the relation between social capital, trust and criminal organisations, exploring how high-levels of social capital have enhanced the longevity of the yakuza and interrogating the notion of shared identity around which hierarchical organised crime is assumed to be based. The visibility of the yakuza problematises the assumption that organised criminal groups have to rely on secrecy and visibility in order to survive: in fact, this chapter contends that the yakuza's visibility has been a central tool in their endurance. The third chapter explores the relation between the yakuza and the economy. The yakuza are involved with legal, illegal, and semi-legal activities, and I argue that operating within this grey area is what has allowed them to maintain their profitability. However, the long period of economic stagnation and the increased punitiveness of anti-yakuza regulations have begun to drive the yakuza towards illegal (petty) crimes as well as legal (sophisticated) markets. Although this policing of informal (semi-legal) markets ultimately caused harm to the yakuza, this chapter argues that neoliberalism was one of the factors that emboldened the yakuza. The following chapter explores the Japanese political establishment and puts forward the idea that Japan is not as free from corruption as it is commonly assumed to be: in fact, a closer analysis reveals that institutional corruption is

widespread in Japan, and that the yakuza are one of the marginal players in this game. The connection with the far right is then examined, as it is considered a crucial nexus that ties the yakuza to the political establishment. The fifth chapter presents an analysis of the anti-yakuza countermeasures and evaluates their impact on the yakuza's endurance. Furthermore, it delves into how the yakuza are policed and what the relationship is between the yakuza and the police, which has been described as 'symbiotic' (Van Wolferen, 1989). Finally, in the sixth chapter I consider sentencing and prison *vis a vis* the yakuza and their longevity: this chapter maintains that Japanese courts' longstanding leniency towards the yakuza has meant that there has not been major disruptions in their activities. Above all, I argue that the lack of measures for confiscating capital and goods has contributed to the yakuza's longevity.

By investigating the issue of the yakuza's endurance across society, economy, politics, laws, policing and sentencing, this research aims to discuss the challenges that the yakuza pose to mainstream criminological assumptions on organised crime, while, simultaneously, bringing English speaking academia up to speed on the long-neglected issue of Japanese organised crime. Furthermore, as I argue in the conclusion, this thesis aims to make its own contribution to the larger project of southern criminology, specifically by adding to the variety of perspectives present in contemporary criminological debates.

Chapter 1

Laying the foundations: from gamblers and peddlers to semi-institutionalised criminal syndicates

In this chapter, I examine the historical foundations upon which the yakuza have based their longstanding presence within Japanese society. Indeed, the roots of the yakuza extend deep into the history of the modern Japanese state, and in certain respects the yakuza – at least in their embryonic form – pre-date the establishment of modern state institutions. This overview of their origins individuates the elements of past dependency between the yakuza, society, and institutions, since a preliminary explanation of the yakuza's longevity can be found in their long historical roots, which created the basis for the modern connections between the yakuza and the state. The importance that the yakuza accord to their self-constructed mythology, upon which the trust for these organisations is built, testifies to the extent of their ambitions: common criminals do not have noble predecessors.

The study of the history of mafia-type associations puts into perspective the role and importance of such groups. Indeed, the romance and mythology around the Italian and American mafia groups originated within the syndicates, as a means through which to construct and control social reality itself. The presence of these mythological constructs is considered one of the features of mafia groups that distinguish them from other forms of organised crime (Albini et al., 1995). Similarly, in Russia, the *vory-v-zakone* (thieves-in-law) have enjoyed a reputation as Robin Hood-esque figures, who live by a strict code of honour, pursue a life of monastic purity, and are characterised by extensive initiation rites (Varese, 1996).

In a similar vein, the yakuza have cultivated a folklore of their own based on their long historical roots and deep connection with Japanese society. It is difficult to pinpoint the precise period to which the origins of the yakuza can be traced, primarily because of the different terms that were used to describe the organisation in its embryonic stages. For example, the term that is most commonly used now, '*bōryokudan*', started to be used in the Taishō period (1912-1925), but the yakuza existed long before then. *Bakuto* and *tekiya* are words that were commonly used to describe gamblers and peddlers, that is, the groups that gave rise to the yakuza, but yet

not all gamblers and peddlers were yakuza. Popular characters in Japanese folklore, such as Kuruma Torajirō (a fictional character in a famous movie series) or Shimizu no Jirōchō (a famous yakuza leader who lived in Shizuoka prefecture between 1820-1893), are not commonly regarded as yakuza, but yet would now be considered as such within the present legal context. Indeed, the ambiguity surrounding the terms used to describe Japanese syndicates over time has added to the confusion when attempting to reconstruct their historical roots (Mizoguchi, 2011). In order to identify the predecessors of the modern yakuza, Hill (2003) posits that the provision of 'private protection' is a defining feature, which serves to place the origin of the yakuza at the end of the Tokugawa period (1603-1868), before proceeding to argue that it was only by the end of the Meiji period (1868-1912) that the yakuza began to behave as a mafia-type organisation; i.e., as a group providing private protection.

This chapter presents a historical overview of the yakuza from its origins to its contemporary form (see also appendix 4 for a schematic representation of this timeline). I draw attention to the elements that have long determined their existence, arguing that the roots of the continuity of the modern yakuza are to be found in the legally sanctioned (or at least not criminalised) and positive role they played in the period of the construction of the modern Japanese state. The yakuza played an integral role in the political, social, and economic history of Japan, not only in terms of reacting to external events, but by taking part in them and influencing their development. In this sense, the yakuza did not develop because of inherent weaknesses in the system, but rather as a result of being able to develop a symbiotic relationship with it, and, in turn, contribute to its creation. For its part, the yakuza was able to use the history of its own origins as a justification for its prolonged existence. The positive mythology the yakuza encouraged about their contribution to the nation and their role as gatekeepers of 'Japaneseness' is predicated on both their 'long history' and the concept of *ninkyō* (chivalrous code) that is central to their identity. The same concepts are endorsed and utilised in the narratives of right-wing extremists (i.e. Gen'yōsha), who also played a crucial role in the construction of the Japanese state and continue to enjoy widespread popularity. The yakuza have always been closely related to state institutions, which, in turn, have displayed a degree of tolerance towards their illegal businesses in exchange for assistance from the yakuza when necessary. This created a 'mutual dependency', insofar as the yakuza needed some sort of legitimation from the state due to the fact that their existence was dependant on legal incomes and relations with the local communities,

while, simultaneously, the state needed extra-institutional support during periods in which institutions failed (i.e. in the immediate post-war context).

Let us begin by outlining the origins of those groups that have been described as the antecedents of the yakuza, before proceeding to retrace the yakuza's role in Japanese society up to the present day.

Pre-Tokugawa and Tokugawa period (1603-1868): embryonic yakuza

The first groups that can be related to the modern *bōryokudan* are the groups of bandits and pirates that were operating in medieval times (which, in Japanese history, corresponds to the Kamakura era, 1185-1333). Specifically, Koshikawa (2008) draws a parallel between the tolls that these groups imposed on travellers and the modern practice of *mikajimery*ō (protection money) that is paid by bars, pachinko[5] parlours, and other businesses. Since the business of private protection is commonly considered to be one of the central defining features of mafia-type associations (Gambetta, 1993; Hill, 2003; Varese, 2001), from a criminological perspective, it is appropriate to think of these groups as the predecessors of the modern syndicates. A number of scholars trace the origins of the yakuza as far back as the 7th century, even though the more common position is that the groups of *bakuto* (gamblers, which also included labour contractors and hoodlums) and *tekiya* (itinerant peddlers of medicines and small commodities) of the Tokugawa era (1603-1867) are the predecessors of the yakuza (Hill, 2003). Indeed, the contemporary yakuza is still involved in these activities, but yet the distinction between the two groups remains unclear, as both engage in all of these activities indiscriminately (Tamura, 1992; Hill, 2003; Mizoguchi, 2013).

During the Tokugawa period, the government was led by the *Shōgun* (the de facto regional rulers of feudal Japan) and his council of vassal *daimyō* (feudal lords), who held power throughout the Tokugawa era. The *daimyō* were allowed to have their own personal army, as well as being able to exercise total control over their territories (Vlastos, 1986). The Tokugawa period was characterised by intensified social divisions, based on governmental decree as opposed to economic and social changes. Notwithstanding the imperial family and the limited number of court nobility, Japanese society was divided into four classes: the ruling class was represented by the *bushi* (warriors), then came the peasantry, who accounted for the majority of the population,

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[5] An arcade gambling device that resembles Western pinball/slot machines.

followed by the artisans, and finally, the merchants. There was also a class of outcasts, called *eta* or *hinin*, who were also known as *burakumin* in later periods. This social stratification was based on hereditary laws, as opposed to being determined by economic developments (Hunter, 1989).

However, the economy was indeed creating new opportunities for social mobility outside the rigid class system. The general consensus among scholars is that the Japanese economy grew significantly and underwent considerable positive developments during the Tokugawa period (Hanley and Yamamura, 1976). During this period, both the money economy and the national market arose (Vlastos, 1986), in part, due to the process of economic expansion that began in the sixteenth century, when in the late Sengoku period (1467-1603) the recurrent social upheavals and constant state of conflict led to a dramatic increase in military activities that boosted productivity (Ikegami, 2005). Throughout the same period, and as a consequence of economic expansion, de facto property rights –which were formally institutionalised in the Meiji era (1868-1912) – developed (Antons, 2000). As Gambetta (1993) has posited in relation to Italy, the combination of a corrupt political and economic environment and upward social mobility is a an especially fertile environment for the emergence of mafia associations. Given this, it seems reasonable to assume that in Tokugawa Japan the lack of a centralised power providing protection to the population left a gap in the market for new forces. The fact that the formalised police body in Japan was only established in the subsequent Meiji period (Parker, 1984) lends support to this hypothesis.

Japan was undergoing a substantial transition process in the seventeenth century that caused social instability, while the structural alterations the economy was undergoing made the social situation volatile (Atwell, 1986). Although the historical record of this process is limited, it has been hypothesised that the increased number of market transactions precipitated a rise in the demand for private protection: embryonic organisations responded to these demands in order to gain a profit, and, hence, the yakuza emerged in this context (Hill, 2003).

If we consider the two original groups of *bakuto* and *tekiya*, one sees that they became active and organised precisely in this historical period. *Bakuto* groups emerged in the Tokugawa period, when they began running gambling dens across Japan. As they evolved, each of these groups was based on the model of a family (called *ikka*), which worked on the basis of father-son-esque relationships, where the figure of the father was embodied by the boss (*oyabun*), and the son was represented by the underling (*kobun*)

(Siniawer, 2012). The *oyabun-kobun* (father-son, or superior-inferior) relationship remains the prototypical relationship dynamic in the yakuza to this day. This dyadic arrangement was originally widespread in pre-modern Japan, especially amongst occupational groups living communally, landowners and tenants, labour contractors, and workers. Similarly to what still happens in the contemporary yakuza underworld, *oyabun* were supposed to offer support, financial stability, and protection, while *kobun* would serve the *oyabun*, and, in so doing, procure social prestige by being identified as belonging to the social circle of a powerful *oyabun* (Roniger, 1984). The connection between the yakuza and the *bakuto* groups is evident in the origins of the word 'yakuza': one of the possible etymologies is the combination 8-9-3 (which can be read 'ya' – 'ku' – 'za'), whose total of 20 represented the worst hand of a popular card game that was played in the dens. In this sense, 'yakuza' would indicate someone who is good for nothing, a useless person. Alternative explanations also refer to gamblers: *bakuto* used to be employed by local policemen, thus gaining a role in society – 'yaku ni sanzuru', which was abbreviated as yaku-za (Ino, 2000).

As gambling was (and still is) a type of illegal activity that offers a service that is desired by the public, and gambling dens were a place where workers used to gather, the *bakuto* groups were not completely ostracised from society. Moreover, *bakuto* bosses were actively trying to curry the favour of the population and authorities by contributing to the village's life (Siniawer, 2012). Again, active engagement with society remains a feature of contemporary yakuza groups: depending on their size, yakuza groups participate in the neighbourhood's life by cleaning the streets (interview *kumichō,* 27 January 2018 – see chapter 2), organising Halloween parties for the neighbourhood's children or *mochizuki* (making of rice cakes) gatherings for adults and children (see chapter 2). In exceptional cases, they also contribute to events of national importance such as natural disasters (i.e. Tōhoku earthquake – see Chapter 2). As will be explored at length later, yakuza groups traditionally organise various services and activities and positively engage with the population. The *bakuto* received an informal form of legitimation from the very beginning of their activities in the Tokugawa era, insofar as government officials and local construction bosses secretly hired them to organise games in order to win back the wages of their labourers. Conversely, the *tekiya* only became legitimised between 1735 and 1740, when a number of their bosses were nominated by feudal officials as legitimate representatives of the groups of itinerant peddlers (Kaplan and Dubro, 2003).

The *oyabun-kobun* (father-son) relationship on which the yakuza organisation is based also has its roots in the figure of *hikeshi* (fire-fighters). The *hikeshi* of the Kyoho era (1718-1736), in particular, were divided into *samurai hikeshi* and *machi hikeshi*. The latter were a popular organisation dedicated to protecting the city, comprising carpenters and labourers that worked at high altitudes, and were thus able also to perform fire-fighting jobs. The *machi hikeshi* was an authorised and legitimate public organisation, whose costs were either covered by public expenditure (the municipality) or by the community. In this way, it was an independent social public organisation that worked to defend the collective wellbeing (Ino, 2000; Miyazaki, 2008). These groups have also been said to be precursors to contemporary yakuza groups: with a similar structure to modern yakuza gangs, *machi hikeshi* were employed as carpenters or plasterers (businesses still strongly connected to the yakuza), while it was from their symbols that the *daimon* (emblem, family crest[6]) originated, which is showed off by modern groups (Ames, 1981).

The legitimisation of the yakuza did not only come 'from above', but also from the yakuza themselves, who have always been proud representatives of the *bushidō* (warrior code). Indeed, the yakuza themselves believe that the origins of their organisation coincides with the origins of the code of honour that is called *ninkyō*, which is based on the concepts of '*ninjō* (humanity, sympathy) and '*gir*i (duty, honour). The yakuza see themselves as the groups that have always defended the *ninkyōdō* (the way of the *ninkyō,* the way of chivalry), which permits them to boast of a long, militaristic history. Realistically though, the line connecting modern yakuza to these embryonic forms of yakuza is fragmented (Miyazaki, 2008). The moral code based on the pair *giri/ninjō* has always been appealing to some sections of the Japanese population, especially the more conservative and traditionalist segments. Through association with this code, the yakuza are placed on the same moral level of samurai, which, in turn, allows for their mythologised representation as Robin Hood-esque folk heroes that merits higher status within Japanese society (Fisher, 2012).

The last period of the Tokugawa era (1603-1868) saw direct involvement in politics by the *bakuto* groups, as they sided alternatively with both the pro-shōgunate or the pro-imperial factions depending on who was more likely to win. Moreover, as a result of their military potential, leaders of the *bakuto* groups became influential

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[6] For a complete list of daimon, see appendix 1.1 and 1.2.

political forces (Hill, 2003). However, despite the similarities between *bakuto* groups and the fact that they are considered precursors of the yakuza (by both the police and the yakuza themselves), it is important to note that they lacked many of the features that now define the yakuza as a mafia-type association (Siniawer, 2012). It is therefore important to distinguish between the folklore and the real connection between *bakuto* and yakuza, which has likely been overstated as part of the mythical recounting of the yakuza's origins.

The relationship that tied the yakuza to the surrounding society has been clear since the origins of the yakuza. *Bakuto* and *tekiya* groups' existence was informally legitimised from the beginning, and these groups were effectively part of their local economies and communities. At the institutional level, local governors made use of these groups' penchant for violence, and deployed them as paramilitary forces in an era in which the central government could not provide property rights to the population. While at this embryonic stage the pre-modern groups did not present a political ideology, modern-day yakuza have used their moral code based on traditional and chivalrous concepts to legitimise their current existence and use it at the backbone of their current political ideology. These factors add to our understanding of the continuity of the yakuza: their involvement with politics that originated in the final stages of the Tokugawa era constitutes the nucleus of a long connection that would tie these two groups until the present day. Moreover, the services offered by the yakuza to the population and their mythology have contributed towards their social recognition as a legitimate force to whom citizens can turn when they require certain services.

Meiji restoration: new cities, new yakuza

Since the beginning of the 19th century, economic development and political integration weakened the social divisions of the Tokugawa era, which were also favoured by the racial, linguistic, and cultural homogeneity of a long-isolated Japan. These changes were manipulated by the newly formed Meiji regime, that aimed at a 'traditional' view of society based on a uniform social structure and institutionalised principles of morality (Hunter, 1989). The organisation of Japanese cities, and, in turn, the residents, changed dramatically at the turn of the century: they became places of industrial development and grew in size to accommodate new people from the countryside. These changes had a profound impact on the organisation of the yakuza. As Miyazaki (2008)

states: '[The] Modern yakuza is born out of the modern city' (ibid.:42). Above all, the prototype of the 'new' form of the yakuza was modelled on the *dai-oyabun* (great bosses) that emerged in the context of the Wakamatsu harbour in Kitakyushu city (Kyushu prefecture), such as the famous Yoshida Isokichi. The Meiji administration based their plan for economic growth on potentiating the army and strengthening the industrial sector, which gave great impulse to the coal industry. The extracted coal needed to be transported by boat, as the railway system was still underdeveloped, and autonomous boatmen organised in 'gumi' (groups) to gain leverage with mine owners. Yoshida soon became a boatmen's leader, and often hung out at gambling dens, where he came into contact with local yakuza. The trememdous impulse given to the local economy by the Russo-Korean war of 1905 attracted many people from the surrounding territories, and placed immense pressure on the city. The police were not strong enough to maintain social order since they were a relatively young institution, and so *oyabun* like Yoshida, who by now was also known among the community of shopkeepers because he had opened his own restaurant, organised groups for self-defence that resembled the *machiyakko* and *machi-hikeshi* of the Tokugawa era. At this point, it is possible to say that he became leader of a yakuza group. Moreover, by using violence to maintain an independent order, this is also the period in which the yakuza became a decentralised organisation. Bosses such as Yoshida were the ones that integrated and maintained control over both the population and the yakuza. He also gained popularity because he successfully mediated disputes between yakuza groups and different interest groups in the world of sumo (which was very popular at the time). Indeed, starting with the promotion of sumo events in his region, Yoshida's group gradually took control over the entertainment sector. Popular entertainers and artists were considered an underclass of outsiders, and thus it was only natural that the yakuza became their management. With the popularisation of entertainment, this sector became an important source of income for the yakuza. Furthermore, extra-legal arbitration of disputes was incredibly common, and usually entrusted to *kaoyaku* (influential men, or 'bosses'), who were supposed to be adhering to the code of *ninkyō*. So, at the turn of the century, these *ninkyō* organisations became the prototype for the modern yakuza groups. The *oyabun-kobun* structure of the labour organisation was converted into the *oyabun-kobun* relationship of the *ninkyō* groups, and these groups became an important socio-economic force (Miyazaki, 2008).

The economic development that followed the reorganisation of the Japanese economy provided many opportunities for yakuza groups, as they were already involved in the construction industry and in the docks. *Bakuto* and *tekiya* were still involved heavily in their respective businesses, even though gambling in the open air was less and less allowed, which led to *bakuto* gangs being more marginalised within society (Kaplan and Dubro, 2003). However, at the same time, *tekiya* received legal authorisation to open fixed stalls in the commercial streets of the cities. This decision allowed the yakuza, and specifically *tekiya* gangs, to expand into the city in the shadow of (and mixing themselves with) legitimate shopkeepers (Mizushima, 1986). Even though there is no material evidence to substantiate it, the revitalisation of the Japanese economy that followed the Meiji restoration was also a golden period for the yakuza, as the flourishing of new business activities meant heightened demand for extra-legal forms of protection, especially in a period where democratic institutions were in their embryonic form (Hill, 2003).

At the same time, the relationship between the government and the yakuza continued to be amicable: both parties saw more advantage in cooperation than conflict, and, indeed, the yakuza continued to carry out jobs for the political elite in exchange for them showing some degree of tolerance towards their activities. The Meiji period also brought about a new way of doing politics, in which ultranationalist societies sprung up and flourished. Indeed, the new social order resulted in many ex-samurai feeling discontent with their lessened social role and the new regime's disregard of tradition. This discontent became a breeding ground for anti-governmental thought, militarism, and patriotism, especially in areas where the samurai community was larger, such as Fukuoka in the Kyushu island. In recognition of this, Toyama Mitsuru, who was a member of an impoverished samurai family himself, founded the Gen'yosha (Dark Ocean Society) in 1881. The group's members were employed as government officials' bodyguards, goons for local politicians, as well as skilled labourers (e.g. carpenters and plumbers), and soon became a paramilitary force for Japanese politicians who used them for intimidation and the harassment of political adversaries and labourers. This politically oriented yakuza became assimilated with the traditional *bakuto* and *tekiya* yakuza. This process was also facilitated by the fact that, although *bakuto* and *tekiya* did not have a defined political ideology, the similarities with ultranationalists were numerous (i.e., romanticisation of the past, worship of the Emperor and Shintō gods,

structure, hostility towards the left and foreigners), which, in turn, led to a unification of politics and activities between yakuza and rightists (Kaplan and Dubro, 2003).

However, Meiji was also the period in which the government strengthened anti-gambling regulations, which engendered a wave of arrests of important gamblers. However, this strategy was short-lived, as the wars that Japan waged against China (1894-1895) and Russia (1905) triggered intense economic activity that revitalised gambling (Hill, 2003). As Hill writes, this tactic of 'making use of gangs when it is advantageous, and restricting them when they are perceived as a threat to the public order, is a persistent theme in the history of the relations between Japan's ruling elite and the yakuza groups' (ibid.: 40).

In conclusion, during the Meiji restoration the yakuza struck up a tight relationship both with businessmen as well as politicians. On the one hand, the yakuza grew closer to ultranationalist movements, because of the many similarities in their ideology and methods of accumulating wealth, while some groups even transformed into political/paramilitary groups. And, on the other hand, they increasingly mixed with legitimate businesses (Mizushima, 1986). In the Meiji period, the yakuza adopted its modern form as a decentralised organisation based on the *oyabun-kobun* system, which was able to mingle with all sectors of society, from common citizens to businessmen to politicians. It is thus possible to locate within this historical juncture the consolidation of the connection between the yakuza and the power elites, in particular with those on the right, that allowed the yakuza to maintain a privileged position in the underworld for decades to come.

Taishō democracy and militarist years: the yakuza in the House of Representatives
Japan participated marginally in World War I, but post-war inflation hit the country hard. Inflation rose, while rice prices, in particular, quadrupled from their pre-war level. This rise was beyond the margins of inflation, and popular discontent gave rise to revolts and protests, which began in July 1918 in the Fujiyama prefecture, but soon spread all over the country, involving 700,000 protesters. Since the police was not able to repress these outbursts of violence, the government eventually deployed the army to stop the riots, which they did successfully by mid-September. The yakuza adopted two different behaviours at this time. Some groups sided with rice farmers and acted as private protectors of their interests, confronting the angered population, while in some

cases, the police even turned to local yakuza bosses to suppress the protests. However, many gumi did not act as a group; instead, individual yakuza members took part in the protests and often led them (Siniawer, 2008). The Yamaguchi-gumi, who would eventually become a major yakuza syndicate but at that time were still a relatively small organisation of longshoremen, became a yakuza group in the context of this social turmoil and mobilisation of the lower social classes (Miyazaki, 2010). Inoue and Watabe (2009), in their extensive research on the 1918 rice riots, contend that the *kyōkaku*[7], the *bakuto*, and the *kaoyaku* had a substantial presence, both on the side of the police through suppressing the protests, or as leaders of the revolts. According to Miyazaki (2008), these episodes demonstrate that the lower social strata of the cities were gaining in strength. Indeed, the Russo-Japanese war of 1904 led to a worker turnover of 70-100% within many industries, which, in turn, resulted in increased social mobility, while the subsequent post-war economic upswing of the Taishō bubble benefitted all social classes. The yakuza, being part of the lower social classes, were also affected by these changes.

The 1920s and 1930s signalled a rapid growth of nationalist organisations, which comprised a wide spectrum of ideologies, but universally rejected leftist ideologies inspired by the Russian Revolution. It has been noted that these groups had strong connections with the criminal underworld: the yakuza in particular were visibly involved in two groups entitled the Dai Nihon Kokusuikai (Greater Japan National Essence Association) and the Dai Nihon Seigidan (Greater Japan Justice Association). The foundation of these two groups in 1919 and 1922, respectively, with the direct participation of yakuza bosses in both cases, can be understood as the moment in which yakuza forces became institutionalised and recognised as a socially acceptable force (Siniawer, 2008). The Kokusuikai was the creation of Toyama Mitsuru and Tokunami Takejiro, Minister of Home Affairs, and was the successor of the Gen'yosha. It was based on the same ultranationalist ideology, but had a more violent edge. Members of the Kokusuikai (60,000 gangsters, labourers, and ultranationalists) were deployed against strikers and subversives, with the full backing of the police, the Home Ministry, and high-ranking military officials (Kaplan and Dubro, 2003). According to Iwai (1963), the Kokusuikai, in particular, were established by *bakuto* members, but were

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[7] Kyōkaku, was originally used in the *bakuto* communities to describe a person who adhered to the *ninkyō* (chivalrous) code, and is now used to describe a men that defends the weak against the powerful.

directly backed by Hara Takashi, Minister of Internal Affairs, and by the army. In the 1920s and 1930s, the yakuza were still not formally considered criminal syndicates, and therefore political parties could collaborate with them without being accused of conniving with criminal groups (despite the fact that many of the methods used by these groups were illegal). Using the yakuza instead of the police brought clear advantages, insofar as the yakuza could be arbitrarily directed against any perceived enemy without requiring any further explanation. In this way, the Kokusuikai were able to advance their particular ideological, political and financial agenda, while, simultaneously, single-handedly repressing all opposition (Siniawer, 2012).

Given the popularity of many yakuza leaders (and the fact that yakuza were not reticent over using violence to reach their goals), democratic elections represented a chance to secure higher political roles for the yakuza. Yoshida Isokichi, the yakuza boss from Kyushu whose ascent to power was described above, eventually made it to the House of Representatives. Even in his role as a politician, he was painted by his fellow Diet members as a chivalrous man and an example for future politicians to aspire to. Despite his role as mediator in his community and his (often exaggerated) reputation, he did not hesitate to join in physical scuffles in the Diet, nor did he shy away from deploying his henchmen on the political floor. A colleague of Yoshida from the same background was Hora Sennosuke: the two of them had long careers in local and national politics and were emblematic of the widespread acceptance of the yakuza at the highest circles of national politics. Yoshida and Hora were not seen as representatives of the underworld, but rather were considered representatives of interests in their community of origin (Siniawer, 2008).

The example of Yoshida illustrates the fine line between the categories of legal and illegal organisations. At different points of his career, and often contemporarily, he was a yakuza boss and a parliamentarian, a representative of labourers and leader of a self-defence force that acted as a surrogate police force, the arbitrator of an alternative dispute resolution system, and a businessman in the flourishing entertainment sector. This entanglement of the yakuza with politics, society, and economy suggests that the distinction between these bodies was not clear-cut, which aided the perception of the yakuza as just another social organisation upon which one was able to rely. The high levels of visibility of yakuza groups, and of some of their representatives in particular, is emblematic of the level of acceptance they reached through their far-right political

activism, which brought the yakuza and politics even closer together (Mizushima, 1986).

As Siniawer (2008; 2012) has noted in her work, the cooperation between the yakuza and the Japanese state problematises common assumptions about the legitimacy of the state and the illegitimacy of the mafias. The overlapping of yakuza and ultranationalist groups, and the use of semi-legal groups deploying illegal methods for legal entities, contributed to a profound blurring between legitimate and illegitimate sectors. To some extent, this justified the presence of the yakuza within Japanese society, in that the yakuza worked in collaboration with political groups and were perceived as having the same legitimacy as one. The more the yakuza were used, the more the yakuza were legitimised in the eyes of citizens and institutions, while the more they were legitimised, the more legal entities felt entitled to use them.

The immediate post-war: policing the black market

The American occupation of Japan officially began on September 2, 1945. The lack of food, together with the demobilisation of Japan's huge army and its paralysed industrial system, facilitated the impressive growth of the black market. In the power vacuum left by the occupation forces removing the governing elites, a two-fold phenomenon occurred in the streets: on the one hand, the newly liberated Asian minorities, the so-called *sankokujin* ('people of the three countries', namely China, Korea and Taiwan), arose and organised themselves into groups controlling many black markets around the country; on the other hand, the yakuza organised themselves into the form of *gurentai* (hoodlums, armed hooligans), a type of yakuza that was different from the traditional *bakuto* and *tekiya*. Drawing from young, jobless, hungry young men, they used violence and the threat thereof to strong arm control of the black markets and labour forces (Kaplan and Dubro, 2003). The black market was supposed to be a place only for the Japanese (the Americans did not and could not interfere with it), and it was perpetually violent, which provided the perfect battleground for old and new yakuza groups who were either trying to survive or trying to assert themselves. The so-called 'blue-sky markets' (a euphemism for black markets) appeared across all major cities by early September 1945, while large cities like Tokyo and Osaka immediately started to count tens of thousands of stalls in their midst. Since these spaces needed regulating, gangs stepped in to organise the market spaces and supplies of energy and water, with the

complete support of the local police (Dower, 1999). The control that the yakuza had over the territory was further strengthened by the fact that the occupation forces delegated the management of black markets to them, in a strategic move that echoed their invasion of Sicily and occupation of Italy (Armao, 2015).

Consequently, the yakuza once again became a substitute form of law enforcement, insofar as the Japanese police were weakened by the lack of men, organisation, and tools. Indeed, the Japanese police had undergone significant changes under the American occupation: in 1947, under American pressure, the Diet passed a new Police Law that decentralised the force and divested the police of a number of their duties and authorities. Small cities of up 5,000 inhabitants had to create and financially support their own police force, which proved to be too heavy a burden for some. The reorganised police force did not adapt well to society and incurred immediate problems: the highly localised structure of the police meant that they came under the direct influence of local bosses, and struggled to maintain law and order within their communities. These problems were addressed by the 1954 Police Law, which created the more centralised police organisation that is still adopted to this day (Ames, 1981). However, by this time the yakuza had already expanded their influence across black markets and communities across Japan.

The Yamaguchi-gumi's success, in particular, stems from the vast fortunes they amassed through their black market businesses, over which they had sole jurisdiction. In Kobe, similarly to Tokyo, the police were disarmed and disorganised, and therefore unable to control either the population or the *sankokujin* immigrants. Tensions over the control of the black market erupted on multiple occasions. In February 1946, the Yamaguchi-gumi conducted a raid in the market around Sannomiya station, which involved the use of two trucks, handguns, swords, and grenades and caused many casualties. Through such violence, the Yamaguchi-gumi claimed and easily obtained the informal role of a self-defence force (Miyazaki, 2008). The Yamaguchi-gumi adopted the role of an alternative police force during a power vacuum, with the full support of the weakened local police. According to Miyazaki, this left a mark upon both the population and the police. Support for this hypothesis stems from the fact that when the NPA launched the first anti-yakuza strategy in 1964, the Hyogo prefectural police wrote in relation to the scuffles between the Yamaguchi-gumi and the *sankokujin*: 'Even now that more than 20 years have passed since the war, some yakuza say, cheered by the

public: 'Did you forget the work we did in the post-war, that almost cost us our lives? Do not fail to remember the work we did for the citizens' (ibid: 242).

Aside from noting that the exercise of violence was almost officially delegated by the police to a criminal syndicate, what is interesting here is the endorsement of the yakuza's violence and the defence of the 'services' they offered to the population.

As a yakuza boss recounted during our interview:

'That's another reason why the yakuza still exists: after the war the guns were confiscated, and there were *sankokujin* people taking advantage of the population, raping and so on. Japan did a lot but also a lot of things were done to Japan, the guns were taken away and we had a disarmed police. The yakuza was doing the police job, it was necessary to the population and people still remember it' (Interview yakuza boss, January 2018).

The vulnerable state of the police in the immediate post-war period is confirmed by a well-known anecdote that epitomises the degree to which the state was at times dependent on the yakuza. When, in 1960, US President Eisenhower planned to visit Japan (a visit that was subsequently cancelled), political fixer Kodama Yoshio used his influence to gather members of *bakuto*, *tekiya*, and ultranationalist groups to ensure Eisenhower's safety from protestors (Hill, 2014; Kaplan and Dubro, 2003; Siniawer, 2008). Nakamura Koji's account from 1971 gives us an idea of the size of the paramilitary force that was assembled for this task: 18,000 yakuza, 10,000 *tekiya*, and 10,000 *uyoku* (far-right) members, who had at their disposal ¥800 million, as well as helicopters, trucks, cars, food, and various other equipment (Nakamura, 1971, in Lintner, 2016: 189; Ino, 2000). By way of comparison, in 1960 there were fewer than 130,000 Japanese police officers, of which the large majority were prefectural police (NPA, 2004b). The political elite thus often hired yakuza for fund-raising, organisation of voters, and to discredit political opponents (Hill, 2003).

Just as the legal economy began to pick up, and (consequently) the black market shrank, the Korean War broke out in 1950. This soon became a profitable business for the yakuza, who by that point dominated the construction and docking industries. At the same time, increasing levels of wealth led to a flourishing entertainment industry, spawning opportunities for protection and extortion rackets. Police crackdowns followed a period of intra-gang turf wars, while the oil crisis of 1973 spurred another age of income diversification for the yakuza, in which their dependency on amphetamines grew (Hill, 2003).

As for the political side of the yakuza, they were able to maintain their leverage over politicians even after the situation stabilised. The yakuza used key figures such as Kodama Yoshio (the political fixer who helped organise Eisenhower's visit) and Sasakawa Ryōichi (the self-described 'world's wealthiest fascist'; *Time* magazine, 1974, in Kaplan and Dubro, 2003: 65) to cultivate their connection with conservative politicians. In this context, the yakuza were not punished for disrupting the monopoly of violence, which is ordinarily the prerogative of the state; on the contrary, their force was used to serve the ends of conservative politicians, which soon became useful given the political tensions between left and right in the 1950s and 1960s (Siniawer, 2008).

The era of consolidation

When the turmoil of the immediate post-war subsided, yakuza groups were finally able to secure their power and widen their sphere of influence. The 1960s and 1970s were crucial decades for three powerful syndicates, the Yamaguchi-gumi, the Sumiyoshi-kai and the Inagawa-kai, in terms of laying the foundations for their future dominance.

It has already been mentioned that the Yamaguchi-gumi, under the leadership of their third leader Taoka Kazuo, declared themselves to be fulfilling the role of a police force in the power vacuum of the immediate post-war context (Miyazaki, 2008). Even though the group was founded in 1915 by Yamaguchi Harukichi, it was not until World War II ended that the Yamaguchi-gumi became a powerful organisation. Together with monopolising the cargo loading business of Kobe port, boss Taoka issued the rule that his underlings were to avoid businesses that involved drugs and decided that the group should always have legal businesses alongside their illegal activities. He followed through on this by entering the entertainment and sports sector at a high-level, as demonstrated by the fact that his agency represented the well-known singer Misora Hibari. At the same time, he expanded his influence, and by 1963 his organisation included 424 groups with a total of 8000 members – an impressive success, considering that he started with a group of 33 members (Yanagi, 2017). This was also the period in which the organisation of the Yamaguchi-gumi crystallised into its modern-day form, a pyramidal structure in which the *oyabun* has under himself a restricted circle of around 100 bosses. Each of these bosses has his own *jikisan* (direct followers) or *chokkei kumichō* (direct boss), along with a series of *niji-dantai* (second layer groups). Members of this second group can, in turn, have their own followers, all the way down to *goji-*

dantai (fifth layer group). Monthly fees and payments flow from the bottom up, while power and supervision come from the top of the pyramid (ibid.).

The second largest yakuza group, the Sumiyoshi-kai, emerged under the leadership of the boss Hori Masao, who established the policy of non-interference in the internal affairs of other groups. He obtained his first position as a leader when he became fourth *sōchō* (secretary general) of the Nakazato-ikka, who are part of the Sumiyoshi-kai, and became involved with the world of entertainment, including theatre, pro-wrestling, and *enka* music. In 1967, he was then chosen to be the leader of the Sumiyoshi-ikka, a larger group that included the Nakazato-ikka, which he was subsequently forced to disband because of a series of police crackdowns. However, he managed to rebuild and reorganise the group two years later. With a strong internal system of honorary and permanent counsellors and vice-leaders, Hori was able to mediate significant internal crises and expand the influence of the Sumiyoshi-kai (Bessatsu Takarajima Henshūbu, 2017). In this regard, it is significant to note the degree of variation within the organisation of the yakuza: while due to Hori's leadership the Sumiyoshi-kai resembles a confederation of families (similar to the American mafia after its reorganisation in the 1930s), Taoka Kazuo adopted the opposite approach, organising the Yamaguchi-gumi into a pyramidal structure, headed by the 'boss of bosses' at the top who wields enormous power (a system closer to Italian mafia families). Traditionally in the Yamaguchi-gumi, the top of the pyramid consists of one man, whereas in the Sumiyoshi-kai the top position is occupied by several bosses, amongst whom there is a *primus inter pares*. Despite the fact that their decentralised organisation results in more autonomy for the group under the Sumiyoshi-kai umbrella, this does not appear to have influenced their ability to generate profit and durability (Kaplan and Dubro, 2003).

As for the third biggest yakuza group, the Inagawa-kai, its prosperity is largely attributable to its first boss, Inagawa Seijō, who from the second half of the 1940s onwards, and as a result of his recruitment of young people through the paramilitary group 'Yokohama Gurentai', managed to expand the territorial sphere of influence of his group from their initial base in Atami. At the beginning of the 1950s, the Inagawa-kai territories included Yokohama in the East, Mishima (Shizuoka) in the West, and Yamanashi in the North: nevertheless, Inagawa's goal was to reach Tokyo. To access the capital, in 1959 the Inagawa-kai founded the 'Inagawa Kōgyō' (Inagawa industries, which were later renamed 'Kakuseikai' and 'Kinseikai' in 1963) and opened an office

in Tokyo. Having stepped into the territory of other organisations, the Inagawa-kai mediated conflicts and in 1963 established the 'Kantō-kai', an association that united the *bakuto* bosses of the Kantō area. In order to strengthen their relationship with the Yamaguchi-gumi, in 1972, he exchanged sake cups in the traditional ritual of *sakazuki* with bosses of the rival group. The anti-yakuza campaign of 1964 forced the closing of the office in Tokyo and led to the arrest of Inagawa Seijō for crimes related to gambling. However, when he was released after three years, he took back leadership of the group and held it until his retirement in 1985 (Takarajimasha, 2017).

Leaving aside internal reorganisation and the reconstruction of business, let us move on to the yakuza's relationship with power. As outlined above, prior to the war, the yakuza weaved an extended and strong network of connections with the state. In some cases, the overlap between far-right militants and yakuza groups meant that the yakuza were a part of the local or even national government. Thus, a new form of government could have signalled the end of old connections between the yakuza and the state. How were the yakuza able to maintain an amicable relationship with the new post-war elites to safeguard their existence? The answer to this question is to be found in the composition of the 'new' leadership that was put in charge after the period of transition, in which the Supreme Commander of the Allied Power (SCAP) forces ruled Japan. The occupation forces had no other choice but to leave the old bureaucratic elite in charge to administer an unfamiliar country, which meant that most of the bureaucratic class remained intact and most of the elite political positions were occupied by pre-war conservatives with moderate tendencies (Allinson, 1993). Although in the immediate post-war period the Japanese population enthusiastically embraced democracy, the persistence of pre-war politics soon became evident: conservative politicians rose from the ashes of defeat and organised a web of connections that entangled political fixers, the yakuza, entrepreneurs and even foreign (notably American) officials, who found common ground in their hatred for communism (Siniawer, 2008). Similarly to what had happened in Italy, the legitimation of the yakuza's power by the victors of the war, who were soon to be the leaders of the Western bloc in the Cold War, was a significant moment in the history of the yakuza (Armao, 2015). Indeed, the occupation forces became ever more preoccupied with the communist threat and operated secret censorship and thought control behind the blatant mask of free speech, distorting the neo-colonial slogan 'revolution from above' to democratise Japan from the beginning. Although Yoshida Shigeru – as Foreign Minister and chief liaison to SCAP first, and

then subsequently as premier – was planning to undo the newly introduced institutional reforms once the Americans had left, most of them were enforced by the end of the occupation and Yoshida and his conservative associates were left with no choice but to accept the new system (Dower, 1999).

Nevertheless, while the structure of governance was different, the people remained the same: the yakuza needed to adapt to the new system, but they already had important connections, as the shared system of values for conservatives and the yakuza remained virtually unchanged (Gordon, 1993). Significantly, one of the first attempts at reconnecting the yakuza and politicians came from inside the government, when, in 1952, the Minister of Justice Kimura Tokutaro (sentenced as a war criminal during the Tokyo trials) reached out to organise an anti-communist group, and then tried to organise a nationwide alliance of yakuza and rightists. The Liberal Democratic Party, which has almost uninterruptedly ruled Japan since 1955, was founded by merging Kodama Yoshio's Liberal Party with the Democratic Party, under the leadership of Kishi Nobusuke (both class A war[8] criminals who had met in Sugamo prison). These are just some examples to demonstrate how connections between the yakuza and the political elites were not only tolerated by the government but encouraged by them. This 'behind the scenes' way of doing politics is known as *kuromaku* (black mist), which is a term that ordinarily applies to the nexus between the legitimate world of politicians and businessmen and the yakuza/ultranationalists (Kaplan and Dubro, 2003).

The 1950s and 1960s represented a crucial turn in the history of the yakuza, as the syndicates (re)organised and adapted to the new state that was still in the making. Furthermore, since pre-war power groups survived the restructuration of the governmental structure, the yakuza maintained their connection to politics through their connections to conservative groups.

Living the good life: economic boom and scandals

The successful economy of the post-war period is often referred to as the 'Shōwa economy', and is characterised by a 'magical combination of government policy, aggressive entrepreneurship, education, social behaviour norms, labour-management relations, and dedicated hard work that produces industrialization' (Lincoln, 1990: 206).

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[8] The Tokyo trials divided war crimes in three categories: Class A (crimes against peace), Class B (war crimes) and Class C (crimes against humanity). The defendants under the class A label included major wartime leaders, i.e. persons in a senior policymaking role (Maga, 2001).

By the 1980s, the three largest syndicates had continued to grow, while smaller groups had either disbanded or swallowed up one another (Hōmushō, 1989). However, those who had moved up the ranks and had become leaders in the post-war period were now dying off and leaving a leadership vacuum, while yakuza membership was also in decline (Mizoguchi, 2011). Taoka Kazuo died in 1981, but his role was not filled until 1984, when Takenaka Masahisa took his post. This enraged another potential successor, Yamamoto Hiroshi, who formed a rival organisation, the Ichiwa-kai. The turf battle triggered by this internal split caused the death of the new *kumichō* and led to a five-year gang war (Yanagi, 2017).

The internal turmoil did not result in a decrease in the profitability of yakuza businesses: the bubble economy created immense opportunity for wealth accumulation, and the yakuza was quick to enter into real estate and stock market speculation. In this period, the intertwining of yakuza businesses and legitimate businesses became ever more advanced. Taoka Kazuo, the third boss of the Yamaguchi-gumi from 1946 to 1981, had introduced the practice – subsequently adopted by most yakuza groups – of having at least one legitimate business to fall back on. However, the economic boom incentivised them to become even more involved with profitable legitimate businesses, particularly in the construction and finance sectors (Mizoguchi, 2012). The yakuza managed to diversify, expand, and modernise. The modern syndicates added an international dimension to their activities, both illegally (importing firearms, drugs, women for prostitution rackets), legally (through international investments) and semi-legally (by organising tours abroad for Japanese businessmen whose real destinations were brothels and gambling dens). At the same time, the yakuza increasingly took part in drug markets, specifically the amphetamine trade, whose revenues allegedly financed the expansion of the three big yakuza groups (Hill, 2003).

Whilst in the 1970s and 1980s the yakuza's relation with business was running smoothly, a series of scandals undermined their political connections. The Lockheed scandal emerged in 1976 and led to the unveiling of the *kuroi kiri* (black mist), a web of connections that linked actors in Japanese and American politics, industry, and even the yakuza (Kaplan and Dubro, 2003). Just over a year before, in November 1974, another scandal had revealed the gargantuan sums of money that were administered through Prime Minister Tanaka's political networks and dummy companies. However, Tanaka was simply taking advantage of a system of political gifts and payoffs, and, at first, he was confident that he would come out unscathed, in part because of the reluctance of

Japanese media to report such stories. Nevertheless, when he was questioned by foreign journalists, the scandal broke and he was subsequently forced to resign. When the media revealed that $12.6 million had been streamed into Japan in an attempt to convince All Nippon Airways to buy $1 billion worth of Lockheed aircrafts, Japanese politics found itself sitting on a powder keg. Political fixer Kodama Yoshio was the main recipient of the payoff money, but the list of bribed officials included Prime Minister Tanaka Kakuei, the Ministers of Industry and Transportation, the Vice Minister of Transportation and the chairman of the Liberal Democratic Party Special Committee on Aviation, as well as the president of All Nippon Airways (Kaplan and Dubro, 2003). These scandals highlight the longstanding connection between the yakuza and politics, in what was referred to as the black mist. Kodama Yoshio was a key figure in the black mist of post-war politics: this underworld godfather, CIA operative, ultranationalist supporter, and political kingmaker, organised the historic alliance between the Yamaguchi-gumi and the Inagawa-kai, and worked as an intermediary between high-level politicians, business elites and the yakuza. In this way, the yakuza had a direct channel to the political elites, while his legacy continued long after his death in 1984. The political climate he contributed to creating meant that questionable payments and political connections with the yakuza became more secretive, but yet persisted (Kaplan and Dubro, 2003) – indeed, as I argue in Chapter 4, they persist to this day.

The Diet passed the first anti-yakuza legislation in 1992, and continued to pass legislation throughout the 1990s and 2000s. The effects of these new laws on the yakuza and its relationship with society are discussed at length in the following chapters, but to conclude this historic overview it is relevant to mention that there was a break in the system that had previously accepted the existence of the yakuza. As argued above, the yakuza have always been involved with Japanese politics. This relationship has not yet been fully disentangled and represents another chapter in the history of mutual dependency between the yakuza and the Japanese state.

Final remarks

Mafia groups cannot survive if they are isolated from the socio-economic context in which they originate and breed. Therefore, when we consider the history of a mafia-type association, we are not only looking at the group, but we are also looking at the social, economic, and institutional frameworks around them (Dickie, 2014). The historical

roots of the yakuza raise the issue of mutual dependency between the yakuza, Japanese society, and state institutions. The yakuza cannot simply be described as a parasitic force, given that their services have actively been sought out not only by the population – like in many countries, to carry out services that the state does not provide – but also by state institutions that engaged with them openly in many instances. This chapter has shown how the yakuza are entangled with the history of the Japanese state, how it has reacted and adapted to external events, and actively contributed to social, political, and economic life in Japan. The yakuza achieved their contemporary form because they were able to live within society's expectations of law and order, while, simultaneously, not abiding by these rules. The reasons why the state was not able to expel the yakuza vary across different historical junctures (Miyazaki, 2008). The yakuza have occupied a specific peripheral area within Japanese society, which places them in a marginal position with respect to mainstream society, but yet they are still easily approachable. For its part, the civilian population has considered the yakuza as an alternative state and has sought out its services for a range of issues, namely dispute resolution, private protection, as well as illegal services, such as gambling and prostitution. Simultaneously, the history of the yakuza is deeply entangled with the political history of Japan through far-right wing elements in Japanese politics, which the yakuza helped to build on the basis of their shared ideology. A clear example of this is the yakuza's contribution to the ultranationalist cause, as evidenced in the case of Toyama's political parabola. The abovementioned ultranationalist group Gen'yosha, founded by Toyama Mitsuru in 1881, successively evolved into the Kokuryukai (the Black Dragon Society), the Rōnin Society, the Dai Nippon Seianto (Greater Japan Production Party), and the Daitōjuku (Great Eastern School). All these groups became the foundation of the Japanese far-right that has been a fixed presence in Japanese politics up to the present day (Ping, 2010). These groups represented the point of access to modern mainstream politics. Moreover, the yakuza's activities have always oscillated between the legal and illegal sectors, creating long-lasting ties with the industry.

As the example of Yoshida Isokichi demonstrates, a yakuza member may be playing different legitimate and illegitimate roles at the same time. The overlapping of these roles, and the fact that legal entities sanction at least the legal component of their activities, enhance the legitimacy of the yakuza. There is a consensus among scholars that the political and cultural hegemony of the conservative elite of the post-war era may have ebbed and flowed over the following decades, but it has never been replaced

or disrupted (Gordon, 1993). The facts analysed in this historical overview may stretch a long way back, but they are all directly related to the present configuration of the relationship between the yakuza, society, and the state. For instance, the present Prime Minister Abe Shinzō, who had been involved in yakuza-related incidents (see Chapter 4), is the grandson of Kishi Nobusuke, who was connected to Sasakawa Ryōichi and the yakuza fixer Kodama Yoshio (Kaplan and Dubro, 2003). The yakuza were among the first to help the population afflicted by the Great Eastern Japan Earthquake in 2011, just as they were in Kobe in 1995. The nexus between the yakuza and the conservative elites guaranteed the prolonged existence of the yakuza, through practical actions (the long overdue regulation of criminal groups in Japan) or ideologically, as they shared a common set of values.

The roots of society and institutions' mutual dependency with the yakuza were aided by their continued involvement in many aspects of the social life of pre-modern and modern Japan. Today, the relationship between the yakuza, the population, and the state appears to have shifted towards invisibility, but even though the visibility of the yakuza has ebbed and flowed across their history, this does not necessarily correspond to a weakened tie with society, economy, and politics. Periods of increased law enforcement activity, intra-gang wars, and economic fluctuations may affect the way in which the yakuza are perceived, but the way in which the yakuza adapts to these situations determines the capacity for resilience of the criminal syndicates.

An ex-yakuza eloquently summed up the situation: 'The yakuza's history is very deep and entrenched with Japan's, so the yakuza won't go away easily. People who lived in the post-war era are still alive and remember the role of the yakuza in the first year after the end of the war.' (Interview ex-yakuza, Fukuoka, 2 April 2018). The history of the yakuza organically developed together with that of the Japanese state and society: the semi-legal state, the connections that have been made with the ruling elites (whose ideological and even biological sons are still in charge), as well as civil society and the business world, cannot be swept away easily. The following chapters shed light on the ways in which the yakuza were able to maintain an essential role in the social, economic, and political sectors, which, in turn, ensured that they did not encounter significant resistance, even though in some cases this has been desired. Let us proceed by analysing the social aspects of the yakuza's social capital, as well as their visibility and ethnic heterogeneity.

Chapter 2

A visible criminal group in a high-trust society: the social explanations for the yakuza's longevity

The yakuza are not only referred to as *soshiki* (organisation), but also as *ura-shakai* (a term loosely translatable as 'underworld'), which is composed of the words *ura* (reverse side) and *shakai* (society). The use of this word in relation to the yakuza symbolises both their parallel existence apropos society and the way in which they operate as an alternative to mainstream society. The connections between mainstream society and this sub-society are significant as no criminal association operates within a vacuum. Studying society and the way in which it allows, favours, or fights organised crime is necessary for understanding the organisation and functioning of a criminal organisation. To do so, in this chapter I examine the situation of the yakuza in relation to social capital, secrecy, and ethnic background. These aspects are crucial for assessing the social role that the yakuza performs within Japanese society, particularly in terms of understanding the extent to which society itself has accommodated their existence and functioning, which, in turn, has bolstered their resilience.

The yakuza appear to be able to thrive in a society with high levels of social capital and trust, which are typically understood to have a negative effect on illicit organisations, as well as being adept at exploiting social networks and shared cultural norms to achieve their ends. This mechanism is also favoured by the high visibility of the yakuza: even though the yakuza are not the only visible criminal organisation, their level of exposure to the public eye is indeed unique, particularly if we consider that most of it is done deliberately. Furthermore, despite the consensus within academia that the members of traditional forms of organised crime come from homogeneous backgrounds, the varied composition of the yakuza challenges assumptions around organised crime in mainstream criminology.

This chapter starts with a review of the concept of social capital, and a discussion of its relation to crime. I argue that societies characterised by high-trust, vertical relationships, and a strong tolerance for a certain level of visibility of criminal groups constitute fertile ground for organized crime to thrive. I then move on to

examine the Japanese case, describing how the yakuza have used social trust within Japanese society to achieve their ends. Secondly, I examine the extraordinary levels of visibility of the yakuza, which challenge the prevailing assumption that secrecy is integral to organised crime. Thirdly, the last part of the chapter deals with the ethnic background of criminal associations, which tend to be regarded as rather homogeneous: again, the yakuza questions this prominent conjecture insofar as their members consist of the long-discriminated social group of *burakumin*, as well as people of Korean and Chinese descent. I therefore argue that membership of the yakuza operates on an 'exclusionary basis', that is, as a reaction to social marginalisation. These three sections are relevant not only because they contribute to existing knowledge on the yakuza, and engage with debates around the longevity of criminal organisations, but also because, more broadly, they aim to explain the significant ways in which this knowledge contributes to extant debates on Western criminological theories.

Definitions of social capital

'Why do some democratic governments succeed, and others fail?' asks Putnam (Putnam, Leonardi and Nanetti, 1993:3) in the incipit of his seminal work on institutional performance and the role of social capital in the success of democracies. Indeed, one of the central and more controversial issues in social sciences has centred on so-called 'healthy' societies, which is to say, why do some societies have working institutions and law-abiding citizens, while others struggle to reach certain levels of prosperity? Some social scientists, beginning with Durkheim, relate this issue to different levels of social cohesion, a feature which is closely related to social capital (Kawachi and Berkman, 2000).

Capital can manifest in three forms: economic capital (the form of capital that is convertible into currency and which can be institutionalised in the form of property rights); cultural capital (which may be converted into economic capital, and whose institutional form is cultural qualifications); and social capital (formed by social connections, and can be guaranteed by the application of a common name). These forms of capital are not completely independent: in fact, social capital depends on the size of the networks of a given agent, as well as the volume of the capital (cultural, economic or symbolic) owned by this agent (Bourdieu, 1986).

Other definitions of social capital have been proffered by numerous scholars. Coleman (1988) defines social capital as a 'particular resource available to an actor' (ibid.: S97) and states that it is constituted by a number of different entities that have two elements in common: they all present some level of social structure, and they promote certain actions of actors. Thus, social capital has the potential to be productive – like other forms of capital do – but may be specific to certain activities. The principal difference with other forms of capital is that social capital does not reside in the actor, nor it is embedded in the physical implements of production (ibid.).

In Putnam's view (1993, 2000), social capital can be defined as the characteristics of social life, networks, norms, and trust, which facilitate collaboration amongst members of a community to pursue shared goals. Fukuyama (2001) disagrees with the characteristics that Putnam associates with social capital (networks, norms, and trust), which can just as easily be considered as the results of social capital rather than being constitutive of social capital. According to Fukuyama, social capital itself can be defined as 'an instantiated informal norm that promotes co-operation between two or more individuals' (ibid.: 7). These norms span from a simple relationship with a friend to a complex system of thought and behaviour such as Confucianism.

Social capital and crime

I now consider how social capital relates to crime, more specifically, how it can be used by criminal organisations. All these forms of social capital present a peculiar feature that is not present in conventional capital: they all increase with use and decrease with disuse. In this sense, Putnam contends that 'creation and destruction of social capital [are] marked by virtuous and vicious circles' (Putman, 1993: 170). In his view, as well as disuse, vertical networks can also undermine social capital within a community, as the subordination of one actor to another makes the flow of information and interpersonal exchange unreliable, which, in turn, leads to the obligation between the two becoming unbalanced (ibid.). In other words, a community with high participation to hierarchical organisations is less likely to have strong horizontal bonds – and, consequently, strong networks and high-trust with other members of the community – as the obligation towards vertical bonds is stronger than the one to other members of the community. This appears to be the case also in communities in which traditional forms of organised crime, which usually feature a hierarchical structure, are present.

Indeed, research has demonstrated the connection between social capital and crime via the measure that social involvement is inversely proportional to levels of crime and vice versa (Akcomak and ter Weel, 2008). Shaw and McCay (1942) introduced this idea in their seminal work 'Juvenile Delinquency and Urban Areas', in which they discovered that some neighbourhoods experienced high crime rates over the course of several decades, which were wholly independent from ongoing changes in ethnic composition.

However, the relationship between organised crime and social capital appears to be of a different nature: Ostrom (2000), when analysing the 'dark side' of social capital, mentions that it can be used by the mafia 'as the foundation of their organisational structure' (*ibid.*: 176). Indeed, Sciarrone and Storti (2014) highlight how the mafia's power is based on the exploitation of social relationships and traditional cultural norms, as well as on violence, which allows the *mafioso* to accumulate social capital. Gambetta (1993) posits that endemic distrust within Sicilian society explains why the mafia emerged in southern Italy and nowhere else in the Mediterranean world. Putnam's study of southern Italy (2000) seems to corroborate Gambetta's hypothesis: the lack of social trust hinders social cooperation, and because there is no previous example of successful social collaboration, it is more difficult to overcome suspicion, and thus vertical networks remain the most common kind. Banfield (1958) had already observed these attitudes in his case controverse [9] study conducted decades prior to Gambetta and Putnam's work, where he referred to this behaviour as *amoral familism.* According to him, in such a society, individuals further the interests of the community only insofar as they themselves will receive an advantage from it, which is to say that private citizens do not take any interest in public problems.

The link between mafia and social capital has been noted in academic work, albeit in a limited number of cases. Mafia-type organisations aim to present themselves as social realities of stable power: power capable of creating networks with institutions and authorities, as well as the power to put pressure on them in order to achieve their goals (Fulvetti, 2004). Sciarrone (1998), in particular, uses the concept of social capital in his analysis of the mafia: mafias use the available social capital in order to thrive and expand, in an environment with poor social capital (as defined by Putnam). The organisation is especially able to accumulate social capital by forming relations with

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[9] Banfield's study has been critiqued for his patronising condemnation of Italian family-oriented culture. For a review of the debate see Huysseune (2019).

diverse actors. Most notably, they form strong inward bonds, and weak outward bonds: in so doing, the mafia network is always open and ready to expand or contract when necessary. Indeed, criminal cooperation functions within –and thanks to– the network of social relations between the participants and the social and institutional context, which means that social ties must be developed between criminals and persons who are not directly involved in criminal activities (Van de Bunt, Siegel, and Zaitch, 2014). The study of these social ties is thus fundamental to understanding both the level and type of embeddedness of criminal groups.

From the perspective of these theories, the perfect environment for criminal organisations to thrive is a society in which a network of relationships is present, but with low levels of trust. This can be achieved in a community where groups based on vertical bonds are present, such as religious groups, or the criminal organisation itself. Furthermore, the criminal organisation should not be completely invisible, otherwise the members cannot take advantage of the collective name and cannot extort the financial or social capital needed for the survival of the association.

Social capital and trust in relation to crime in Japan

Japan, like many other Asian societies, is commonly portrayed as a collectivist culture, in which the group is the primary unit of society and, hence, high levels of trust are experienced within the group. However, research has indicated that collectivism displays two strikingly different attitudes: familialism and institutional collectivism. While in familial societies the family is the privileged recipient of loyalty and interdependence, institutionally collectivist societies are characterised by trust at a general societal level. Japan, because of its features, has traditionally been included in the second category (Realo, Allik and Greenfield, 2008). Anthropological research has indeed highlighted the importance of out-group ties in Japanese society: relationships are held not only within one's immediate social group, but also with those outside the close circle of the family (Bachnik, 1998). A common social arrangement in pre-modern Japan was the *oyabun-kobun* link, which was a clientelist relationship held between a superior and an inferior that produced shared benefits. However, especially in the immediate post-war period, these relations of personal dependence were challenged by younger generations, which, in the context of the modern company, led to them

being transformed into senior-junior terms (Roniger, 1984) – in the case of the yakuza however, they remain alive (see Chapter 2).

Levels of trust (social trust, political trust, and trust in political institutions) and social capital in Japanese society were increasingly high in the post-war period. Indeed, Inoguchi (2002) shows that this steady increase positively affected the democratic system, both in terms of increasing participation and bolstering trust within society. In the case of Japan, while political trust in local political systems is high, the same cannot be said for political actors and institutions at the national level. In fact, the Japanese tend to show higher levels of trust to known others than, for example, their US counterparts: while American trust is bridging (weaker but more broader and open), Japanese trust is non-bridging (strong in a narrow and close context). Since they were first measured in the 1980s, Japan has consistently registered high levels of public participation in civic activities (Vinken, Nishimura and White, 2010), however most of these activities are localised, while the number of organisations that operate at a national level is much lower (Pekkanen, 2006). A further idiosyncrasy of Japan that captures the interest of many sociologists, is that high levels of social capital are not matched -as is usually the case – with high levels of confidence in governmental institutions (Pharr, 2000).

Drawing from Putnam (1993), according to whom 'one key indicator of civic sociability must be the vibrancy of associational life' (91), it is possible to measure recent trends in social cohesion and levels of trust in Japan, by looking at associations and organisational surveys. In the case of Japan, one should examine the *Jichikai* (self-governing neighbourhood associations), the *Chōnaikai* (neighbourhood association) and the *Shōbō* (fire brigades), which can all be regarded as forms of 'mutual aid practices' (Putnam, 1993:169), and representative of investments in social capital. An analysis of these data (see appendix 6) confirm, at least in part, Inoguchi's hypothesis that Japanese society is undergoing a moment of change towards a different form of social capital, due to the fact that younger generations are more individualistic than their forebears (Inoguchi, 2002). At the same time, vast sections of the population place the interests of the community above their own individual profit. Neighbourhood associations also maintain high levels of participation, which evidences the level of interest in participating in activities that benefit the local community. Japan remains a high-trust society, especially in regard to local institutions: local community building and the emphasis on civic engagement testify to the vitality of associational life.

Alongside 'general trust', some researchers also take into consideration 'localised trust', which presents different features depending on the variable used. For instance, Leigh (2006) showed that while ethno-linguistic heterogeneity does not have a significant impact on levels of general trust, it does impact the level of localised trust. Alesina and La Ferrara (2002) obtained similar results in their study of trust in the context of American society. More specifically, they noticed that trust at the local level is influenced by a community's characteristics; for example, ethnically heterogeneous communities have lower levels of trust, while members of minorities who have been discriminated against also present lower levels of trust. These results are also corroborated by Tabellini (2005) and Akcomak and ter Weel (2006), who showed that population heterogeneity, alongside religiosity and education, contribute to a city's level of social capital. This helps explain the high levels of trust in Japan, given its homogeneous population in which foreigners represent less than 2% of the residents (E-stat, 2016).

Higher levels of bridging trust and social capital are deemed to negatively influence crime, as general trust within society means that members are able to organise themselves defensively when a criminal member or group threatens the tranquillity of their community (Lederman, Loyaza and Menendez, 2002). Fukuyama (1995) notes that, from an economic perspective, high levels of trust can reduce transaction costs, such as costs from negotiations and the enforcement of property rights. Furthermore, research that has been conducted on the relation between social capital and violent crime has shown a negative relation between the two: while high trust levels do indeed result in lower homicide rates, the relation is unclear for other indicators of social capital (Lederman, Loyaza and Menendez, 2002). However, as observed by Buonanno, Montolio and Vanin (2009), when measuring the effect of social capital on crime there is always the risk of reverse causation. In other words, it might be the case that, in some settings, crime does influence social capital and restrains interactions.

Therefore, Japan fits perfectly within the framework that includes high-trust and low-crime features, given that it is considered a high-trust society, and official statistics report low-levels of crime. However, the longstanding presence of the yakuza in a society such as Japan challenges these explanations and common assumptions. As shown below, an alternative way of reading this anomaly might be to consider the yakuza not as some deviant actor that disrupts social capital within communities, but rather as creators of social capital.

A common finding regarding the 'external' or 'public' effects of social capital is that social connectedness lowers crime rates, and that public events also have a positive effect on one's neighbours (Putnam and Goss, 2002). However, mafia groups can exploit precisely the same dynamics to their benefit. In the case of Japan, the yakuza do so by organising social events for local neighbourhoods and by helping in times of extreme need. For instance, in the aftermath of the Kobe earthquake (1995), Tohoku earthquake (2011) and Kumamoto earthquake (2016), news of the relief work performed by yakuza groups was reported by both the newspapers (Jones, 25/03/2011; *Nikkan Gendai Digital*, 17/10/2016; Rankin, 2012) and the yakuza themselves (Yakuzanet, 2016; Ninkyō suishin iinkai, 2015). There are many reported cases of local yakuza groups either financing the village festival or distributing food and goods to the less fortunate. A *kumichō* of a large group in Tokyo saw these kinds of social activities as being at the core of yakuza values:

> 'If you walk the street in front of our office, 100 metres on each side, you will see it's sparkling clean because my staff cleans it every morning. You won't even see a cigarette butt. This is how much we care about our territory. […] I became *sōchō* [secretary-general] in 2016, the boss before me didn't care that much but I think we should do it for the neighbourhood. It snowed recently, didn't it? We cleaned the whole street: our neighbour here is an 89 year old woman; on the other side, there's a hotel with a lot of female staff, it's hard for them to shovel the snow, but we have stamina so we help them. We have to go back to the starting point, the *bushidō* spirit, the yakuza spirit: from there you can't make any mistake.' (interview *kumichō*, 27 January 2018)

Similar behaviour to this has also been observed in the south of Italy, where the mafia is more rooted and thus able to exploit social capital and gain acceptance amongst the population. Cases such as an attempted arrest of a suspect in the neighbourhood of Nesima, Catania, where policemen who were trying to arrest a fugitive were assaulted by the locals, spontaneously acting in order to prevent the arrest, are emblematic (*Repubblica*, 29/04/2016). In northern Italy, where the mafia moved into only recently, the situation is strikingly different: the mafia tends to maintain secrecy and keep a low profile, while in the south the mafia is more similar to the yakuza in terms of their level of engagement with the public.

This supports the hypothesis that criminal organisations can use trust – particularly local trust – and social capital within society to achieve the goals of their associations. As noted by Gragert (1997), the image of the yakuza is indeed Robin Hood-esque. In a similar vein to the Italian mafia, they associate themselves with traditional cultural codes (Sciarrone and Storti, 2014). The yakuza claim to embody both the ideals of rebellion against society, as well as the most traditional of Japanese values, which is reflected in the complementary and oppositional duo of *giri* (duty, obligation) and *ninjō* (humanity, compassion) (Mizoguchi, 2011). While officially they are shut out from mainstream society, their links to political and economic elites have been proven to be incredibly strong (Henshall, 1999). The social activities they engage in also suggest that their links are strong to society, but operate more on the level of a tacit agreement between their organisation and society at large. The yakuza's ability to hold an ambivalent position at the margins of society, while, simultaneously, operating to some extent at the core of it due to their embodiment of a nostalgic tradition, is a determining factor in the level of acceptance that they enjoy at the social level.

The social capital of the yakuza

While the long life of the yakuza in an ostensibly crime-free society like Japan is puzzling, part of the reason for their longevity must surely be sought in their capacity to engage with their surroundings. It is for this reason that the study of social capital *vis a vis* the yakuza represents a valid and expedient means through which to understand the functioning of this group.

Amongst other reasons, the yakuza seem to be accepted, or at least tolerated, by the population because of their relatively scarce public displays of violence. Although intra-gang turf wars intensified especially in the 1990s, when the economic downturn pushed many low and mid-level yakuza members to drug dealing in order to be able to pay their quotas to the bosses (Friman, 2009), the level of violent crimes is still lower than those seen in other economically developed states. If we compare Japan and the US over the past century, then one immediately notices considerable differences: murder rates in the US are five times that of Japan's; rape rates are twenty-seven times that of Japan's; while violent crimes rates in the US generally are as much as one hundred and forty-eight times that of Japan's (NationMaster, 2015). Notably, attacks against authority figures are particularly rare. The close ties between the police, political elites,

and the yakuza are not a secret, and neither is the desire on the part of the yakuza to avoid societal backlash and more punitive law enforcement (Friman, 2009). In the latest national survey on community safety, the yakuza was not perceived as a source of insecurity: 15.2% of respondents felt threatened by the presence of the yakuza, while internet crime (60.7%), frauds (50.2%), thefts (50.1), and assault (46.1%) were perceived as the most dangerous crimes. This is confirmed by the fact that when the public was asked to name crimes and groups that the police should tackle: while 27.1% of respondents indicated the yakuza, internet crimes (51.2%), violent crimes (51.1%), fraud (48.8%), assault (44.2%), drunk driving (43.2%), and kidnapping (42.5%), amongst others, all ranked significantly higher (Naikakufu seifu kōhōshitsu, 2017).

The Yamaguchi-gumi wrote in the introduction of their website (which was recently taken down):

'The number of vicious crimes has increased in this country; people generally are devastated. No one notices if an elderly person from his or her neighbourhood has passed because there is no communication, not even greetings exchanged any more. No one is interested or cares enough about what is going on around them except about his or herself. Unfortunately, this sensation has become normal in today's generation. If the idea of Japan becoming a country without sentiments for others worries you, it is important to learn the ancient paths of this nation to figure out what is needed to regain the importance of Japanese sprit from its tradition' (Ninkyōdō, 2016).

Here, the Yamaguchi-gumi criticises the lack of compassion and sense of community in contemporary Japanese society and proposes that the solution is contained in 'ancient paths'. Specifically, they are referring to a set of values that emphasise the sense of the group, community spirit, and harmony within society, and are pushing for the reintroduction of features that would translate into increased social capital.

Miyazaki Manabu, a journalist and writer who specialises in the yakuza, noted that '[the yakuza] also commit crime, but run almost entirely legal businesses, and have been protecting the civic order of the cities'. And, when talking about the peddler and gambler groups within the yakuza, 'whether it is true or not, they are seen as vulgar people, but the Japanese have learnt to accept them' (interview with Miyazaki Manabu, Tokyo, May 2017). The yakuza are therefore perceived, on the one hand, as a marginal

and criminal group, but, on the other hand, the criminal component of their identity is diminished when they can be of use to society. In other words, even if they are not accepted in mainstream society, they are tolerated because they contribute in some way to the social order, by controlling the underworld and imposing strict codes of conduct upon rebellious elements. As Fukuyama (2001) pointed out, a group can produce positive or negative 'externalities', which are the effects that they have upon non-members. In-group solidarity diminishes the ability of members to cooperate with out-group members, which, in turn, produces negative externalities. This can indeed be observed in the case of those groups for which internal cohesion is so essential that it comes at the expense of outsiders (see, for example, the Italian mafia or the Klu Klux Clan). In the case of the yakuza, it appears that while they do indeed seek to cultivate internal cohesion, they do not do so at the expense of outsiders. In fact, they seem to promote a system of norms that fosters cooperation within the community.

The yakuza gathers up social rejects such as *burakumin* and youngsters with no family or occupation (Henshall, 1999), and thus, in this sense, can be considered as a social agent that not only exploits, but also creates, social capital. The yakuza recruit their new affiliates from gangs of male youngsters, who have no formal education and typically perform manual labour, such as the '*bōsōzoku*' (teenage motorcycle gangs), 'yankee' and '*chinpira*' (juvenile delinquents, punks). Recently, a trend has been observed in which members of motorcycle gangs are no longer directly affiliated to the yakuza, but nevertheless maintain strong links with them (NPA, 2016b). An ex-yakuza in his early 30s confirmed that he joined the yakuza because he was in a *bōsōzoku* group as a teenager, and the yakuza were the only group that offered to take care of him (interview ex-yakuza, Tokyo, 23 January 2018). However, as Mizoguchi (interview, Tokyo, 22 January 2018) noted, these groups are in decline, as a result of the trend passing and ever fewer young people being interested in cars and bikes, which, in turn, decreases the number of young people potentially interested in the yakuza. Moreover, an ex-yakuza who joined a yakuza group 30 years ago, reported that he did so because a good friend of his was in the yakuza and there was no other job he could do, since he had neither the experience nor the qualifications (interview ex-yakuza, Tokyo, 23 January 2018). For these youngsters, it is impossible to find a job in mainstream society because they are usually school dropouts, and, as such, struggle to be reintegrated into mainstream society. *Gakubatsu* (university cliques) in Japan remain to this day central to one's career path, resulting in school dropouts facing greater difficulties in finding

employment (Mouer and Sugimoto, 1986). Indeed, the majority of yakuza members have only a junior high school or high school diploma, while only a few are university graduates: a yakuza boss interviewed by journalist Mizoguchi Atsushi (2011) described people who decide to enter the yakuza when they are over 25 years old as *mono ni naranai*: hopeless. The yakuza represent a valid alternative future to such people: notwithstanding providing them with steady employment, they also give them a sense of belonging to a group, and allow them to rebuild father-son and brother-like relationships within the organisation. In this sense, the yakuza not only benefit from social capital, insofar as they exploit local networks to attract new members or find new collaborators, but they also build social capital and trust within the local community, since they are perceived to be a tolerable receptacle for society's outcasts.

The NPA (2015) argued in a recent paper that there has been a change in the demographic of the yakuza, with less young members being recruited and a general ageing of the yakuza population, despite research suggesting that there is a positive relationship between young uneducated people with no skills and levels of crime (Lochner, 2004). This situation amongst younger Japanese people is epitomised by the growing preoccupation around the NEET (Not in Education, Employment or Training, which is pronounced as '*neeto*' in Japanese) phenomenon, which was excerbated by two decades of economic stagnation. This category includes people who are 15-34 years old, not in school, unmarried, and not working for a remittance. Amongst these, a survey showed that while youngsters with higher education tend to look for jobs and are hopeful that they will find a job, high school dropouts are likely to give up their search for work altogether (Genda, 2005). With respect to the data currently at our disposal, it is not possible to determine the percentage of NEETs that go into criminality, as no research has hitherto been conducted on this specific matter. However, it seems perfectly reasonable to assume that there is a link between the two phenomena.

Despite the recent series of crackdowns by the police on the yakuza, the NPA in its most recent report declared that the yakuza 'is likely to maintain a solid economic foundation and human network' (NPA, 2016b:1). In the past twenty years, one notable trend observed among yakuza groups is the increased use of part-time members or associates (who are not, however, affiliated) in order to evade police controls. Currently, the yakuza are trying to maintain their profits by collaborating with external 'clean' actors, which serves to simultaneously also expand their networks. Given the new anti-yakuza countermeasures, it is easy to picture a scenario in which the yakuza

exerts even more energy into being accepted by society, because it now needs the help of legitimate members of society to conduct its business.

Nevertheless, the decline in yakuza membership is indisputable, particularly with respect to young members. The *kōreika* (ageing of the population) is a phenomenon widely discussed in relation to the yakuza, as it is threatening the survival of the group. As is clear from the data outlined in the White Paper of the Police, yakuza members in their 20s and 30s are rapidly decreasing, whereas older members are growing in numbers (NPA, 2014, 2015, 2016, 2017, 2018).

A *kumichō*, whose group still had a considerable amount of young people in it, complained:

> 'We have young guys coming in, but I can't just make them members, this is not the right time because the Police would get angry. It's important to know how to use them and move them. Also, the way I educate them it's different: before there was like a dorm and new people woke up early, cleaned etc, but not now. They used to stay here and if there was some trouble in a bar they would go and settle it, throw out the troublemaker. But now we can't do it anymore. Now the Police say they'll do it, but they don't.' (interview *kumichō*, 27 January 2018).

As explained above, despite the decrease in popularity of neighbourhood associations, a considerable segment of society is willing to engage in civic activities at the social level in order to increase the wellbeing of the community. Horizontal networks of civic engagement are associated with institutional success in the community, while high rates of association in vertical networks (such as the Church or the mafia) show a less civic-oriented mindset (Putnam, 1993: 175,176). The yakuza counter the various obstacles they come up against in a civic-oriented community by acting like the community itself, if not better even, and, most importantly, by making sure that their contributions are noticed. The yakuza pride themselves on being an active part of the community, as the Yamaguchi-gumi reported in the 'Recent Social Contribution' section of their website: participation in fire-fighting volunteer squads, cleaning teams, rescue and donations for victims of earthquakes are amongst their social activities (Ninkyōdō, 2016). The community, while at a general level condemning organised crime, at the local community level they tend to recognise the efforts of the yakuza and appreciate them. This lends further support to the hypothesis developed in the previous paragraph of yakuza as creators of social capital. Furthermore, this could

also help explain the level of acceptance that the yakuza still appear to enjoy at the local level.

We can conclude that the yakuza demonstrate that for a criminal organisation to be accepted within a community, they must exploit the social capital of relationships through the shared cultural capital of the community. They can use the institutionalised form of their social capital (the name of their organisation), but in order for it to be effective the name must be associated with, on the one hand, violence (the potential of recurring to violence), and adherence to cultural norms on the other. In this way, the yakuza have been able to maintain a positive relationship with communities and perpetuate their existence.

Finally, as with any other business, the yakuza need to advertise. As we shall see in the next paragraph, the yakuza, also as a result of law enforcement and Japanese anti-yakuza legislation, is one of the most successful criminal groups in this specific regard.

Pledge of secrecy vs. openness

The pledge of secrecy is a distinctive characteristic of crime in general, but especially amongst mafia associations in the South of Italy, notably Sicily and Calabria, which are the regions most affected by this criminal phenomenon. Indeed, mafia-like organisations are often viewed as adding supplementary features, such as secrecy and separation from the outside world (Fulvetti, 2004), in order to distinguish themselves from other forms of crime. Mafia-type organisations must indeed maintain high levels of secrecy to protect their activities and organisation from state disruption. The secrecy around the mafia phenomenon has been so high for so long that for many years their very existence was doubted and refuted in Italy. Prior to the declaration by Tommaso Buscetta, the first *pentito* [10] in a mafia trial, who explained to the Italian public prosecutors what the mafia was and how it was organised, even politicians and jurists declared that the mafia did not exist. The mafia was described as a 'general feeling, shared by large segments of the Southern population, based on values not censurable, such as courage, friendship, loyalty, family, kinship, local traditions' (Falcone and Turone, 1982:116). Secrecy is still an essential defining feature of the mafia organisation, so much so that it delineates the external boundaries of the mafia group,

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[10] The term 'pentito' (repentant) or 'collaboratore di giustizia' (collaborator of justice) refers to ex-members of mafia organisations who decide to help investigators.

which may be considered as a secret society, and thus defines it as a whole unit in contrast to the external world (Paoli, 2003). This secretive behaviour is called *omertà*, a word that derives from *umiltà* (humility), which can be understood as meaning subordination to the will of the organisation (Lupo, 2004). Secrecy is so central at the operational level of mafia associations that it also extends to the people around the *mafiosi*, such as their family and friends. The degree to which silence is enforced varies across organisations: while for the 'Ndrangheta secrecy is necessary when dealing with law enforcement, but discretionary otherwise, Cosa Nostra operates a policy of absolute secrecy (Paoli, 2003).

Secrecy is also included in the article of the Italian legislation that defines (and criminalises) mafia-type criminal organisations. The Article 416bis states that a mafia-type criminal organisation consists of three or more persons, who 'make use of the power of intimidation afforded by the associative bond and the state of subjugation and criminal silence (*omertà*) which derives from it to commit crimes, to acquire directly or indirectly the management or control of economic activities, concessions, authorisations of public contracts and services […]' (Paoli, 2004).

However, secrecy for a criminal association can never be absolute. Social capital is institutionalised through the application of a common name, but for social capital to be effective, this name must be acknowledged. By doing so, all the members of the organisation are guaranteed the backing of the collectively owned capital, and are thus able to exert credits from external actors (Bourdieu, 1986). Therefore, for a criminal group to be effective and successfully engage with the community around it, a certain degree of recognition is required: this recognition should only work on a local and informal level however, and, most importantly, should avoid indiscrete ears (law enforcement). Indeed, the high levels of secrecy in the mafia appear to apply mainly to the formal level: in a small city, everybody knows who is in the local mafia group, but because of the principle of *omertà* only few have the courage to report their membership. In Italy, membership of the mafia is itself a crime ('Associazione di tipo Mafioso', 416 bis), while even a person who is not formally part of the association but collaborating with the group is liable ('Concorso esterno in associazione mafiosa'). Hence, high levels of secrecy are needed to protect the identity of the *mafiosi* and their collaborators.

However, secrecy cannot work if the local population does not collaborate. This is reliant on two factors: limited law enforcement (limited due to the lack of tools to

combat crime, such as effective laws, or complacency towards local forms of crime); and tolerance and acceptance by the population – as well as fear of retaliation (Manojlovic, 2013). In practice, there is also a third way: collusion with institutions. When a criminal group is stable and its lifespan is long enough, law enforcement agencies will eventually come to know about its existence and activities: in this case, they can either count on tolerance being shown from the police, or seek to undermine the law via corruption (Levi, 2012).

Look at me (if you are not a policeman)

In a Japanese-style room, six women dressed in the traditional kimono sing 'Happy birthday' from the stage. In the audience, men in black suits sit, eat, and drink around low tables, while at the back of the room, facing everyone, sits a man in a grey kimono. When the song finishes, he is given a large cake and proceeds to cut it to the applause of the guests (urajōhō, 18/04/2016). This video is the first of a series of YouTube videos that show different men in black suits giving speeches from the stage addressing the man's birthday. While uploading one's birthday party on YouTube may seem exhibitionist, the guest of honour in these videos makes this practice even more peculiar: he is Shinobu Tsukasa, *oyabun* (boss) of the Roku-daime Yamaguchi-gumi, the biggest syndicate within the yakuza.

In Italy, where mafia bosses Salvatore Riina and Bernardo Provenzano lived in hiding for more than 10 and 20 years, respectively, such a display would be simply unimaginable. The yakuza and the mafia share many features: they are a confederation of hierarchically organised groups; they refer to bodies of coordination to solve disputes (however their powers are rather limited); and, despite Italy and Japan being culturally distinct, both the yakuza and the mafia appeal to a code of higher values based on honour, loyalty, and obedience (Paoli, 2003). Furthermore, both organisations are involved in similar businesses (for instance, protection money, construction, drugs, prostitution, etc.) and infiltrate the state to further secure their economic goals. However, while the mafia requires absolute secrecy at both an ethical and operational level in order to survive, the yakuza seems to be able to renounce it without incurring any damage.[11] Indeed, the display the yakuza make of their organisations and members

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[11] However, the yakuza is not the only criminal group that exploits visibility in order to thrive: Mexican drug cartels operate out in the open to recruit new members and put out messages to be

challenges the predominant view in mainstream criminology about the relation between secrecy and crime.

Indeed, the yakuza are actively involved in promoting themselves: today, while magazines and websites produced by the yakuza are accessible to everyone, the yakuza have long been involved with the mass media through the *ninkyō-eiga*, a genre of film that narrates the adventures and lives of yakuza members. In Japan, the yakuza have actively been involved in the production of these movies (Varese, 2006), whereas in the US the Italian mafia oppose any depictions of themselves. Joe Colombo, founder of the 'Italian-American Civil Rights League' (as well as a mafia boss), sent a letter protesting against the production of the Godfather movie, demanding the deletion of all words such as 'Mafia' and 'Cosa Nostra' and complaining about the representation of Italians as gangsters (Bovenkerk, Siegel and Zaitch, 2003).

A further consideration that can be made in relation to the high levels of visibility of the yakuza is their engagement with the power structure. One of the reasons why the yakuza, as with other mafias, are recognised as an organised criminal group, is that they exert notable influence over the legitimate government through corruption (Anderson, 1995). Despite Japan's ranking of having one of the lowest levels of perceived corruption (Transparency.org, 2016), some authors have highlighted that the culture of gift-giving, as well as the norms of reciprocity and social obligations make it very difficult to pin down corruption in Japan (Hill, 2003). The concept of bribery in Japan is indeed turbid, but the close relationship between authorities and the underworld, which is occasionally exposed by scandals involving the political and economic elites, indicate that there is a widespread problem of structural corruption (Kaplan and Dubro, 2003). Indeed, Black (2004) argued that pervasive corruption, and the inability to promote reforms especially in the banking sector, constituted the major obstacles to Japanese economic recovery. The 2013 Mizuho scandal, which exposed the links between banks and the yakuza (Financial Times, 2013), proves that his hypothesis remains a realistic one (see Chapter 4).

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broadcast by the media, which suggests that in Mexico there is a tacit agreement between cartels and the population based on the embeddedness of the former (Diaz-Cayeros et al., 2011).

Severed fingertips and flashy outfits

The level of acceptance traditionally enjoyed by the yakuza from institutions and Japanese society meant that they could afford to open up their own offices, or organise public events for children, such as the famous Halloween children's party thrown every year by the Yamaguchi-gumi (recently cancelled due to internal fights in the group) (McCurry, 2015). On a more individual level, traditionally yakuza members have not sought to hide their membership of the organisation, and, indeed, have deliberately adopted recognisable trademarks, such as particular forms of speech, *yubitsume* (finger amputation), and tattoos, which make it incredibly easy to identify persons affiliated with the yakuza (Hill, 2014). Yakuza tattoos cover large parts of the body and represent traditional and mythical motifs: it is a self-inflicted stigma that defines the person as a yakuza and expresses the irrevocable choice of that identity (Raz, 1992). Today, however, tattoos are losing their significance as an exclusive sign of the yakuza, in light of the fact that many young people have begun to get tattoos due to the influence of Western culture. *Yubitsume* is the practice of amputating one's fingers (starting from the first digit of the little finger) to either punish or demonstrate an apology or commitment. Recently, however, the practice of *yubitsume* has decreased and been replaced by monetary fines (Hill, 2014). However, as a missing fingertip is still recognised as a yakuza trademark, retired yakuza or yakuza who do not want to be identified as such for business reasons[12] seek help from specialised crafters who can make prosthetic fingers (McCurry, 2016).

In a setting like the south of Italy, where ordinary speech is so picturesque, exaggerated, and hyperbolic, mafia talk, in contrast, is curt, modest, and understated (Hess, 1973). Mafia speech is usually conveyed in dialect, using cryptic expressions to avoid being intercepted. It is allusive and dynamic, in order to make it even more difficult for third parties to understand its meaning (Di Piazza, 2010). This brevity and reluctance appear to fit perfectly with the aforementioned logics of *omertà*: for a secret society such as the mafia, silence is vital, and being able to stay silent shows commitment to one's role as a *man of honour*. The yakuza, on the other hand, use loud and vulgar speech in the context of an otherwise polite and soft-spoken language. The jargon of the yakuza is very recognisable to Japanese speakers, in part, as a result of the proliferation of yakuza representations in movies. Takeshi Kitano's trademark 'Kono

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[12] These could include 'business' trips abroad, or cases in which a yakuza member is running a legitimate business on behalf of his group.

yaro!' (loosely translatable as 'motherfucker'), despite being a quite common imprecation in Japanese language, if said with the distinctive *'makijita'* (rolled 'r'), is indeed distinctive of yakuza jargon. The fashion that many *yankees* and yakuza – especially younger members – adopt consists of having short hair or *'ōru-bakku'* (Japanese pronunciation for 'all back': shaved hair on the sides and hair tied or gelled back) and wearing eye-catching clothes, such as shimmering suits and tracksuits with Chinese motives, such as dragons and tigers[13]. However, as the yakuza have become increasingly repressed, this style is changing: 'Now, the people in the bōryokudan look like salary men: in the past they used to wear their fashion, you would see them and say, 'Oh this guy is dangerous!' But now they look like normal middle-aged men. If you see a policeman and a yakuza, you can't understand who is who anymore' (interview with Mr Igarashi, Tokyo, 21 December 2017). Indeed, the yakuza members I encountered were all well-groomed and dressed very elegantly, wearing fine dark suits and matching ties.

As one can discern from these descriptions, masculinity is at the centre of the image of the yakuza. The very myth of the yakuza as a noble hero following the *ninkyōdō* (the way of chivalry), which is promoted by movies and more recently through yakuza's websites and magazines, is based on virility, which is now expressed in more 'modern' ways. In post-war Japanese society, discourses on masculinity centred on economic success, with the *sararīman* (white-collar worker) being the embodiment of such success, in his role as the male heterosexual breadwinner and head of the family (Dasgupta, 2000). At the same time, military images have survived in connection with masculinity and 'male' occupations (Ueno, 1995). The yakuza in this sense can be regarded as a modern *nippon danji* (Japanese man), and the embodiment of an alternative, rebellious, and at the same time nostalgic idea of masculinity that is difficult to let go of. This image is captured in a line from the theme song of the Yamaguchi-gumi: *ninkyōdō hitosuji, otoko no ikiji* (living only for the way of chivalry, the backbone of the man) (Ninkyō hitosuji Roku-daime Yamaguchi-gumi no tēma kyoku, 2016).

Finally, because of the high level of acceptance they receive from society, yakuza bosses' names and faces are, if not well-known, easily searchable on the Internet by common citizens. On the Wikiyakuza website (in Japanese), for example, it is

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[13] There are brands that specialise in this style, such as BirthJapan.

possible to find the names and roles of yakuza bosses all the way down to lower-management (Wikiyakuza, 2016).

In this sense, whereas the mafia hides, the yakuza parades. The yakuza have not only defied the pledge of secrecy on which mafia-type associations are built, but rather they have adhered to a 'pledge of openness' and managed to survive in the process. This problematises our understanding of the way in which organised crime works, because, on the one hand, the mafia protects its existence through secrecy and silence, taking advantage of their historical and social roots and their embeddedness in the social fabric, while, on the other hand, the yakuza refuses secrecy and silence. With respect to the former, they do so by organising events for the community, conducting legal business through legitimate companies, while, in regards to the latter, they do so by doing absolutely everything they can to be visible – through their speech, style, magazines, and even websites.

However, in this regard, it is important to consider the latest data on the yakuza provided by the White Papers of the Police: from 1996 to 2004, the number of members/associated members increased, before proceeding to take a downturn from 2005 (see appendix 5). The number of members of the three biggest associations, Yamaguchi-gumi, Sumiyoshi-kai, and Inagawa-kai, followed the same pattern. The police report states that this decrease was due to the enforcement of the new law and the consequent crackdowns on yakuza groups (NPA, 2016a). However, given that the *Bōtaihō* (anti-yakuza countermeasures) were promulgated in 1992, and the *Bōryokudan-Haijojōrei* (exclusionary laws) were implemented in 2011, it is reasonable to question whether the decrease in the number of yakuza members derived from these new laws. It is possible to hypothesise that the yakuza are not disappearing, but rather are going underground (Adelstein, 2012). The reasons for this change might stem from the need to maximise profits: by going underground and using more part-time members, or collaborators, the yakuza would be able to infiltrate more legal businesses and even politics at a national level. Going underground would thus represent a profound change for the yakuza, in that it would also entail a marked shift in their modus operandi and organisation.

Flesh of my flesh, blood of my blood: ethnic grounds of criminal associations
Just as they did in the recent past, mafia-type associations have expanded their illegal activities abroad, which means that these criminal groups are even more viewed as

being ethnically organised, an interpretation of criminal collaboration that criminological scholarship has widely supported.

Given that members of a criminal group acting as informants to the police (or a rival) can result in the demise of such groups, trust is a major feature of criminal associations. Consequently, it is highly common to find families engaging in transactions that require trust, rather than being protected by contract law (Salter, 2002). Indeed, the way in which criminal associations operate is dictated by the absence of property rights: in order to make up for the lack of security and regulations, criminal actors have to associate with others, usually people from the same ethnic background, who speak the same language, and with whom they have pre-existent relationships (Becchi and Rey, 1994). Studies have demonstrated that common heritage and a network of social relations creates a strong social bond, and that these relationships are a fundamental element of illegal activities (see Morselli et al. 2011: 171-176). However, there is a missing link between 'family' and 'ethnicity' that requires further explanation. The kinship deriving from family is immediate, and it is wholly natural to trust someone with whom we are familiar. However, ethnicity is a much more complicated phenomenon, insofar as an ethnic group can count millions of people – who, of course, cannot be trusted in their totality. Van den Berghe's theory of 'the biology of nepotism' (1987:15) may help to clarify the connection between family and ethnicity. In many countries, and especially in the West, the ideology of nationalism has often been based on the rhetoric of kinship, which is self-evident in the language. For example, the English 'motherland' is translated similarly across many other languages: the German *vaterland*, the French *mère patrie*, the Italian *madreapatria*, the Japanese *bōkoku,* and so forth. Ethnicity may thus be understood as a form of 'extended' kinship: the larger the group, the more diluted the kinship. Indeed, in most cases, common descent is 'at least partly fictive' (Van den Berghe, 1987: 27).

This kinship therefore constitutes a perfect base for the organisation of criminal activities, and, indeed, the same dynamics based on kinship, trust, and mutual cultural codes can be espied across a variety of different criminal associations. For instance, Albanian criminal groups rely on extended family ties (Arsovska, 2009), while Nigerian trafficking networks exploit local religious traditions as a means of coercion (Carling, 2006). The composition of these groups is changeable, and members are not always tied together by a fixed hierarchical structure or bounded by a status contract, as is the case with mafia-type associations.

Given that the mafia in the US almost exclusively comprises Italian descendants, some scholarship has explained organised crime as a way for ethnic groups to climb the social ladder. In this sense, the association is not framed as a formal organised crime group per se, but rather in terms of patron-client relationships working within a social exchange network (Leong, 2007). However, this approach presents various shortcomings, such as those outlined by Soudijn and Kleemans (2009), who propose a model based on social network and situational context. People cooperate because of personal relationships, and as these are often influenced by ethnicity, this does not preclude the involvement of actors from different backgrounds (Kleemans and Van de Bunt, 1999). This, for instance, is also the case with the Russian mafia: even though its local and hierarchical organisation in groups (*bratva*—brotherhoods) is similar to the traditional Sicilian mafia, members do not have to be Russian necessarily to be part of the group, as demonstrated by Varese's (2001) study of the Russian mafia.

However, the rules of recruitment in the case of the Sicilian and Calabria mafia are absolute, and based solely on blood relationships. Given its cultural and biological significance, blood is at the forefront of mafia kinship, so much so that father and son, or a set of brothers, often constitute the core of many families (Blok, 2002). Famous examples can be found both in Italy (the Graviano brothers, or the famous Leoluca Bagarella, son of Salvatore) and in the US (the Angiulo brothers). In Sicily and Calabria, only men who are born in these regions, or who descend from mafia families, can become members of the mafia: while, on the one hand, these rigid recruitment rules hinder the expansion of the mafia, by making it static and curtailing entrepreneurial activities, on the other hand, they build a strong collective identity, and make it possible for mafia members to create trustful relationships, which allow for a strong degree of flexibility (Paoli, 2007).

While ethnicity and kinship play a significant role in the composition of most criminal groups, mafia-type associations are particularly focused on it. The stress on family and nationalism are prevalent in the mythology of these groups, and function as both a social glue and motivation for members to remain loyal to the group. However, the yakuza do not conform to this pattern: if, on the one hand, they promote (extremely) nationalistic views with assumed xenophobic connotations, on the other hand, their composition is relatively heterogeneous and does not reflect the idea of the 'pure Japanese race' that is often implied in the narratives of the extreme-right wing groups with whom they are associated. This hypocrisy is not wholly surprising, and, indeed, it

can be found in other respects in similar groups: a striking example would be the blatant Catholic rhetoric of Sicilian and Calabria mafia groups, and their high rates of killings. From a criminological perspective, what is more surprising in the case of the yakuza is not their duplicitous attitude, but rather their heterogeneous composition.

The 'pure Japanese race' and yakuza heterogeneity

The general image of Japan is one of a group-oriented society, which stresses the importance of consensus and social harmony, and prioritises group membership and social solidarity (Mouer and Sugimoto, 1986). This idea is emphasised by the *nihonjinron*, the 'theories on the Japanese' that speculate about the quintessence of being Japanese in relation to three interchangeable concepts: nationality, ethnicity and culture (Sugimoto, 1999). Various intellectuals have engaged with discourses on the particular characteristics of Japanese society, culture, and national character since the late Meiji period (1868-1912) (Kowner, Befu and Manabe, 1999), but these discourses gained increased popularity in the aftermath of World War II, as a reaction to military defeat and expression of anti-western sentiment, and, indeed, books on the matter are still popular in many libraries across Japan. Today, due to the globalisation of Japanese society and the country's increased economic influence, images of a harmonious, integrated, and consensual society clearly appeal to political elites, who therefore continue to perpetuate this image of Japanese society (Sugimoto, 1999). In this sense, the *nihonjinron* is no longer a purely theoretical discourse: from the 1980s onwards, academics, journalists, critics, business leaders, and politicians have engaged in the subject and produced studies for popular consumption (Kowner, Befu and Manabe, 1999).

As discussed above, the yakuza strive to symbolise traditional Japanese values, which are based on the ambiguous concept of 'Japaneseness' and homogeneity. However, membership of the yakuza is relatively heterogeneous. As reported by the former director of the Public Security Intelligence Agency, Mr Suganuma, who was informed by Mr Takayama, the number two of the Yamaguchi-gumi (the biggest yakuza syndicate), 90% of the yakuza population is of *burakumin* or Korean descent[14], while 10% are Chinese or non-*burakumin* Japanese (FCCJ, 2006). The *burakumin* and Korean groups were two social groups that have been particularly marginalised in Japan and were not considered 'pure' Japanese.

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[14] Kaplan and Dubro (2003) report that 70% are *burakumin*, and 20% are of Korean descent.

Burakumin, despite being ethnically Japanese, are an occupational minority group associated with work considered to be ritually unclean (i.e. butchering animals, tanning skins, handling corpses). They have been ostracised by Japanese society since the Tokugawa era, and, indeed, still face a series of problems to this day, such as disproportionate levels of poverty, high crime rates, low education levels, and dependence on benefits (Kristof, 1995). However, since the introduction of the Special Measurement Law in 1959 that aimed to stop the discrimination against *burakumin*, official data claims that the situation has improved considerably (Nishimura, 2010). For their part, the *burakumin* feel the need to protect themselves because of their history of marginalisation by retaining strong connections with their community. On the 23rd of every month they organise a meeting to keep their *kizuna* (bonds) strong. The typical jobs performed by *burakumin* in contemporary Japan include garbage collection, horse races, cleaning toilets, etc. In some cities, they are even connected to a specific industry; for example, in Kyoto they manage the whole bus system. They are a closed and highly hierarchical group, so older people have the power to dictate what younger people do. Despite the claims of the government, the chances of escaping are still relatively low (interview ex-yakuza, Kyushu, 2 April 2018).

The term '*zainichi* Koreans' refers to settled permanent residents of Japan, and does not include the second wave of Korean immigrants that arrived in the 1980s. *Zainichi* Koreans came to Japan during the colonial period, and they have faced discrimination in schools, workplaces, and society at large ever since (Caprio and Jia, 2009). *Zainichi* identity is a complicated matter, which has been discussed since the 1970s within the *zainichi* community. Given the strong pressure from mainstream Japanese society to belong to a certain group or community (*minzoku* in Japanese), the debate spanned two opposing positions of naturalisation and retention of their ethnic heritage. Recently, the so-called 'third way' has gained popularity, which prompted the majority of *zainichi* to move away from this polarised position and consider themselves 'diverse individuals' rather than members of a homogenous group (Chapman, 2004:42).

The Chinese community in Japan comprises more than 650,000 individuals (e-stat, 2016). Chinese immigrants in Japan do not sever their connection to their home country, and at the same time they do not consider themselves to be immigrants in Japan. Rather, they show a 'transnational orientation': despite naturalisation requiring less effort than permanent residency, the vast majority of Chinese immigrants choose to acquire the latter, as this arrangement allows them to also maintain their Chinese

citizenship and, hence, receive benefits from both countries. This also serves as a tactic through which to cope with the marginalisation that is predicated on the distinction – which is often made explicitly clear in Japanese society – between Japanese and foreigners (Liu-Farrer, 2009).

The ethnic heterogeneity within the yakuza means that their cooperation is not predicated on ethnic grounds, as is the case with the majority of organised crime, which challenges the prevailing assumption about the ethnic homogeneity of criminal associations. Above all, the association of such diverse backgrounds appears to work on the basis of exclusion: a bond based on marginalisation, which serves to provide compensation for discrimination. This appears to confirm the findings ofa Alesina and La Ferrara's aforementioned research (2002), according to which members of minorities who have been discriminated against present lower levels of trust towards the community.

Nevertheless, ethnicity is still a problematic concept within the yakuza. In my fieldwork, I had strong suspicions that the yakuza boss I interviewed was of Korean descent, but I chose not to bring up the subject as I had been warned it may be a sensitive topic. This boss was famous enough to be known in different regions, so when I met two interviewees in a different prefecture who knew him, I tried to ask them whether they could corroborate my conjecture. Visibly embarrassed, they refused to give me a straight answer, saying that they could not comment on that. When I joked that their answer was tantamount to a yes, they replied: 'You didn't hear it from us'. I assured them that I would not mention it again and carried on with the interview. For his part, the boss was very keen to show his Japanese traits, making continual references to Japanese history and traditions, and sitting in an office adorned with portraits of him in traditional clothes, classic furniture, and altars.

Despite their ethnic heterogeneity, however, the yakuza have strong connections with right-wing *uyoku* groups, who are notorious for their racist rhetoric and defence of traditional Japan, and, indeed, the two groups often overlap. The strong presence of yakuza in *uyoku* groups, and vice-versa, stems from the fact that in the 1960s many yakuza groups transformed themselves into ultra-right groups to bypass new anti-extortion regulations. By becoming political formations, they could (and continue to) raise money and claim tax benefits. A further beneficial aspect of their strong ties with *uyoku* groups is that it gives the yakuza special access into the political world, and the matrix of financial political personal ties (McNeill, 2001; see Chapter 4). Furthermore,

the connection with *uyoku* groups is supported by the yakuza's rhetoric, which stresses the importance of 'Japaneseness' and Japanese values.

On a final note, the exclusionary basis on which yakuza membership operates is reinforced by the tropes of individualism/atomisation of society that underpin neoliberalism. Unemployment, inequality, and poverty, within a neoliberal perspective, are no longer ascribable to structural contradictions, but rather are the responsibility of either corrupt administrations that are unable to implement neoliberal policies 'correctly', or the poor themselves. The consumption-driven culture based on the rhetoric of 'success for everyone' has created significant criminogenic risks, in that, in order to fulfil these induced desires for materialistic success, crime becomes an ever more acceptable avenue (Passas, 2000). In this sense, the yakuza provide a way to heal the means/end discrepancy for those who belong to disadvantaged groups and have fewer opportunities to gain a decent livelihood: the visible presence of the yakuza described above and their welcoming attitude towards social rejects represents one of the few viable options to 'make it' – albeit, in reality, even the yakuza's promises to their members often go unfulfilled (see Chapter 3).

Final remarks

Social capital, visibility, and ethnicity are three major features of criminal organisations, and the way they are used by criminal groups allow researchers to make inferences into their organisation and functioning.

Social capital can be defined as a form of capital embedded in the network of relationships that facilitate collaboration between members of a community, which, in turn, maximises their potential for productivity and exchange. Social capital is entirely dependent on cultural and economic capital, as they are the currency in which the exchanges are performed. Trust is a major manifestation of social capital, and its levels are important within the group, as well as in the environment in which it exists. Internal bonds are based on trust, and therefore must be strong, while weak external bonds have been shown to favour the proliferation of criminal groups.

The yakuza have thrived in a society which has traditionally had high levels of both social capital and trust, thus problematising the conception that high levels of trust serve as an obstacle to the presence of mafia-type associations. The yakuza have been able to exploit social capital by engaging in community building activities and by using

traditional cultural norms and images for their own ends. In the first case, they integrated themselves within the local community by providing aid in times of emergency, by supporting local events and associations, and secondly, they created a strong connection between the image of the yakuza and tradition, by embodying the masculine figure of *nippon danji* (the quintessential Japanese man). Especially after World War II, when the de-masculinisation of Japanese men had to be compensated for through economic success, the figure of the yakuza, who existed at the margins of the society, while, simultaneously, being at the centre of it, as the rightful heir of the chivalrous warrior proved to be a captivating one. Of course, this process could not have happened without visibility, which was made possible by the collusion between institutions and the weak anti-yakuza law. On a theoretical level, this tells us that mafia-type associations – provided they present certain social features, such as no violence and adherence to cultural norms – are able to thrive though both closeness and openness.

Finally, the image of the yakuza would not be truly complete without its connection to Japanese pureness. However, the composition of the yakuza is not as homogeneous as their promoted image suggests, given that it is composed of different ethnic and social groups. What unites these distinct groups is their shared marginalisation. This demonstrates how criminal associations can operate on an exclusionary basis: the low levels of trust minorities accord towards mainstream society have been shown in previous research, and this combined with a desire for redemption may explain the basis of yakuza membership. In this sense, it is crucial to take into account the material conditions that underpin the condition of the yakuza, both in regards to the organisation as a whole and its individual members. In the next chapter I frame the yakuza within the capitalist economy of Japan.

Chapter 3

Resilience between legal and illegal markets: pros and cons of operating in a capitalist, neoliberal state

Much like it is used in criminology, Japan is also viewed in the field of economics as something of a test case. From the post-war period until the 1980s, the Japanese economy was booming, living standards were continually increasing, exports were thriving, and Japan was the world leader in the technological sector. Japan was not only performing astoundingly well economically; rather, educational achievements, low crime rates, low levels of income inequality, and other social indicators were all testifying to the greatness of 'model Japan' (Vogel, 2006). However, the dream abruptly came to an end in 1991, when the economic bubble burst and Japan entered its so-called 'lost decade', an expression now replaced by 'lost decades' as the first lost decade of the 1990s was proceeded by 15 years of deflation, while the 2011 Tōhoku earthquake and tsunami brought about the worst crisis Japan had encountered since the end of World War II (Funabashi and Kushner, 2015; Kuttner, Iwaisako and Posen, 2015). The yakuza coped with these aforesaid crises by existing in a legal and economic limbo: firstly, since their existence has never been fully criminalised, they exist instead as de facto legally tolerated criminal organisations; and secondly, they have traditionally operated in legal, illegal, and semi-legal (only partially regulated, i.e. night-entertainment, prostitution, semi-legal forms of gambling) markets. Despite their deep entrenchment in legal markets, the yakuza were nevertheless able to survive and flourish throughout the oscillations in the national economy, which suggests that their prolonged existence is due, in part, to their ability to diversify their activities across markets to survive in different stages of economic cycles, including during periods of long recessions.

This chapter examines the ways in which the yakuza behaved in order to maintain the profitability of their economic activities (commonly referred to as *shinogi*), arguing that until the 1990s the yakuza largely existed in a grey area, whereby their pseudo-legal status allowed them to move freely across legal, illegal, and semi-legal markets. Consequently, the yakuza procured revenues from a variety of sectors, and it is this ability to diversify which, ultimately, allowed them to survive through the various

ups and downs of the Japanese economy. In this sense, Japan coheres with the claim that economic downturns lead to an increase in both certain types of crimes (i.e. economic crimes) and criminal services that are demanded by the population (i.e. drugs, gambling, prostitution). Secondly, I seek to demonstrate that the system of collusion between bureaucrats, politicians and businessmen, also known as Japan Inc., which reached its full-fledged stage in the 1970s (Carpenter, 2015), benefitted the yakuza and, above all, encouraged their involvement in the legal sector, thus confirming the claim that organised crime's infiltration of the legal sector is connected to their involvement with political and economic actors. Thirdly, I maintain that the prolonged economic downturn that began in the 1990s, combined with the spiral of increasingly restrictive regulations (beginning with the 1991 *Bōtaihō*), sought to eliminate the grey area in which the yakuza had hitherto thrived, to which the yakuza responded by more deeply infiltrating both the illegal (i.e. low-level yakuza engaging in petty crime) and legal markets (i.e. more sophisticated techniques, use of partners, increased invisibility). This also supports the widespread hypothesis that increased inequality (in this case caused by neoliberal policies) is associated with an attendant rise in crime. Therefore, I contend that if, on the one hand, neoliberalism in Japan supported the existence of the yakuza as a result of its principles of economic deregulation, welfare state devolution, cultural tropes of individual responsibility and success, and expansive/intrusive penal apparatus (Wacquant, 2009), on the other hand, the policing of informality (the elimination of the aforementioned grey area) that is a direct consequence of neoliberal policies is today causing harm to the organisation and putting its very existence at risk. Finally, I argue that while prolonged periods of economic decline, such as that witnessed in the Japanese lost decades, increased the group's infiltration of profitable legal markets (with the aid of sophisticated techniques if required), at the lower end of the spectrum, it detrimentally affected low-ranking members by forcing them to commit petty predatory crimes just to be able to survive.

This chapter begins by providing an overview of extant research on the relationship between crime and the economy, and mafia-type associations and neoliberalism, highlighting the ways in which neoliberal systems favour organised criminal groups. The chapter then focuses on Japan, exploring the economic history of the country in the post-war period, before proceeding to engage with debates on the emergence of neoliberalism in Japan. The primary contention is that fundamental elements of neoliberalism were already present in the 1970s, and that these elements

supported the continued existence of the yakuza. The chapter then moves on to explore yakuza's activities in the illegal, legal, and semi-legal markets, arguing that their engagement in these diversified sectors enabled them to ride out the dual-storm of economic crises and increased law enforcement activities. Finally, I synthesise the different hypotheses together in the conclusion.

Organised crime and economic cycles

The relationship between economic variables and crime is still hotly debated within criminology, namely, to what extent they both impact on each other. As I demonstrate here, the interplay of economic variables, economic cycles, and the various features of mafia-type associations (i.e. embeddedness) indicate that this relationship cannot be defined univocally.

Field (1990), in his study of crime in the post-war economies of England and Wales, suggests that economic factors have a major, although opposing, influence on private property and personal crimes: in years where consumption is slow, property crime rises, since contracted consumption is indicative of a decreased capacity to lawfully acquire goods. Conversely, a slow consumption rate corresponds with a slow growth in personal crime. Field argues that personal crime is not determined by the goods that are available to the victim or the offenders, but rather by patterned activities: when consumption rises, people spend more time outside the home, and, hence, the opportunities for personal crime rise. The results of this study are also confirmed by Arvanites and Defina (2006), who found that a strong economy, such as that witnessed in the 1990s, engenders a decrease in property crime (specifically property crimes and robbery). With respect to unemployment and crime, which are often correlated, the authors did not find a consistent relationship, which lends support to Box's (1987) claim that the economic factor that most affects criminal activity is income inequality.

Indeed, the causal relationship that connects unemployment to crime is not a straightforward one, insofar as someone who has just become jobless ordinarily has some resources to fall back upon before economic constraints push them towards crime. At the same time, unemployment affects the circulation of goods and people, which, in turn, impacts upon public attitudes towards crime (Paternoster and Bushway, 2001). Conversely, inequality has been connected to a rise in crime rates ever since Becker's economic theory of crime (1968). In this perspective, low-income individuals who live

nearby high-income individuals are more tempted to take things that are worth taking. Similarly, in Merton's strain theory (1938), frustration at not being able to obtain material attributes of success is exacerbated by the proximity of economically successful people. At the same time, as Jankowski (1995) rightly observes, not all people share the same experience of 'inequality', and, hence, the assumption that people at the bottom of the equality scale all engage in crime for the same reasons is wholly reductionist. Nevertheless, many scholars agree that inequality and crime are positively correlated, insofar as inequality seems to be a key driver of crime (Fajnzylber, Lederman, & Loayza, 2002), although some research has shown that it bears no influence on property crime, and only strongly impacts on violent crime (Kennedy et al., 1998; Kelly, 2000).

The equation economic downturn=crime is a widespread belief that is usually readily taken up by the popular press, and, indeed, after the 'Great Recession' of 2008 many were expecting an increase in crime rates, which, in fact, did not occur. Academia is altogether more cautious regarding this matter, as researchers have not been able to show a definitive pattern linking economic downturns to increased crime rates: in some instances, the former appears to yield an influence on the latter, but, on other occasions, this link cannot be established (Baumer, Rosenfeld & Wolff, 2013).

While some scholars focused on the impact of economic performance on crime rates, others examined how crime impacts upon overall economic performance. This notion that the relationship between crime and economic variables may operate in different directions has been taken up by researchers such as Detotto and Otranto (2010, 2012). Their research monitors the interaction between business cycles and crime fluctuations. Overall, they have found that an increase in GDP is met with a decrease in the overall crime rate, but that seven crime types are linked to such fluctuations in business cycles. Embezzlement, fraudulent insolvency, and bankruptcy present a leading behaviour: in other words, the data show that an increase in these types of crimes foreshadow – and are probably one of the reasons for – economic crisis (most likely due to the fact that economic crises are usually anticipated by a financial crisis); fraud and false seals (marks or signs of counterfeiting) present a lagging behaviour (with a rise during recessions and a fall during expansions); finally, involuntary manslaughter coincides with business cycles. According to the researchers, this pertains to the fact that good economic performance, allied with the attendant increase in public works and people moving, result in more incidents (Detotto and Otranto, 2012).

However, the impact of crime on GDP appears to have a more significant impact during recessions, rather than expansion periods. This may also be due, in part, to the fact that changes in crime rates can be perceived more clearly when the economy is slowing (Detotto and Otranto, 2010).

A major issue in understanding the relationship between crime and economy is the fact that organised crime is usually associated with what are called 'mythical numbers' (or 'guesstimates', see Andreas, 2010), which overstate the size of the phenomenon, as a result of the lack of empirical support. Of course, overstating the size of illicit business proves useful for politicians and policy makers, while criticisms of these figures are framed as attempting to minimise the issue (Calderoni, 2014). Despite these numbers being highly problematic, the fact that they serve multiple interests means that they often go unchallenged. For instance, in the 1980s and early 1990s, the estimated annual turnover in the global illegal drug market was estimated at $500 billion: when the UN official who reported it was asked the origins of that number, he readily admitted that they simply cited a number that was high enough to attract public attention, which it did (Andreas, 2010; Naylor, 2002). Given that research is based on fictitious numbers, it is thus difficult to provide an accurate estimate of the relationship between the economy and crime. In particular, the United Nations Interregional Crime and Justice Research Institute (UNICRI) Report on Organized Crime and Legal Economy (2016) states that '[i]t is very difficult to provide monetary estimates concerning the value and size of organized crime infiltration into the legal economy as well as on the quantification of its impact' (ibid.:12). Nevertheless, the report also highlights that regions with deep organised crime infiltration present lower levels of economic development (ibid.).

This is confirmed by the Italian case, insofar as research has shown that those regions in which the presence of organised crime is pervasive experience a 16% drop in GDP per capita, while the murder rate increases from 0 to 3 additional homicides per 100,000 inhabitants (Pinotti, 2015). Recent research by the Bank of Italy on the effects of the financial and economic crisis of 2007-2008 on Italian markets, showed that economic-related crimes, such as thefts and extortions, generally increase during a period of recession as, so it is argued, they represent an easily accessible alternative source of income when the economic situation worsens (De Blasio and Menon, 2013). In this respect, the annual reports of the Italian DNA (Direzione Investigativa Antimafia – Anti-mafia investigative directorate) document an increase in demand for services

typically offered by organised crime: unable to access cash from legal channels, private citizens resort to mafia groups in moments of crisis. Indeed, economic downturns have been connected to an increase in loan sharking, rather than blackmail (DIA, 2016). In this regard, studies examining the effects of the 2008 financial crisis on gambling in Iceland, show that there is a positive correlation between a national economic recession and increased gambling, since the opportunity to win a large jackpot with an initially low sum of money is more appealing during such periods (Olason, Hayer, Meyer and Brosowski, 2015; 2017).

In a country with a strong criminal organisation, it is possible that this dynamic works both ways: on the one hand, an economic downturn may influence the activities and revenues of a criminal group, while, on the other hand, the economy may be influenced by the behaviour of such a criminal organisation. The most evident example of this is the effect of the drug markets on Colombian society, as well as its political and economic spheres: the illegal industry has induced a profound change in institutions, values, the economic performance of the country, and its policies (Thoumi, 2002).

More generally, the effects of the global economic crisis in the European Union, that are of especial relevance for organised criminal groups, is rising unemployment, reductions in legitimate investment, and further reductions in the resources available to public authorities. This stems from the fact that, as a consequence of the global crisis, both individuals and organisations, in the private and public sectors, have been made more susceptible to infiltration by organised crime. In particular, the 2011 Organised Crime Threat Assessment demonstrated that counterfeit goods and labour exploitation become more socially accessible in periods of economic downturn, which, in turn, may lead to unfair competition, higher levels of organised crime infiltration, and, ultimately, illicit activity (Europol 2011). Indeed, the grey area is appearing to become increasingly structured: as organised crime permeates legal markets, they are assisted by lawyers and a host of other enablers, who are able to conceal the illicit proceeds of crime. The use of these external actors, who belong to both the political and economic spheres, in conjunction with corrupt practices, constitute fundamental steps in the criminal penetration of legal sectors (UNICRI, 2016).

Criminal groups have proved able to adapt to shifts and changes in capitalist economies. In the next section, I examine how the particular form of capitalism that is now so entrenched in Western states, neoliberalism, supports the resilience of organised crime.

Do mafia-type associations benefit from neoliberal systems?

Neoliberalism can be defined as a 'theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade' (Harvey, 2007:2). In this context, the role of the state is limited to merely providing the conditions for these practices, namely: the organisation of the police, military, and legal infrastructure, as well as the establishment of markets in sectors that traditionally lay outside of the marketplace (such as education, health care, water, land, and pollution). Since the 1970s, neoliberal practices – namely, deregulation, privatisation, welfare retrenchment – beginning with Thatcher's UK, Reagan's US and Deng Xiaoping's China, eventually spread to almost all states (ibid.).

Criminological scholarship has argued that the neoliberal system and globalisation[15] offer new opportunities for misconduct, which are readily taken up by criminal organisations. They do so insofar as they create criminogenic asymmetries that offer illegal opportunities, create reasons to take up such opportunities, and establish loopholes that allow criminals (both white-collar criminals and mafia-type associations) to take advantage of them (Passas, 1999; Reiner 2007a; 2007b). The socio-political consequences of neoliberalism (i.e. inequality, competitiveness) produce many adverse social consequences that are directly associated with crime (Wilkinson, 2005). Societies with higher levels of market penetration have higher rates of violent and predatory crimes. Messner and Rosenfield (2000) argue that economic dominance leads to higher rates of crime through both structural and cultural mechanisms. The former involves non-economic institutions becoming subservient to the economy and losing their capacity to exert external control and regulate behaviour, while the latter pertains to the dismissal of considerations of collective order and mutual obligations, as well as the deterioration of political and social values.

A further crime type that has been connected to the advent of neoliberalism is corruption. As argued by Holmes (2006), the transition from communist to neoliberal economies has contributed to an apparent increase in corruption, especially in situations

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[15] As per Keohane and Nye's definition (2000:104), I use this term in the sense of a 'state of the world involving networks of interdependence at multicontinental distances. The linkages occur through flows and influences of capital and goods, information and ideas, and people and forces, as well as environmentally and biologically relevant substances'.

where state institutions are fragile. An increase in corruption is bound to occur in such societies 'unless the economic liberalization is tied to a real democratization of politics, including a dramatic increase in transparency and the rule of law' (ibid.:200). This is due to the fact that privatisation processes involve increased contact between businessmen and politicians, which, in turn, increases the likelihood of corruption if the democratisation process is not strong enough to discourage selfishness and disloyalty amongst state employees. This is evident in post-communist states, which in many cases are still plagued by either the lack or ambiguity of institutions and regulations, insecurity in the public sector, and the poor development and enforcement of new policies, which are all conducive to corruption. In theory, if properly implemented, neoliberalism should actually undermine corruption; and, indeed, those countries that pushed ahead with reforms (i.e. Slovenia, Poland and Estonia) have experienced lower levels of corruption compared to countries like Russia and Ukraine, who halted their reforms shortly after they began. However, even these better performing countries are still perceived as among some of the more corrupt in the world (ibid.).

In Russia, where privatisation was highly reminiscent of the communist era, the shift from communism to capitalism was eased by the popularisation of the Western lifestyle and consumer goods. However, the rapid introduction of consumerist ideologies in the Russian context that was characterised by low levels of productivity, high unemployment, high rates of poverty and inequality, and corrupt institutions, produced disastrous consequences. The significant expectations placed on modernisation painfully clashed with the reality of deprivation that soon translated into increased crime rates. These new illegal opportunities were taken up by the traditional *vory v zakone* groups, newly formed criminal networks, as well as *nomenklatura* and businessmen (Passas, 2000). Certainly, crime and the shadow economy – that is rooted in corruption – existed prior to this, but the opening up of the markets and increased international connections created new opportunities for contraband and economic crimes (Joutsen, 2001).

A clear example of the increased opportunities for collusion that neoliberalism provides is the Sewol tragedy of 16th April 2014, in which the capsizing of a ferry in the territorial waters of South Korea caused the drowning of 304 people. Rather than being an accident, the tragedy was in fact caused by the diminished role of the state in implementing and monitoring safety regulations, and the delegation of rescue operations to a private salvage firm. In this instance, deregulation and privatisation offered

shippers, the shipping industry organisation, and the *haefia* (sea mafia) an opportunity to generate profit that resulted in the unnecessary death of hundreds of people (Suh, 2014).

However, traditional forms of mafia-type associations have existed long before the emergence of so-called market economies and neoliberalism: as was made clear in the historical overview, the yakuza originated from gambler and peddler groups that dated back to as early as the Tokugawa era (1603-1867), long before the Meiji restoration that reconfigured the Japanese state and economy at the end of the 19th century. Similarly, the origins of the Sicilian mafia and the Neapolitan Camorra pre-exist the Italian unification of 1861 (Di Fiore, 2016; Lupo, 2004). Hence, these forms of crime were not shaped by the rules of the free market, but rather adapted to the new economic systems and governments (Paoli, 2002). With the advent of neoliberalism, I contend, they were able to exploit inherent features of this politico-economic system for their own ends, and received a boost that allowed these groups to proliferate even further.

The stress placed on financial achievement that lies at the core of neoliberalism is deemed to also impact upon the acceptability of engaging in criminal behaviour as a means through which to accrue monetary success. The ideology of prosperity for all members of society has proliferated all over the globe through neoliberalism and globalisation, which increasingly creates means-ends discrepancies, while, simultaneously, weakening normative standards and regulatory controls. Since the chances of attaining these socially constructed material goals through proper methods are relatively scarce, adopting a criminal or unethical approach to achieve these ends appears to be more realistic (Passas, 2000). This can clearly be espied in the case of Japan, where during the period of economic boom prior to the bubble bursting (1986-1991) – when the focus on enrichment and luxurious lifestyles was at its strongest – the number of yakuza groups increased rapidly. Specifically, the number of groups affiliated to the three top groups, the Yamaguchi-gumi, Inagawa-kai and Sumiyoshi-kai, all underwent rapid growth throughout the 1980s: while in 1979 these three major syndicates comprised 754 groups, in 1988 they reached a peak of 1397 (NPA, 1989, par. 1.1.2.1). It follows, then, that offenders' motivations also play an important role in searching for new opportunities, which explains the yakuza's determination to engage in illegal activities when revenues from their legal income streams were cut by a prolonged slump and harsher laws attacked their illicit businesses.

According to Armao (2015), mafia groups have benefited from the global expansion of neoliberalism and its concomitant processes of deindustrialisation, deregulation of financial markets, and welfare state retrenchment. He argues that even more than the state, these criminal groups are capable of partnering with capitalism, insofar as they are able to function efficiently at both the local and global level. In this sense, mafia-type associations have been able to take part in, as well as seize control of, new political-economic configurations: in countries like Italy, where *mafiosi*, politicians, and entrepreneurs maintain a cooperative attitude, the model is consociational, whereas other countries, such as Mexico, are characterised by highly competitive behaviour between parties, which, in turn, results in increased levels of violence (Armao, 2015). The consociational pattern that underpins the relationship between the Italian mafia and the state was strengthened by the degree of legitimisation accorded to the mafia by the state: if, on the one hand, the state needed the mafia to maintain control in certain areas of Southern Italy, on the other hand, the Mafioso needed to stabilise its businesses through state recognition (Arlacchi, 2007).

Mexico serves as a tragic example of the increased levels of violence that are caused by neoliberal policies and competitive behaviour on the part of organised crime: the structured form of organised crime present in the country has been able to engage with political elites, and infiltrate legal economies and civil society. The neoliberal policies implemented in the country since the mid-1980s, in conjunction with the economic downturn, led to an increase in violent crimes that the democratisation process was powerless to stop (Armao, 2015, Pansters, 2012). The example of piracy also demonstrates the way in which Mexico's neoliberal policies have impacted upon the illegal economy. The implementation of international standards on copyright protection was followed by criminalisation of popular informal sectors, such as street vending and popular markets, that had hitherto been tolerated. Indeed, while neoliberal discourses have advocated for diminished state intervention in financial, trade, and labour matters, neoliberalism has at the same time driven states to increase their policy and regulatory apparatus to protect international corporate interests. In this sense, 'neoliberalism does not dismantle, but redirects state power' (Aguiar, 2012:164).

Other crimes such as fraud and corruption are not only enabled by neoliberalism, but rather are encouraged by the moral culture it advances (Whyte and Wiegratz, 2016). Nevertheless, the study of the socio-cultural underpinnings of economic fraud has hitherto been neglected, which is particularly troubling when one considers the

significance of the phenomenon. Debates over this topic have tended to drive home the assumption that neoliberal dynamics will eventually make the market more competitive and, thus, efficient, which, in turn, will eliminate these types of crime. However, it appears abundantly clear that the liberalisation of the global markets is spawning manifold new opportunities for illegality, as demonstrated by the case of Argentina, who have experienced twenty-five years of neoliberal policies. For example, policies that sought to regulate the garments sector ended up fostering informality and illegality in the form of sweatshops, counterfeiting, garment racketeering, and unregulated work (Dewey, 2016).

It has already been seen in Chapter 2 that the yakuza rarely engage in violent attacks against non-yakuza, while the close relationship between the yakuza and the power elites described in Chapter 4 suggests that Japan presents all of the characteristics of a consociational mafia-owned democracy. The yakuza have been able to take advantage of the opportunities offered by the liberalisation of the markets, insofar as their semi-legal status and deep level of infiltration within legal sectors has allowed them to behave in similar ways to a licit enterprise. However, during periods of high crime rates and recessions, the yakuza were aided by the fact that they could obviate their losses through deepening their engagement in illegal markets, which, in turn, enabled them to overcome periods of economic crisis.

The contemporary Japanese economy as a neoliberal project: when did it begin?
Before looking at how the yakuza have adapted to the domestic Japanese economy, let us first consider how the Japanese economy evolved, by examining what elements may have favoured the longevity of the yakuza. Notably, I seek to show that the implementation of a neoliberal system (whose starting point I situate in the 1970s) presented specific features that inherently favoured the growth of Japanese criminal syndicates.

The modernisation of the Japanese state began in the Meiji period (1868-1912): incentives were provided to stimulate economic growth, while property rights and labour rights were extended to common citizens (Ramseyer, 1996). The industrial revolution in Japan was rapid, radical, and extremely successful, and from the 1860s to the 1890s the Japanese economy emerged as an 'Asian powerhouse' (Gordon, 2008:93). Indeed, the Japanese growth rate continued to steadily rise until the outbreak of World

War II. This trend then continued in the 1950s, mirroring the growth of all economically advanced countries (Denison and Chung, 1976). During the 'era of high-speed growth' (the 1950s to the 1970s) Japan was able to transform itself from a country hit hard during the war to a place of prosperity. In particular, the period from 1955 to 1973 in Japan saw massive economic growth, with the GNP expanding at an average rate of more than 10% annually. The source of this economic miracle were the heavy industries that fuelled the economic surge of the militarised economy in the 1930s: iron, steel, shipbuilding (three industries traditionally colonised by the yakuza), automobiles, and electronics all demonstrated their ability to prosper in both wartime and peacetime. Furthermore, external factors, such as the overall positive conjuncture of the world economy in the 1950s and 1960s, in which the global economy grew annually at a rate of 5%, also played a significant role in Japan's recovery (Gordon, 2008). At that historical juncture, Japan, like other advanced capitalist states, accepted that the main priorities were full employment, economic growth, and citizens' welfare. To achieve these goals, the state was supposed to support, intervene in, or even substitute for, market processes. At this point, the market was still held back by socio-political constraints associated with a form of political-economic organisation referred to as 'embedded liberalism', which the ensuing phase of neoliberalism sought to free capital from (Harvey, 2007).

As Hashimoto (2014) points out, debates over the starting point of neoliberalism in Japan can be distilled into two positions: those who argue that it began in the 1970s, and those who believe it started in the 1990s. The latter view is represented by scholars such as Mukawa (2009), who argues that deregulation in the medical care system in the 1990s marked the beginning of neoliberalism in Japan, but fully-fledged neoliberal status was only subsequently achieved in the 2000s, when the government expanded deregulation and privatisation to the realm of social policies. Watanabe (2007, in Hashimoto, 2014) agrees with this view, and sees Koizumi's administration as the material implementer of neoliberal policies. Hyodo (2010, in Hashimoto, 2014) disagrees with these positions on the grounds that the starting point of neoliberalism in Japan can be traced back to the 1970s, when radical reforms in the public health care system were introduced in 1977. In order to evaluate these contrasting positions, I consider Wacquant's delineation of the defining features of neoliberalism: economic deregulation; welfare state devolution, retraction, and recomposition; cultural trope of

individual responsibility; and an expansive, intrusive, and proactive penal apparatus (Wacquant, 2009).

In 1971, President Nixon closed the 'gold window' by ending the ability of foreign banks to change their dollar holdings into gold, while dramatically increasing surcharges on imported goods (surcharges that were lifted four months later), and adopting wage and price controls to reduce inflation. These actions spurred a revaluation of currencies and became known as the 'Nixon shock' (Irwin, 2013). The dollar devaluation impacted negatively on oil exporting countries, causing an oil embargo known as the 'oil shock', which began in October 1973. Japan, though unable to receive a guarantee for a steady supply of oil, had no intention of slowing down its industrial production and instead took immediate measures to ration oil. More specifically, it implemented the tool of administrative guidance that gave the Ministry of International Trade and Industry (MITI) unprecedented powers to regulate the industry and protect domestic markets. At this point, nuclear energy emerged as a national priority, and subsequently became one of the forms of currency exchange between politicians and large industries: in order to convince prefectural governments to offer sites upon which to build power plants, the state offered subsidiaries to build schools and other welfare structures (Carpenter, 2015).

Indeed, the oil shock also led the government to cut funding of welfare services (ironically in the year that was supposed to be the 'first year of welfare') and transfer the burden onto family, communities, and companies (Goodman, 2001). The slogan of 'Welfare first, growth second', was quickly replaced by *nihongata fukushi shakai* (Japanese-style welfare state), a model characterised by devolution and the reorganisation of welfare (Lee, 1987). This process was justified ideologically via the deployment of nostalgic myths that depicted Japan as a harmonious society built on Confucian values of filial piety, loyalty, and respect, whereby people helped each other and cared for the sick, the weak and the elderly, which completely ignored the fact that this way of thinking may have been common amongst the upper-class of samurai, but such concepts were almost completely foreign to common people (Goodman, 2016). Therefore, in a similar vein to what was happening in Western states, and against a backdrop of growing international competition and demographic expansion, the pressure on welfare services ultimately drove the state towards profound change. It is within this specific context that neoliberalism emerged as the predominant force (Holmes, 2006).

The 1970s and 1980s witnessed the pinnacle of what eventually came to be known as 'Japan Inc.'. 'Japan inc.' is a term that was first introduced in the 1980s to describe the system that had come to be in Japan, whereby the interests of the business sector, politics, and the bureaucracy jointly pursued national economic goals (Amyx and Drysdale, 2003). This synergistic relationship between business, bureaucracy, and politicians was widely considered to be the secret to Japan's economic success. The collusion between these sectors was (and is) fully manifested in the 'back-scratching mechanism' known as *amakudari* (also discussed in Chapter 4) (Carpenter, 2015). Both the use of administrative guidance and the structural collusion between bureaucrats and large industries eliminated the need for invasive regulations promulgated by the government and imposed on the industries. Moreover, it can be argued that the fact that the GATT (General Agreement on Tariffs and Trade) held the Tokyo Round during the period 1973-1979, which sought to implement non-tariff barriers, is also emblematic of the country's efforts to implement neoliberal policies; indeed, non-tariff barrier codes were considered as evidence for the validity of neoliberal ideas[16]. Cnsequently, in these events we can see two signs of neoliberalism as it is conceptualised by Wacquant (2009), namely: economic deregulation, and the first signs of welfare state devolution.

While it is true that, from the 1970s onwards, the Japanese government designed and implemented a number of social security policies, in practice, these were designed to rely heavily on the family, while, simultaneously, operating in the most restrictive way possible. In reality, these policies were systematically suppressed in favour of capital accumulation and economic growth (Osawa, 1994). Once again, the emphasis here on individual responsibility is emblematic of neoliberalism. Finally, regarding Wacquant's point about expansive and intrusive penal apparatus characterising neoliberalism: as I have broadly laid out elsewhere (Baradel, 2019), the Japanese criminal justice system can be understood as following a 'shaming paternalism' model, in which criminals are poorly reintegrated into society, and the state increasingly deploys a range of surveillance methods over the population. The reconfiguration of power relations in post-war Japan also fits with Harvey's (2007) argument that neoliberalisation has been an effective way through which to restore class power. As Siniawer (2008) demonstrates, the post-war power dynamics in Japan did not undergo major changes: conservatives elites were soon 'resurrected from the ashes of defeat'

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[16] For an extensive discussion on this debate, see Grieco, 1990.

(ibid.:140) and, with the advent of neoliberal economic policies, violence as a tool of political influence was substituted for money (see also Carpenter, 2015; Dower, 1999).

After the introduction of neoliberal policies and the subsequent growth in GDP, corporate earnings, and an increase in the value of dividends, the majority of investors started to believe that the Japanese economy had finally picked up and that a truly 'New Economy', rather than a mere temporary deviation, had emerged. It is precisely at this point that we can situate both the emergence of, and the beginning of the inflation, of the 'bubble economy' (Barsky, 2011). The 'bubble economy' is the term used to refer to the second half of the 1980s in Japan, which was characterised by a rapid increase in the asset prices of stock, land, fine art, and other commodities (Cargill et al., 1996). According to Miyazaki Manabu, a yakuza expert (private correspondence, 19 February 2016), the Japanese economy in the 1980s overheated and the banks were lending money to everyone, with the last person on the chain invariably being a yakuza member. This allowed many groups to accumulate huge reserves of money. Indeed, a yakuza *kumichō* confirmed that the yakuza viewed this period as an extraordinary opportunity to expand their assets, but also admitted that the excess of greed in this period ruined the reputation of the yakuza amongst the population (interview *kumichō*, 27 January 2018). Indeed, the yakuza's involvement in what came to be defined as *minji kankyū bōryoku,* abbreviated as *minbō* (violent interventions in civil affairs, that included: activities targeting annual shareholder meetings of companies, bankruptcy management, real-estate and rent-related problems, and so forth) meant that they increasingly penetrated legitimated society and businesses, thus disrupting the normal functioning of companies and the peaceful resolution of civil affairs (Hill, 2003). However, in contradistinction to other traditional yakuza activities, *minbō* are not victimless crimes, and this caused resentment amongst the population. For their part, the yakuza were only doing what power elites were doing: accumulating capital and consolidating their power.

During the bubble, the total valuation of stocks on the first tier of the Tokyo Stock Exchange almost tripled. The bubble kept inflating until 1989, when the Bank of Japan raised the official discount rate from 2.5 to 3.5%, an event that caused the bursting of the bubble and led to the Japanese economy entering into a 'lost decade' of plunges in stock and real estate values, a financial crisis, and a prolonged period of economic stagnation (Vogel, 2006). During the 1990s, the average annual growth rate was a mere 0.5% (Hayashi and Prescott, 2002). In the early 1990s, the government

adopted many fiscal stimulus packages, but these failed to have any considerable impact. Furthermore, financial authorities failed to monitor the banks both during and after the bubble: this lack of regulation massively contributed to the creation of non-performing loans in the first place, and allowed banks to keep them instead of pressuring them to write them off or sell bad loans (Vogel, 2006).

The 2000s proved to be just as difficult as the 1990s for Japan: the collapse of Lehman brothers and the attendant global economic crisis in 2008, combined with the disastrous earthquake and tsunami in 2011, took their toll on the seemingly recovering Japanese economy. The deflation and global crisis of the 2000s that proceeded the lost decade of the 1990s meant that in nominal terms the Japanese economy has been going nowhere for 25 years (Lipscy and Takinami, 2013). Prime Minister Koizumi (who was in charge between 2001-2006) tried to overcome the period of recession through neoliberal reforms predicated on drastic deregulation policies and privatisation (Teranishi, 2017). In order to confront this complicated situation and force Japan out of its economic stagnation, Japan's Prime Minister Abe Shinzō introduced a series of economic measures called 'Abenomics'. These policies were based on 'three arrows': bold monetary policy (i.e. aggressive monetary easing by the Bank of Japan); flexible fiscal policy (i.e. fiscal consolidation structural reforms to boost Japan's competitiveness and economic growth); and growth strategy through the elimination of internal institutional constraints (Yoshino and Taghizadeh-Hesary, 2014; Aramaki, 2018). Upon his re-election in 2015, Abe announced 'new arrows' to tackle both the declining birth rate and women's lack of presence in the workforce (Okina, 24/09/2018). It is still too early to judge whether Abe can achieve all of Abenomics' goals: while the IMF has expressed satisfaction in regards to these policies (Harding, 19/06/2017), the goal of 2% inflation is out of reach, prices and business investments remain stagnant (Glosserman, 08/04/2019), and serious challenges, such as the continued slow-down of regional economies, and social inequality, have not yet been addressed (Takenaka, 15/12/2017; *Kyodo News*, 08/04/2019).

Abe's government demonstrates how neoliberal thought is still very much present in modern Japanese politics, not only in terms of the administration of the economy, but also the extent to which it has permeated the values and moral culture of the country. The ultranationalist stance adopted by the government can be understood as a reaction to the dissolution of social bonds caused by the impact of neoliberal policies in recent decades: indeed, authoritarianism and coercive state power are often combined

with neoliberalism in the marketplace, where they are justified on the grounds of a moral solidarity based in nationalist ideas and traditional values (Harvey, 2007). The neoliberal project in Japan has thus consolidated itself and has been a constant feature of the contemporary politico-economic landscape in the country. Let us now proceed to examine how the neoliberal project in Japan has enhanced the resilience of the yakuza.

Yakuza's *shinogi:* generating revenue through economic ups and downs

The yakuza have traditionally been involved in legal, illegal, and semi-legal markets. Their ability to differentiate their incomes, I argue, has been a prominent factor in their longevity. The legal markets that the yakuza traditionally infiltrate are public works, construction, temporary staff recruitment, industrial waste business, entertainment, sports entertainment, clubs, bars, and the food business (Yamanouchi, 2016). The long economic recession that began in 1991, allied with the increasingly restrictive regulations that hindered the yakuza's activities (*Bōtaihō*, 1992; Organized Crime Punishment Law (2000), Transfer of Criminal Proceeds Prevention Law (2007), *Bōryokudan haijojōrei*, 2011; see also Chapter 5) unquestionably had a severe impact on the yakuza's revenues. In this regard, what emerged from police reports is the increased diversification in their activities: along with the traditional illegal businesses in which they are involved (prostitution, drugs, gambling, loan sharking, debt collection, and so forth), they also accrued revenues from legitimate society. By hiding their criminal background and working with collaborators, they have been able to engage in licit businesses, such as construction, finance, industrial waste disposal, and bond transactions (NPA, 2015a).

The yakuza follows a common pattern of mafia-type associations of being involved with legal activities (Milhaupt and West, 2000), but takes it to new heights: Suzuki, a yakuza journalist, estimated that two-thirds of the yakuza's businesses are legal. According to him, the yakuza decided to get involved in legal markets during the bubble economy of the 1980s, because they realised that they would not have been able to survive for long by engaging solely in illegal activities (interview Sukuzi, Tokyo, April 2018). In this chapter, I take into consideration the following areas of illegal and semi-legal activities: fraud, drugs, gambling, and night-time entertainment. Then, I proceed to consider the legal markets that the yakuza infiltrates, such as the financial sector, construction sector, and disaster relief work.

Types of yakuza market activities

The four traditional activities in which the yakuza engage are drugs, threats/blackmail, gambling, and illegal bookmaking. To avoid prosecution, yakuza bosses implemented a system of payments that consists in subordinates paying a specific monthly amount to their immediate bosses (who, in turn, pay their own superiors), which is known as *jōnokin*. In this way, higher ranking members are not directly involved in the planning and execution of crimes (Hill, 2003). Nevertheless, the activities in which yakuza can engage are limited, and, indeed, members can incur sanctions if they transgress their remit. For example, if a member engages in an activity that is not approved by the group, he can be expelled either indefinitely (*zetsuen*) or temporarily (*hōmon*). In both cases, the group sends out postcards to other members and groups, asking them not to associate with or talk business with the expelled/suspended person. While in the past drug trafficking immediately led to a suspension, the increased difficulties in accumulating enough money for the *jōnokin* and one's own livelihood convinced many yakuza bosses to ignore these types of transgressions (Mizoguchi, 2011). Indeed, as is shown below, the economic downturn had a severe impact on the yakuza's market activities, and led to their increased involvement in both sophisticated and predatory crimes. Finally, it is important to note that in the White Paper of the Police and in the White Paper on Crime, the police accurately record yakuza crimes (i.e. crimes committed by yakuza members), therefore allowing for a precise estimate on the yakuza's activities.

Sagi: **fraud**

As explained above, economic downturns are assumed to cause an increase in economic crimes, such as fraud. The White Papers of the police report that the general number of these scams, as well as the amounts of money involved, have indeed increased (NPA, 2016). There are reports of many different types of fraud involving bank accounts, mobile phones, credit cards, car loans, and the welfare system (*Yakuzanews*, 2019). Recently, the police have become ever more concerned with fraud, especially those that victimise senior citizens. The most notorious of these is the *ore ore* fraud, in which the fraudster phones an old man or woman and starts the conversation with the colloquial 'It's me!' ('*Ore!*'), which makes the victim think that their son is on the phone, before

they subsequently request an emergency transfer of money. Many yakuza members lament that because of the harshening of laws, they have to find alternative ways of earning money: for instance, a member of a group under the Yamaguchi-gumi umbrella explained how he has to make his livelihood through *Mercari-sagi* ('Mercari' is a selling platform similar to ebay) by selling empty iPhone boxes. Despite joining the yakuza because of the prospect of earning good money, he now reported only earning upwards of ¥200,000 a month (roughly £1200), which evidently does not allow for a very glamorous lifestyle (*Nikkan SPA*, 23/05/2017). Furthermore, the introduction of the new anti-yakuza laws, which attempt to stop citizens from paying off protection money or conducting business with yakuza-related activities, also served to reduce the income of many yakuza members, who were left with little choice but to turn to fraud. Originally, fraud, stealing, and robberies were banned under the yakuza code of honour, but now they are engaging in them to compensate for lost protection money (Sankei, 2016). Other semi-legal activities could be those referred to as 'doubtful transactions' in the 2014 White Paper (financial leases, credit cards, jewellery/precious metals, telephone reception agencies/telephone forwarding services).

The upsurge in this kind of crime may also be related to fluctuations in the economy. As aforementioned, the White Papers do not collect the same data every year, and in this specific case the data on fraud only began to be included on police documents from 2006 onwards. Data relating to fraud revenues do not make a distinction between fraud carried out by the yakuza and those conducted by common criminals, but there are data on the percentage of fraud cases carried out by the yakuza, which indicate that they commit between 15-20% of all fraud cases. I analysed the potential correlation between the Japanese GDP and fraud revenues from 2006-2015 using Pearson's r. The two variables were correlated at $r(8)=.942$, $p < 0.01$, $r2 = .89$, which suggests that there is a strong relationship between fluctuations in GDP and the volume of money accrued via fraud, which, in turn, goes against the expectation that economic downturns correspond to increased fraud.

Kakuseizai: drugs

During economic downturns, drug consumption is expected to rise. Officially, the yakuza, and particularly the Yamaguchi-gumi, have always taken a stance against drugs. Taoka Kazuo, the third boss of the Yamaguchi-gumi, was one of the founders of

the *mayaku tsuihō kokudo jōka dōmei* (Alliance for the banishment of drugs and clean-up of the country), a group founded in April 1963 as part of a pacification agreement between conflicting yakuza groups. Today, the alliance has a website where they present themselves as follows:

> 'We, the alliance for the banishment of drugs and clean-up of the country, under the Japanese law, swear to clean the country of drugs, protect the youths from the dangerous parts of society, show the way to a wonderful and organised Japan, and be the pioneers of pursuing the fundamental human rights granted in our treasured Constitution and national interest, as well as the prosperity of the population. In order to pass on the great enterprises of boss Taoka, and the strong belief that drugs should be exterminated from Japan, we are setting up a new homepage. We humbly request that citizens understand and cooperate with our activities' (Mayaku tsuihō kokudo jōka dōmei, 2013)

The current boss of the Rodu-daime Yamaguchi-gumi, Tsukasa Shinobu, shares this position. Although there are valid reasons as to why the yakuza would not want to be associated with drugs (drug-related crimes are punished more severely than other serious crimes, such as prostitution, and the organisations that conduct these types of business are invariably despised and repudiated by society), the police have continuously highlighted the yakuza's participation in drug trafficking (Hill, 2003).

In the post-war context, the first epidemic of drug abuse – which in this particular case was stimulant drugs[17] – began at the end of the war and ended in 1956 with the enactment of the Stimulant Control Law; the second epidemic (1957-1969) saw many stimulant drug users turning to narcotics or other depressants, and, indeed, there were outbreaks of abuse of these two categories of drugs registered in different areas; the third period that started in 1970 was marked by a rapid increase in arrests for stimulant drug abuse (Tamura, 1992). Given that the East-Asian methamphetamine trade is one of the biggest and most profitable in the world (Kaplan and Dubro, 2003), it comes as no surprise that the yakuza wanted to have their share. In the 1990s, the yakuza became the main player in the production, importation, and distribution of methamphetamines for a number of reasons: their co-ordinated structure, the high-profitability of this market, the opportunity this market provided to absorb other (rival)

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[17] In Japan, amphetamines or methamphetamines are referred to as *shabu.*

criminal groups, and the fact that many yakuza members were users themselves (Tamura, 1992).

The end of the 1980s and the early 1990s saw an increase in the yakuza's connections with other countries in Asia. The 1991 White Paper of the Police featured for the first time a whole section on the drug problem in Japan: the report made clear that the problem of drugs, and especially methamphetamines, had been spreading across Japan. While the yakuza were reported as being consistently involved in the phenomenon, the police were also worried about the possible entry of the Colombian cartels into Japan[18]. According to this White Paper, there was no organisation involved in all phases from production, to middle-men, and finally to retail: rather, a group buys tens or hundreds of kilos from abroad – mainly from South East Asia, but also from Korea and China – and then sells it to the middle-men, who then move the load to different parts of Japan and sell it to the retailers. The local retailers are therefore usually yakuza groups with many members, who are able to make a much higher profit than in other countries[19] (NPA, 1991).

The 2016 White Paper of the Police states that more than half of all drug offences are committed by members of the yakuza: *shabu* is still the most used drug in Japan, representing 81.9% of the total. Other drugs present in Japan are cannabis, and, albeit in significantly lower numbers, MDMA, cocaine, and heroin. Moreover, recent years have seen the emergence of synthetic drugs (so-called *kiken doraggu*, or danger drugs) into the Japanese drug market: these drugs chemically replicate the structure of restricted drugs or designated medical drugs. Given that these drugs are situated in a grey area, in previous years it was possible for many '*kiken drug*' stores to open, but since 2016 the police and connected agencies have strengthened their efforts and have closed them all down (NPA, 2015a). This, once again, confirms the hypothesis that the yakuza's engagement in semi-legal markets is being repressed by the expansion of regulations and policing against these grey areas, which, in tun, have pushed the yakuza towards illegal markets – in this case, drug smuggling.

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[18] 25 years later, we can say that, despite more and more foreigners becoming involved in drug trafficking in Japan, the dreaded move of foreign criminal groups entering Japan never transpired, or at least not on the scale that the NPA anticipated.

[19] At the beginning of this chain, the price/gram is ¥1000 (£7), which increases to ¥4500 (£30) or more, before the retailers finally sell it for ¥50.000 to ¥150.000 (£350 - £1000). Starting out from the same price at the beginning, the same drug in the US would have went to the middle-men for a price of around ¥1800 to ¥5400 (£12 to £38), before being sold to individual buyers for ¥6800 to ¥16900 (£50 - £120) (NPA; 1991).

The total number of arrests for crimes related to stimulant drugs has remained consistent in recent years (10-11,000). Half of these arrests involved yakuza members, who were typically in their 30s, and for whom this was a second offence (NPA, 2015a). The Japanese police data on the amount of confiscated drugs since 2000 shows a decreased pattern for all types of drugs, with cannabis having undergone the most dramatic and steady decrease. Despite an overall reduction, other drugs have shown sudden peaks and drops: notably, in some years the amount of confiscated cocaine and LSD can be 10 or even 30 times higher than that of the year before, before dropping down to minimal levels the following year (NPA, 2005; 2010; 2015). However, it is important to note that these data only indicate the amounts of drugs that the police confiscated in a given year, and, as such, do not constitute the total amount of drugs used in Japan, which represents a key limitation of this data. However, these tendencies differ from the common assumption in mainstream criminology, according to which economic downturns are associated with an increase in the services provided by organised crime.

Tobaku: gambling

As demonstrated at the beginning of this chapter, economic recessions are supposed to cause an increase in the criminal activities offered by criminal organisations, particularly with respect to gambling. This is particularly relevant to the Japanese context, as one of the two main groups out of which the prototypical yakuza formed were gamblers, and, indeed, they remained an integral part of the yakuza up until modern times. The yakuza are involved in a variety of gambling activities: cards, dice, and roulette games (*bakuchi*), illegal book-making (*nomikōi*), and *pachinko* (a kind of magnetic slot machine) (Hill, 2003). Recently, *yamikajino* (dark casinos), which are also known as *urakajino* (underground casinos) or *inkaji,* have gained in popularity. Located either in a room in a mansion building or in a multi-tenant building, these casinos have no outward signs and, indeed, customers can only access them if they are approached and escorted by a *kyacchi* (a boy working on the street who lures customers in). These illegal casinos can be found in big cities, and their nascent popularity is attested to by the fact that gambling cases involving celebrities are often featured in the news. In 2016, the badminton player Nishimoto Kenta saw his convocation in the national team revoked, because news broke that he had frequented an illegal casino on

two separate occasions (*The Huffington Post Japan*, 19/04/2016), while, in 2017, the actors Endō Kaname and Shimizu Ryōtarō were both placed under house arrest for committing the same crime (*Sankei News*, 09/02/2017). According to article 185 of the penal code, gamblers can either receive a fine of up to ¥500,000 (simple gambling crime; *Keihō,* 185*jō*) or imprisonment with labour for up to three years (repeated gambling crime; *Keihō* 185*jō* par. 1), whereas the sentence for the operator of the gambling parlour consists of imprisonment with labour, with a minimum sentence of between 3 months to 5 years (*Keihō* 185*jō* par. 2).

In the 1980s, the heyday of yakuza activity, yakuza members were arrested for gambling in their thousands: 5,485 in 1980, 7,495 in 1982, and 4,285 in 1984 (Hōmusho, 1985, par. 1.2.2). In 2018, only 289 yakuza members were arrested for gambling, constituting only 2.8% of all yakuza member arrests for that year (Hōmusho, 2018, par. 4.3.2.1). Despite the enormous difference in the numbers of their members arrested, the yakuza constantly represent 45-50% of the total arrests for gambling, which demonstrates how this area is still predominantly controlled by the yakuza.

The Japanese government legalised casinos in December 2016, despite opposition from the Komeito (which is still the minority party) and many citizens groups (*The Economist*, 02/02/2017). This decision, collaterally, would be highly profitable for the yakuza, insofar as it would give a strong boost to their loan sharking business. Indeed, legalised casinos means that more people bet, and, consequently, more people lose: at which point the yakuza could then intervene and profit from the loans. Moreover, casinos can be used for money laundering, not to mention the fact that setting up a casino requires special equipment, such as roulette wheels and slot machines, which can all be provided by companies set up by the yakuza for this very purpose (Ogata, 2016). Indeed, casinos engender a series of related activities that the yakuza have interest in, such as card dealers, services for exchanging cash and lending money to gamblers, and security services. Casinos usually employ junket operators to approach wealthy gamblers and provide them with luxury services, and police sources suspect that the yakuza may be particularly interested in this type of service. Investigators also fear that the yakuza may adopt some of the techniques that they use in their illegal casinos in order to defraud players (*Sankei News*, 9/1/2017).

I analysed the potential correlation between fluctuations in GDP and the total number of gambling cases (45-50% of which are yakuza-related), but the significance $p > .05$ was not suggestive of a correlation between the two measures. Secondly, the

correlation between the GDP and the gambling revenues was analysed. The two variables were correlated at r(8) = -.773, p<.01, r2 = .59 for the period between 2001 to 2015, which shows that there is a significant correlation between GDP and gambling revenues. The correlation between GDP and the number of gambling-related arrests also resulted in a significant relation, as the two variables were correlated at r(8)= -.814, p<.01 and r2 = .66. As we can see, both the relationship between GDP/gambling revenues and GDP/gambling arrests are negative, which means that an increase in GDP results in a decrease in revenues, while a decrease in GDP produces an increase in the number of gambling-related arrests. One explanation for these results may be that people try to make up for money shortages through gambling, which is therefore a requested illegal activity. The yakuza, having historically been involved in this market, have the expertise to continue to flourish in this activity. Recent law enforcement in this sector has pushed the yakuza ever more underground, as the diffusion of *inkaji* demonstrates. Furthermore, these data confirm that in periods of economic recession, people are more attracted to the possibility of winning large sums of money with low initial stakes.

Mizu-shōbai and *fuzoku-eigyō:* night-time entertainment

Kyabakura, snakku, raunji, kurabu, gāzu bā, karaoke bā, naito pabu, are just some of the names used to refer to night-time entertainment venues, which in Japanese are known as *mizu-shōbai* (literally, water trade) or *fuzoku-eigyō* (entertainment business). These venues include a list of activities that range from being simple bars up to and including brothels. These bars feature hostesses at a counter or sitting down at customers' tables serving them drinks all night, while chatting, singing, and sometimes flirting. These customers are usually men, and specifically male co-workers: hostess clubs are often used as a space in which work relationships can become more relaxed, and a sense of community can be fostered across company hierarchies. At the same time, hostess clubs are also a business space, where deals can be cemented, and business partners get to know each other in a more personal way (Allison, 1994). These bars include the most elegant Ginza *kyabakura* to the countryside *sunakku* run by an old mama[20]. In normal *kyabakura*, *osawari* (touching) is not permitted, however there are

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[20] A mama is always a woman and is the manager of the bar. She can either be the owner of the bar or work for someone else.

particular types of *kyabakura* (*pinku-kyaba* or *seku-kyaba*) where it is possible to caress the girls (and possibly proceed to engage in intercourse, although it is illegal). Nevertheless, it is not uncommon that after a few drinks customers try to touch the *kyabajō*: if this happens, the girls usually kindly ask the customer to stop, or report this to staff (Kyabakura manual, 2015).

All these premises are regulated by the 1948 Business Affecting Public Morals Regulation Law (*Fūzoku-eigyō nado no kisei oyogi gyōmu tekiseika nadoni kansuru hōritsu*, 2017), which was created to regulate *kyabakura*, bars, dance halls, as well as more sexually explicit businesses such as soaplands[21] and love hotels. Although some of these bars are owned by the yakuza, they do not necessarily have ties with the local family. From personal experience, in a small-medium size town (30-40,000 inhabitants) with an important company that employs thousands (which means there are men living temporarily in the town with no family around), there are literally dozens of *sunakku*, *kyabakura*, and *firipin kurabu* (a club with Filipina hostesses). The *sunakku* are run independently by mamas and have varying levels of connection to the local yakuza. The *kyabakura* have a closer relationship: the venue may be owned by the local family, who employ associates to run it. For instance, a contact in the Shizuoka prefecture admitted that he managed a *kyabakura* that was owned by the local yakuza group, but was adamant that the management and business were conducted legally. Similarly, the floorwalker*,* who is also a personal acquaintance, was not formally affiliated to the yakuza group, but reported that he had always worked for them.

Although there is no official data on the level of yakuza infiltration within these sectors, as the White Paper of the Police does not provide details on this and the researchers who do have more detailed information cannot let it surface (interview Hirosue, Fukuoka, April 2018), some general data on the entertainment business can be extracted from the White Papers and the statistical book of the Tokyo metropolitan area. Nationally, out of the 400,237 establishments in the entertainment industry, 31,749 have declared ties to the sex industry. While the entertainment sector based around mah-jong and pachinko parlours has been shrinking, the sex-related sector has been growing, with 2500 more establishments opening in the past five years. The growth is happening

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[21] A soapland is an establishment where men pay to be washed. They pay an entry fee to use the bathing facility, and a separate fee to the masseuse who is supposed to wash them. They exploit a legal loophole insofar as soapland operators claim that the customer and the masseuse perform sexual acts as a couple, after having grown fond of each other over the course of the massage (Hongo, 27/05/2008).

specifically in the '*mutenpogata seifuzoku tokushuu eigyou*' (special sex industry business based on non-store operations), which is commonly referred to as '*deriheru*' (in English 'call girls') business and does not require a physical shop (NPA, 2015b). As this type of business is not based around an office, it can thus ignore regulations that prohibit sex-related businesses from being near schools, hospitals, or other buildings used by children and the community. The most recent police estimate from 2018 counts 86,360 entertainment establishments (these include bars, mah-jong and pachinko parlours) in Japan, a number that has been in constant decline from the 94,769 activities estimated in 2014. During this same five-year period, the number of businesses connected with the sex industry has remained stable: around 31-32,000 businesses nationwide that include 'delivery fashion health' (call girls), pornography, adult video stores, bars for encounters, and similar activities (NPA, 2019b). However, Yamanouchi (2016) reports that the yakuza were recently expelled from the prostitution business. In Osaka, a group of brothel owners formed associations aimed at stopping yakuza from entering the prostitution market: if a yakuza member tried to open a 'massage parlour', these associations alert the police so that it will be closed, therefore driving the yakuza's business even more underground.

A dark side of *fuzoku-eigyō* is '*enjō kōsai*'[22], a term that literally means 'mutually beneficial relationship', but which since the 1990s has been used to refer to a form of compensated dating that involves a man and either junior or senior female high school students. Although the State Department (2018) raised concerns that dating services connecting adult men with underage girls are linked to the sexual exploitation of children in prostitution, '*enjō kōsai*' remains very common in Japan. Mr Igarashi, who had once been involved in criminal activities and after 20 years in prison now runs a halfway house for ex-prisoners, reported that the yakuza are often involved in managing girls:

> 'If you go to Akihabara there are many girls who are dressed like high
> school girls or maids: around there they surely have a lookout. If something
> gets weird, they can call him. When it's dangerous the lookouts come out.
> There is a system like this. And they get a share, let's say 40-60%. The girl

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[22] This term includes activities that range from a date in a café, being driven by an adult male fetishist interested in girls' bodies, to the sexual exploitation of children. Given its widespread use in the media, I use it here for convenience, but since in most cases '*enjō kōsai*' is merely a euphemism for prostitution amongst teenage girls and the sexual exploitation of children (see Fifield, 16/05/2017; Ueno, 2003), I place it in quotation marks.

gets 40%, and the lookout 60% and then part of that goes to the yakuza. In this way they can't catch the yakuza, because they don't do it directly, they are not there on the spot. […] If you sell junior high school girls, well you can make ¥100 or 200,000 [£700-1400]. There are men who would spend so much money for a junior high school girl.' (interview Igarashi, Tokyo, 21 December 2017)

He added that such scenarios present a twin-opportunity to accrue profit, insofar as the yakuza are also to blackmail the man who paid for '*enjō kōsai',* by threatening to reveal details of his encounters with underage girls.

Therefore, the grey area in which the night-time entertainment sector operates provides the yakuza with ample opportunities, ranging from legal girls' bars, bars that serve as fronts for brothels, to child prostitution. Furthermore, the specific limits of the acts that constitute prostitution (vaginal penetration) cannot be concretely checked on by the police, which makes controlling it very difficult. The heavy involvement of the yakuza in this sector confirms the hypothesis that the yakuza owes their longevity to their engagement with industries in the grey area, in which the police can arbitrarily decide to intervene. However, given the positive relationship between the yakuza and the police for most of the 20th century, one could argue that the yakuza could act undisturbed.

Ties to the financial establishment

The yakuza's ties to the financial world have been well-known to authorities since the bubble economy burst. In 1991, the Asahi Shinbun discovered that seventeen financial institutions and four other businesses granted loans and loan guarantees to Yamaguchi-gumi properties and businesses. Moreover, the Gifu Shogin case demonstrated how the yakuza had infiltrated multiple banking institutions: Gifu Shogin was a regional credit union that serviced the Korean community, but during the bubble was more and more used as a private bank by the yakuza. The bank provided loans mainly to crime syndicates, and when the bank managers tried to call in the loans, they received threats from the yakuza. This was not an isolated case: bad loans had been given to everyone across the country, and some of these customers were yakuza, who refused to pay it back. Between 1992 and 1995, tensions between the syndicate bosses and bank managers resulted in a wave of crimes that involved the killing of civilians who were

involved in the business dispute with the yakuza, which finally signalled an end to the era of the 'chivalrous gangsters' (Kaplan and Dubro, 2003).

Since the bubble, the activities of banks, companies, and yakuza have also become intertwined through the practices of *minji kainyū bōryoku* (violent interventions in civil affairs), which are commonly referred to as *minbō.* These include: *saiken toritate* (debt-collection), *sōkaiya* and *kaisha goro* (activities related to company shareholders annual meetings), incidents relating to finance and promissory notes, *tōsan seiri* (bankruptcy management), real-estate and rent-related problems, and alternative resolutions of disputes of a different nature (Hill, 2003). The latter of these are of especial relevance to this section, because since the bubble the yakuza have often been involved in dispute resolution and bankruptcy management. Since 1991, the toxic debts of the banks and their insolvency was at the bottom of the rise in 'zombie firms' in Japan, which are companies that barely earn enough to pay the debts on their interest, but neither produce nor reinvest their revenues. This practice has been said to have created a congestion that has significantly contributed to the prolongation of the Japanese economic stagnation since the 1990s (Ahearne and Shinada, 2005; Caballero et al., 2008). Campana and Okamura (2016) posit that the yakuza contributed to the creation of zombie firms, in their capacity as a 'dark side' provider of private ordering and by virtue of acting as an intermediary in dispute resolution. At the same time, their involvement in these quarrels is also likely to increase the financial distress and lead to them preying further on creditors and debtors through intimidation and extortion. The legal reform of 2002, which was responsible for notably increasing the number of lawyers available in Japan, has indeed been found to have a relationship with the decreased involvement of yakuza in civil affairs, as evidenced by the reduced number of reported crimes of intimidation and extortion.

In 2013, the ties between the yakuza and the bank system were exposed when it was discovered that the Mizuho bank had been lending tremendous sums of money to the yakuza. The '*Mizuho ginko boryokudan yushi jiken*' (Accident of Mizuho Bank's loans to bōryokudan) erupted in September, when a weekly newspaper found out that Mizuho bank had lent ¥200 million (£1.3 million) to yakuza members through Orient Corporation, a financial firm that was partially owned by the bank. However, as Mizoguchi (2013) notes, despite recent regulations instructing the banks not to give loans to yakuza members, they have many reasons for continuing this practice. Once a bank has given a loan to a yakuza member, even if by error, they can be threatened into

giving a second loan. This obviously places the yakuza in a position of power, even for other kinds of requests. Furthermore, the bank's higher-ups do not want to start a fight with the yakuza, because they want to protect their families and the tranquillity of their upcoming retirement.

Neoliberalism has ushered in the predominance of financial capital over material capital, or as Harvey (2007: 33) puts it, 'the financialisation of everything'. The yakuza were cognisant of this shift from manufacturing to the financial sector from as early as the 1980s, when they begn engaging in *sōkaiya,* which is also an example of grey or informal activity that lies somewhere on the spectrum between legal and illegal. This is emblematic of their adaptability and sensibility to changes in the market. However, the increased harshness of the policing of the yakuza resulted in banning the open participation of yakuza-related subjects in the financial sector. However, given the enormous opportunity for income in this sector, the yakuza have responded by concealing their membership and employing experts outside of their group.

State-sponsored: construction sector and nuclear plants

The yakuza have traditionally been involved with the construction sector and nuclear plants, as well as related activities. This is due to two factors: firstly, the yakuza's workforce is specialised in the so called '3k' jobs (*kitanai, kitsui, kiken:* dirty, hard, dangerous, Hashimoto, 2012), and secondly, the government's continued investment in construction through the Japan inc. system, which means that this sector has been one of the safest to invest in. The involvement of the yakuza with this sector serves as an example of how the Japan inc. system has advantaged the yakuza, and, at least in part, afforded them economic stability. Given that one of the yakuza's traditional businesses is labour brokering, the yakuza have also been involved with the nuclear plant industry, due to its high-demand for manpower. Therefore, because of the system that has been described above as Japan inc., and the government's continued support and investment in this sector, this has also had evident advantages for the yakuza.

The building frenzy in Japan started at the end of the 1950s, when the rapid economic growth led young Japanese people who were living in rural areas to move to big cities, such as Tokyo, Osaka, and Kobe. The Tokyo Olympics in 1964 provided another significant boost to infrastructure construction and industrial development in the cities, while farmers in the countryside who had sold their land to developers began

replacing the traditional houses in which they had been living for centuries with new buildings and modern appliances (Carpenter, 2015). Until the early 1990s, many yakuza groups owned and managed their own construction firms. However, since the implementation of the anti-yakuza law in 1992, and the subsequent harshening of the legislation in 2011, it has been ever more difficult to engage in this sector, as companies with known yakuza ties can now lose their contracts for public works and be removed from the pool of designated bidders (Rankin, 2012).

In 1991, although the bursting of the economic bubble hit the construction sector incredibly hard, this did not affect their access to bank credit, and, indeed, bank loans did not diminish throughout the 1990s (Ahearne and Shinada, 2005). Therefore, the crisis did not hit this sector as hard as it did others, hence why the yakuza continued to invest in it: according to estimates, the relationship between the yakuza and the building sector is still alive and well, as they control one-third of the industry. Moreover, given the increasing difficulties, many yakuza groups have sought to infiltrate related sectors, including demolition works, debris and asbestos removal, and waste disposal (Rankin, 2012). Indeed, many yakuza have been very competitive in the waste disposal industry: since the period of high economic growth, the amount of waste in Japan has increased significantly, while the problems deriving from it have forced the government to promulgate strict regulations on the methods of disposal for industrial waste. This, of course, led to waste-disposal companies raising their prices; however, because the yakuza can afford to be less meticulous in following the correct procedures, their success in this industry has been predicated on their ability to lower their prices. Moreover, this type of business also has the further benefit to the yakuza of enabling them to dispose of incriminating evidence at any time (Hill, 2003).

The Tohoku earthquake and tsunami offered the yakuza the dual-opportunity for business and publicity. Despite the fact that under the new regulations the yakuza should be excluded, Fukushima district and TEPCO only began to implement them a few months after the disaster, which left enough time for yakuza members to infiltrate the labour brokering market. Moreover, the desperate situation at the Fukushima power plant meant that TEPCO and its subcontractors needed as many men as possible to clear up the nuclear debris, and simply could not afford to turn away anyone. The labourers brought in by yakuza labour brokers were unskilled and, in many cases, picked up from the streets and sent to the most dangerous spots (Rankin, 2012). In some cases,

homeless men were recruited and either used as workforce, or, alternatively, were forced to apply for emergency financial aid in different locations (Suzuki, 2014).

These kinds of disasters also provide opportunities for illegal money lending: the payments to the victims might be late, but in the end they will receive donation money, condolence money, and in some cases even indemnities from the nuclear plants. Interest rates could be as high as 30% every 10 days for sums up to ¥100.000 (around £700), but given that many people in the affected areas had nothing but time on their hands, many people requested money to spend in Pachinko halls or bars (Mizoguchi, 2011). In addition to this, the Fukushima disaster also afforded many yakuza groups an opportunity to show their social side. The same thing happened during other major earthquakes, such as the Kobe earthquake in 1995 (Funabashi and Kushner, 2015; Hill, 2003). Also in the case of Fukushima, the yakuza were among the first to send trucks with food and other basic necessities to evacuation centres in the affected areas, which was widely reported in a number of Japanese and foreign media outlets (Jones, 2011; Rankin, 2012).

A more recent case of yakuza profiting from disaster is the aid offered in the aftermath of the series of earthquakes that struck Kumamoto city in the Kyushu region in April 2016. As reported by the Nikkei Gendai, the newly recognised Kobe Yamaguchi-gumi was among the first to offer aid to the affected population, by distributing cups of ramen, water, blankets, and daily necessities. A member of the organisation stressed that these are the times to show one's adherence to the *ninkyō* code of honour. However, not all that glitters is gold, as these efforts will most likely be paid back once the reconstruction works begin. 'In the aftermath of the disaster, people want to express their gratitude to the ones who helped them with emergency food. This is called humanity. The city hall cannot offer public works directly to yakuza groups, but it is enough for them to accept orders of construction jobs through subcontracting companies' (*Nikkan gendai*, 17/10/2016).

The next Olympic games in Tokyo present an opportunity for yakuza groups to make huge profits, given the large variety of construction and entertainment businesses related to the event (*The Economist*, 12/09/2015), and, in this regard, the Tokyo Metropolitan Police have issued a joint declaration with the express aim of stopping the possible infiltration of the Olympics by yakuza members (Keishichō, 06/04/2016). Nevertheless, ties between the yakuza and members of the Olympic Committee have already started to leak: a picture surfaced portraying vice-chairman of Japan's Olympic

Committee Tanaka Hidetoshi with Fukuda Hareaki, who is the chairman of the second biggest yakuza family, the Sumiyoshi-kai. The picture was allegedly taken at a party that was held to celebrate Fukuda's promotion to chairman of the Sumiyoshi-kai, and bears witness to the friendly relations between the two men. Moreover, ex-Prime Minister and now head of The Tokyo Organizing Committee of the Olympic and Paralympic games, Mori Yoshiro, has also been reported as having yakuza ties in the past. Establishing connections with members of the Olympic Committee would be crucial for the yakuza, as they could earn a fortune, by virtue of the construction companies that they manage, if they were to secure a slice of the construction subcontracts (Adelstein, 2014).

Therefore, the yakuza's traditional involvement in the construction sector and related industries has sustained their connection with legal markets. Given that these sectors can never fail because of governmental protection, the sizeable manpower of the yakuza, and the fact that the neoliberal economy makes hard jobs like these undesirable, the yakuza have managed to stay in these markets and exploit their constant profitability, since they are bailed out by the state during major crises. The deep infiltration of the yakuza within these sectors, and the continued need for their services, weakens the reach of law enforcement.

Destitute yakuza: rising social inequality and its impact on the yakuza

Up until the early 1990s, Japan was not only considered a successful model of economic growth for East Asian countries, but rather was also held up as an example of social equality. Most notably, as researchers noted, this equity was not achieved through a redistribution of resources and forms of social protection – indeed, as is pointed out above, the welfare state began to shrink in the 1970s – but rather through strong growth and fast-paced productivity. However, the bursting of the bubble and the attendant economic and demographic stagnation that followed led to a new self-image of Japan as a *kakusa shakai* (gap society). The deterioration of the labour market meant that social mobility was no longer a guarantee, and because of the increased likelihood of company bankruptcies, neither was lifetime employment either. As precarious forms of employment increased, so did the number of those living below the poverty threshold (Chiavacci and Hommerich, 2016).

Active yakuza members and members that have left the organisation for less than 5 years, have difficulties finding legal jobs, and are instead forced into temporary or part-time employment. For instance, a yakuza member who had not formally left the organisation reported that he had started working at a friend's construction company, but when his name came out in an unrelated investigation, and the police searched the company where he was employed, he was let off. Unable to find another occupation, he was forced to accept a temporary job with a daily pay of ¥5000 (£35) a day (*Livedoor News*, 25/01/2019). Declaring one's current or former membership of the yakuza automatically rules out the chances of being hired, but hiding it may lead to an accusation of fraud, as happened to one yakuza member who was accused of fraud and arrested for not disclosing his membership when applying for a part-time job at the post office (Okita, 05/02/2019). In research conducted between 1967 and 1973, one-third of the 433 yakuza who left the organisation were able to find employment and be socially reintegrated (Hoshino, 1974), while of the 4170 members who left between 2010 and 2017, only 108 (2.6%) are currently employed (Hirosue, 15/03/2019).

Consequently, wider socio-economic issues also impact upon the yakuza, as cases of yakuza members getting caught committing petty crimes are becoming increasingly common. The phenomenon of the *binbō* yakuza/bōryokudan (poor, destitute yakuza) is indeed becoming increasingly widespread and leading to a wide range of crimes (*NHK*, 28/05/2018). For instance, in the region of Hokkaido, there have been repeated instances of yakuza trespassing salmon hatcheries in order to steal salmon, while in Tokyo there have been cases of yakuza members pawning their firearms (ibid.). In June 2017, a yakuza member of a group affiliated to the Kobe Yamaguchi-gumi was prosecuted for stealing rice and daily necessities in a supermarket at the request of his *kumichō* (*Asahi Shinbun Digital,* 23/05/2017).

The harsh measures that continue to be applied to yakuza members even after leaving the organisation deleteriously impact upon their reintegration into society. As (ex) members often lack the expertise to engage in more sophisticated crimes, they cannot leave the syndicates, and are thus forced to commit petty crimes to satiate their basic needs. Tsukasa Shinobu, boss of the Roku-daime Yamaguchi-gumi, in his rare 2011 interview with *Sankei News* (*Sankei West*, 31/08/2015) raised an important issue:

> 'If the Yamaguchi-gumi is disbanded, public order will greatly
> deteriorate. This is because, while a small handful of high-ranking
> yakuza have some kind of savings and therefore do not need to worry,

the 30 or 40 thousand common members, and as a consequence the 500 or 600 thousand people who are their family members and relatives, will be very visible. Young people will act crazy in the streets and, in the end, they will join another group, or form a gang themselves. So, it's clear that there is no point in dissolving [the Yamaguchi-gumi]. Like when the wind blows and the dirt and dust gather in the corner, in every world there are dropouts, there are also leftovers who cannot fit in this world: our organisation is the support for those people. But when they leave us, they have no discipline, they incur no punishment and they act as they please, and they run towards anything that makes money. Predatory crimes such as burglary and theft rise.'

Indeed, if all yakuza groups were disbanded by the end of the year, the government would have to insert around 35,000 people within the job market or in a welfare program (NPA; 2018). Mizoguchi (2013) argues that while for common citizens the welfare system is the 'last safety net', for ex-yakuza members, for young people not in education or employment, and who are not skilful enough to engage in crime 'freelance', the yakuza are considered the last safety net (*Gendai SPA*, 16/04/2019).

Final remarks

Money is the lifeblood of crime syndicates. Although membership has continually declined over the last 25 years, the yakuza are still one of the largest mafia-type associations in the world. Furthermore, the yakuza resemble a legal organisation in that they own property, run offices, have 'company' cars, and are eager to flaunt their image. The yakuza group's headquarters that I visited comprised a four-storey building: the bottom three floors were used by members, while the *kumichō*'s office was on the top floor and was decorated with mahogany floors and elegant furniture. Coffee, tea, and cake were served in cups with the group's logo, along with classic pottery, and silverware. When the *kumichō* needed to leave the office, he would be driven around in a large black car, followed by an elegant black sedan. All these symbols of opulence are not superfluous, as they showcase the group's strength in the neighbourhood, but they do necessitate a consistent flow of money coming into the group's coffers every month.

The yakuza as a group have been able to exploit the opportunities for capital accumulation presented by neoliberal policies' deregulation and financialisation of the

economy, even though low-ranking yakuza have been struggling due to rising social inequality and the impossibility of being reintegrated into civil society. The strong connections with the legal sector have been fundamental in securing the long-term perpetuation of the yakuza, insofar as they have the flexibility and possibility to shift around both capital and workers within the illegal, legal, and semi-legal markets. This chapter has argued that the grey area qua semi-legal status in which the yakuza existed until the 1990s allowed them to engage in legal, illegal, and semi-legal markets. Most notably, the system of collusion known as Japan inc., allied with the heavy governmental support provided to the construction sector, meant that the yakuza were consistently able to maintain a high-level of involvement in the legal sector, as many companies were directly owned by the yakuza – due to the ready availability of manpower – or related to them. The prolonged economic downturn, which began in concomitance with the introduction of increasingly restrictive regulations, aimed to eliminate the grey area that had ensured the existence of the yakuza up until the 1990s. After being evicted from this in-between area, the yakuza have responded by infiltrating more deeply both the illegal market, through their constant presence in drugs, gambling, and prostitution – and legal markets, due to the employment of more sophisticated techniques, use of partners, and increased invisibility. However, this can only be carried out with the help of external agents: indeed, the NPA have evidenced that while the number of full-time members is decreasing, the number of part-time members or external associates has remained constant (see appendix 5). The specific knowledge that is required to conduct some of these new businesses necessitates professionals, while the higher frequency of controls makes it more convenient to have 'clean' partners.

Moreover, the politico-economic project of neoliberalism has, on the one hand, benefited the yakuza because of its principles of economic deregulation, welfare state devolution, cultural tropes of individual responsibility and sucess (see also Chapter 2), expansive/intrusive penal apparatus (see also Chapter 6 on sentencing and prison). Nevertheless, this is a double-edged sword in the sense that the policing of informality prompted by neoliberalism and manifested in recent anti-yakuza regulations is damaging the yakuza. Furthermore, growing inequality has severely impacted on low-ranking yakuza members, who must resort to petty predatory crimes to meet their basic daily needs. The predominance of financial capital over traditional forms of capital that was precipitated by neoliberalism suggests that the yakuza can survive only if it

increases its presence in financial markets, which, in turn, poses a profound threat to the Japanese economic system.

Finally, this chapter engaged with theories on the economy and crime. Specifically, it was argued that the case of the yakuza lends support to hypotheses that see economic downturns as engendering an increase in certain crime types, notably non-predatory forms, such as criminal services demanded by the population (i.e. drugs, gambling, prostitution). Conversely, Japan does not support the claim that economic downturns are associated with an increase in fraud, although Japan conformed to expectations relating to inequality and crime. Furthermore, it was argued that the Japanese case seems to support the claim that the use of political and economic actors is a prerequisite for the infiltration of organised crime within state structures. Thus, in the next chapter I take into consideration the power structure of the Japanese state, before proceeding to examine how the yakuza and the government came to terms over their respective demands in order to safeguard themselves.

Chapter 4

Marginal players in a rigged game: the art of exploiting institutionalised corruption

Scholars have noted how research tends to focus more on the corrupt practices of officials in developing states than it does the many unfair practices in advanced economies that have negative repercussions worldwide, which are usually framed as being either completely legal or fraudulent, rather than corrupt. Indeed, corruption in core Western countries has been overlooked by scholars in a number of respects, whether it be in relation to the gift-giving practices of the political and business elites, the importance of nepotism and patronage, and downplaying of corruption scandals (Xenakis, 2010). The Corruption Perception Index compiled by Transparency International (TI) depicts Japan as a developed country that has low levels of corruption: indeed, the public image of Japan is that of a country in which the rule of law is respected and corruption is rare. This image clashes with that of a country in which a sophisticated criminal organisation has survived for more than a century. The same process keeps happening over and over in Japan, where political corruption is periodically exposed by media outlets, triggering temporary scrutiny into the modus operandi of governmental and private institutions, before the media hype soon vanishes without having produced any long-lasting change in anti-corruption practices.

This chapter deals with yakuza's modes of engagement with institutions, aiming to understand the ways in which this relationship has favoured not only the mere presence, but also the visible and active role of the yakuza within Japanese society. The relationship between the yakuza and the state is arguably an open secret, which is nevertheless hardly ever discussed or analysed by domestic and foreign academia alike.

In this chapter, I examine how the yakuza have benefitted from what can be defined as the *quid pro quo* of Japanese politics, a situation in which Japanese political leadership is depicted as both uncorrupted and incorruptible by the general public, despite the fact that, in reality, many of the connections and exchanges between the political, bureaucratic, and industrial elites could be considered as corrupt by international standards. Despite the existence of institutionalised corruption, I do not argue that the yakuza are at the centre of this network, but rather argue that the yakuza

are one of the marginal agents (and beneficiaries) of political malpractice. Within this framework, the political elite have used the yakuza for their own ends in a much more active way than the yakuza have ever used the political elite to achieve their ends. This chapter analyses the relationship between the yakuza and 'power', in order to understand how this connection has faciliated the endurance of Japanese organised crime. In this sense, 'power' is not identified only with political elites, but rather with all those structures that possess power within the Japanese context. This chapter contends that Japan is not exempt from corruption, and, in fact, systemic collusion is a constant feature of institutional dynamics within Japanese institutions. This system includes politicians, bureaucrats, and industry figures. The yakuza are part of this system by virtue of their involvement in big industry, the construction sector, and the financial sector.

This chapter aims to prove three hypotheses: first, I argue that the yakuza does not engage in corruptive relationships via the kinds of practices that one observes in the West (direct pay outs and bribes), but rather through connections with the construction industry, right-wingers, and sometimes direct participation in elections. Furthermore, I consider the rupture stemming from the promulgation of the anti-yakuza countermeasures, which changed the openness of the relationship between the yakuza and institutions. Lastly, I examine the current political climate in Japan, which connects the government led by Prime Minister Abe and its espoused narratives to the right-wing groups that so often overlap with yakuza groups. Recently, Prime Minister Abe's relationship with the yakuza was discussed in the Diet, which appears to confirm the longstanding relationship between the yakuza and the Liberal Democratic Party.

I begin by examining international scholarship on corruption and organised crime. Given the lack of definitional consensus over what precisely constitutes a corrupt relationship, in light of the aims of the present research it is crucial to settle on a position from which to start the analysis. Next, I proceed to consider the level of corruption within the Japanese state. I proceed to specifically examine the ways in which corruption is used as a tool for survival by organised crime. Finally, I consider how the yakuza has engaged with the government over the course of their existence, from their origins in the Tokugawa period up until the present day, with a particular focus on the current government and the ways in which its endorsement of nationalist ideas have potentially strengthened the resilience of the yakuza.

The structure of state power in Japan

The democratisation process in Japan had its roots in the Meiji period (1868-1912), when a Diet was constituted and elected with limited suffrage. The development of democratic processes came to a sharp halt in 1920, when a militarist faction sezied power and led the country into imperialist missions across Asia (Siniawer, 2008). During the period from August 1945 to April 1952, the US, via the Supreme Commander of Allied Powers (SCAP), determined the basic policies to be applied across Japan and controlled the demilitarisation and democratisation of the country (Dower, 1999). This 'revolution from above' (ibid.:69), also referred to as the 'reform from on high' (ibid.:70), was regarded with caution and, in conservative circles, with considerable alarm. The SCAP drafted the new constitution, under which the Emperor was reduced to a symbol of the state; the new highest organ of state power became the Diet, which remains in place to this day, The Diet comprises a Lower House (House of Representatives) and an Upper House (House of Councillors). The legislative branch of the government is represented by the Cabinet, which is composed of the Prime Minister and the 13 ministers, who can be appointed and dismissed by the Prime Minister, while the bureaucracy, the only branch of the government that is not subjected to the popular vote, represents the executive power of the state (Shinoda, 2000; Sugimoto, 2010). Japan has an incredibly high turnover of Prime Ministers, who are often described as 'dull figures, more suited to backroom politicking than to courting public appeal' (Buruma, 08/05/2006). Since legislation is drafted and implemented by the bureaucracy, Japan has often been described as a bureaucratically dominant state. Indeed, the state holds supreme authority over private-sector companies, insofar as bureaucrats have the power to grant licenses, permits, and authorisation to produce, distribute, and sell, to the point that one-third of private production is subject to state regulation (Sugimoto, 2010). Japan has also been compared to a *mikoshi*, the shrine carried around during festivals, due to the fact that it is led by different groups, sways left and right, but eventually manages to stick to a certain direction (Shinoda, 2000). The three groups that primarily set the pace and guide the country are the abovementioned politicians in the Diet, the bureaucracy, and big business. These three bodies form the 'iron triangle' (see Colignon and Usui, 2001; Cargill and Sakamoto, 2008; Sakakibara, 2003:51), or, as they are conversely known, the 'three-way deadlock' (Sugimoto, 2010: 219) of Japan's power structure.

Van Wolferen (1989) compares the Japanese state to a 'truncated pyramid', that is, a complex hierarchy in which groups' influence overlaps, but which ultimately lacks a supreme institution to serve as the sole repository of power. The almost unchallenged rule of the Liberal Democratic Party also suggests that the exercise of power is negotiated through a series of give and takes between these different interest groups: '[L]ocal governments are highly dependent on a system of financial supports allocated by the central bureaucracy, a system not regulated by impartial rules. Politicians are needed to mediate with government officials, and LDP [Liberal Democratic Party] politicians have the best, if not the only, access to them. [...] The rigging of the system is further abetted by the supposedly non-partisan agricultural co-operatives, and by the innumerable construction companies and their sub-contractors whose facilities serve in effect as election offices' (ibid.: 81).

A further important aspect that follows on from this particular organisation of the Japanese state, is that this environment in which interest groups have to rely on each other to implement desired policies is highly conducive to corruption, and, indeed, favours corrupt exchanges – even if they are not necessarily framed as such. Since the Japanese system is based on the premise that inter-institutional collaboration is required to benefit everyone, practices such as *amakudari* (descend from heaven), in which ex-bureaucrats are re-employed in private and public corporations that are under the jurisdiction of their own former ministry, are considered to be legitimate and even desirable. *Amakudari* effectively connects the state to the private sector, and ensures policy commitments from elites by virtue of ex-bureaucrats holding posts in, and influencing, companies, political committees, industry associations, and local governments (Colignon and Usui, 2001). Recently, because of the demographic crisis, *amakudari* has also been witnessed in the relationship between ministries and universities. As the Japanese population grows older, universities are worried that they will not be able to secure enough students in the future. To avoid financial difficulties, they are keen to include in their staff ex-ministry workers who are familiar with procedures for obtaining governmental funds and opening up new departments (The Japan Times, 06/04/0217). In this sense, *amakudari* can be understood as an 'embedded mechanism of elite influence in Japanese society' (Colignon and Usui, 2001:894). At the same time, it is the perfect example of a common practice that, while clearly being fertile ground for bid-rigging, as well as encouraging sloppy regulations and providing

opportunities for collusion, because it is not legally framed as corruption, continues to be accepted and enforced (Carpenter, 2015).

The web of collusion at the base of the 'iron triangle' of politicians, bureaucrats, and businessmen in Japan can be explicated through what is known as '*dango*' (collusion, bid-rigging, etc.) mentality. This *dango* system can be considered one of the doors through which the yakuza are able to access power, as the construction sector is one of the main players and the yakuza are heavily involved in this sector. The bureaucrats set a reservation price for the bids (which is much higher than normal estimates) and then proceed to leak it to the assembly of contractors. The contractors decide in advance which firm is going to get that particular job, and through a multiple-round, open bidding system the selected firm wins the contract by placing a low-bid which is never underbid by other companies (Black, 2004). The construction sector is particularly important to the Japanese economy, because the Japanese government has spent a significantly large percentage of its GDP within this industry (9% compared to 1% in the US), while estimates suggest that one out of every five jobs in Japan is related to construction (Kerr, 2001 in Black, 2004). During the single-party rule of the Liberal Democratic Party, this corrupt system – which can be referred to as *dokken kokka* (construction state) – has conflated to the point that 'construction is incidental to the reproduction of power and the distribution of profit' (McCormack, 1996: 33). Given that the government (the Liberal Democratic Party) is the primary customer of the construction sector and has a vested interest in maintaining this system, because in exchange for the trillions of yen that they pour into public works, they receive contributions and keep unemployment rates low, which, in turn, provides the further advantage of increasing their voter base (Black, 2004). Within this collusive system between politicians, businessmen, bankers, and bureaucrats based on financial transactions, political ideologies are of little concern: politicians serve merely as middle-men who mediate between the respective parties who are willing to do business (McCormack, 1996).

The term Japan inc. is used to describe this rigid socio-political model, in which the bureaucratic elite, supported by the conservative party, are able to implement their plans without the need to impose sanctions. The bureaucracy closely cooperates with businessmen and politicians, while their network of former and present bureaucrats who have migrated from the ministries to private and semi-private industries through institutional practices such as *amakudari,* guarantees the bureaucratic power to enforce

policies (Carpenter, 2015). Therefore, when analysing the interaction between the yakuza and institutions, it is crucial to consider that the yakuza has to interact with a variety of groups; indeed, the endurance of the yakuza derives from their ability to relate to of all these aforesaid different groups. The yakuza are unquestionably advantaged by this system, as the public works sector is sustained by the government, while the government cannot cut funds to the construction sector, both of which guarantee a steady source of income for the yakuza. On the other hand, it also provides access to politicians and precisely faction leaders of the Liberal Democratic Party, which allows the yakuza to work with them on a perfectly legal basis.

Understanding corruption

Some scholars have argued that the increased number of democratic governments has led to a heightened interest in corruption, insofar as this served to shift it from being a local issue to a global issue. At the same time, the understanding of corruption is becoming more uniform, thus diminishing concerns over Western relativism (see LaFree and Morris, 2003: 604). However, as Bukovasnski (2006) convincingly argues, if anti-corruption discourses centre on the harm that corruption causes to (democratic) institutions, then this is only insofar as these institutions are judged on their ability to deliver and sustain economic development, which thus reinforces Western neo-liberal standards of liberalisation and economic growth. How corruption is understood across different countries is characterised by universalism as well as particularism: most cultures perceive it to be morally wrong (or corrupt) to use as a private good something that is deemed to be a public good, but since the categories of 'private' and 'public' vary across cultures, cultural differences continue to inform how we define corruption (Rothstein and Torsello, 2013). If culture cannot be used as an excuse to justify corruptive acts, and cultural relativism is seen as a form of Western condescension towards non-Western countries, then perhaps it can be used as a tool through which to understand corruption and the problems associated with mitigating it. For instance, Larmour (2008), through reviewing reports on the National Integrity System in the Pacific Islands, points out that it is possible to gain a more thorough understanding of corruption by applying cultural factors (instead of seeing culture as an all-encompassing concept) to specific instances of what can be considered corrupt behaviour. Specifically, cultural understandings can influence suspicion of corruption, identification of corrupt

practices, the seriousness with which such behaviours are condemned, the willingness to report such practices, the ability to reach and implement authoritative decisions, and the nature of the punishment granted.

In criminology, the most popular definition broadly describes corruption in terms of 'the use of public power for private gains' (Collier, 2002; Drury et al., 2006; Friedrich, 2002; Shen and Williamson, 2005). Spencer et al. (2006), in their research on corruption and human trafficking across Estonia, Finland, and the UK, opted to define corruption as 'many kinds of 'irregular' influence, the objective of which is to allow the participants to make profits they are not entitled to, the method being the breaking of internal or external rules'. According to them, corruption works at different levels: systemic (when corrupt practices are integrated into the system); institutional (when institutions are accepting of corruptive exchanges); and individual (when the individual takes advantage of their position and engages in illegal practices for personal gain). Rose-Ackerman (2014) notes that conflicts of interest are increasingly common in modern societies, due to the fact that many people now hold more than one role, and therefore may 'mix their roles up' and further the interest of one of their positions (i.e. businessman) when acting in a different capacity (i.e. bureaucrat). Crimes such as misappropriation, theft, fraud, or embezzlement can also be classified as corruption if someone abuses their position for personal gain. Patronage, nepotism, and cronyism are corruptive behaviours, in that a person makes use of their power to favour their family or friends over more qualified candidates, therefore destabilising proper processes and diminishing the integrity of the institution involved. At the very end of the legal boundary is the practice of influence peddling, whereby someone uses their connections to obtain power or money (Graycar and Prenzler, 2013).

Japan is considered a country with low levels of corruption: recent figures place it amongst the 20 least corrupt countries in the world (Transparency International, 2017). However, many authors have argued that corruption in Japan is structural, and, as such, involves legal practices that make it difficult to pinpoint. The custom of gift-giving, for instance, represents a legal channel through which sums of money can be moved without creating (too much) suspicion. The National Public Service Ethics Acts provides guidelines on these practices for public servants, as well as placing restrictions on both the giver and receiver of the gifts and the sums that can be exchanged. For instance, is one receives a gift from a person over whom one exercises authority, then the receiver must submit a report about the gift to the heads of their respective

ministries or agencies (National Public Service Ethics Act, Art. 129, 1999). In 2017, Prime Minister Abe Shinzō and his wife Abe Akie were involved in a scandal that caused a stir amongst the general public: in 2015, an ultranationalist Japanese kindergarten, Moritomo Gakuen, bought government-owned land to enlarge their compound. The scandal broke when it was revealed that the school bought the land for 14% of its market value. The Ministry of Finance explained that the land was significantly discounted, because industrial waste had been found on the land and the cleaning costs were taken off the original price. As the scandal unfolded, the honorary president of the school Abe Akie – who had previously publicly praised the nationalist curriculum of the school – resigned (The Japan Times, 24/02/207; 13/03/2017). Despite the frequency with which these scandals surface, the systematic nature of corruption within Japanese institutions has yet to be fully recognised.

Corruption as a necessary tool for organised crime's endurance

In the previous paragraph I examined how corruption has hitherto been examined within criminological scholarship, and delineated why it is not possible to define it univocally. Indeed, the popular definition of corruption as 'the use of public power for private gains' needs to be refined further to be capable of accounting for the corruption that is exercised by criminal organisations to prolong their endurance. Europol (2017) identifies corruption as the way in which organised criminal groups infiltrate public and private sectors to facilitate their own activities, particularly through engaging in a set of activities such as bribery, conflict of interest, trading in influence, and collusion.

In Italy, autochthonous forms of organised crime and corruption are notoriously intertwined. In public discourse, mafia and corruption are overlapping and interchangeable terms: a corruptive system is regarded as a mafia system, while the mafia is seen as inherently corruptive (La Spina, 2016). Mafia groups engage in endemic corruption in their places of origins: corruptive practices are not only intrinsic to the modus operandi of these groups, but rather they are also widely tolerated, as large parts of civil society (entrepreneurs, public officials, politicians, and, of course, *mafiosi*) participate in these behaviours. However, in an area where other types of criminal groups are present (criminal networks of various kinds), mafia groups use corruption as an occasional strategy that enables them to attain particular goals, rather than them being viewed as a set of practices commonly tolerated by local population and

institutions (Lavorgna and Sergi, 2014). The same applies to the market in extra-legal protection, which is enforced only in their territory of origins, while, as Campana (2011) argues, mafia groups' expansions abroad follow a *functional diversification* model. From this perspective, mafia groups, who are highly dependent on their territory of origins, expand abroad to seek new investment opportunities without forging alliances with local groups: rather, they operate through one-off agreements and without trying to monopolise the market (Campana, 2011).

Schneider (2018) provides a different analysis, one which is supported by Samuel's (2003) comparison between the modern history of the Italian and Japanese states, which is referred to as the 'intreccio'. According to this hypothesis, the Sicilian mafia and the yakuza were instrumental in terms of gaining votes for capitalist-friendly political parties and opposing leftist forces during the post-war period. This account frames the relationship between the mafia (or the yakuza) and the state as predicated on the exchange of favours: for instance, *mafiosi* received public construction contracts and employed larged masses of people whose votes could be influenced, while, in exchange, law enforcement guaranteed that the inevitable arrests and prosecutions would result in outcomes that were not too destabilising for the mafia groups (Schneider, 2018). This 'organic interweaving of mafia and non-mafia' (ibid.: S20) involved the creation of non-transactional relationships with elites at both the local and national level, which constituted a major obstacle for the criminal justice system in their fight against the mafia.

A step beyond infiltration is concurrent governance. A clear example of this is set out by Sergi (2015), who describes cases in which city councils were dissolved due to mafia infiltration in Reggio Calabria. The widespread (mal)practice that involves negligence, political recklessness, the strong presence of mafia-related actors in all sectors, depict a situation of endemic corruption in which mafia groups do not engage with local government surreptitiously, but rather participate in local governance with state power. In other words, the elite is simultaneously formed by politicians, businessmen, and *mafiosi*, therefore creating a situation in which connections between these actors are so dense that public activities inevitably favour the interests of the mafia. The overlap between mafia and corruptive systems is evident in the 'mafia capitale' case. In 2014, Italian prosecutors discovered a criminal organisation that had been operating in Rome since 2000. This organisation included criminal actors, politicians, and entrepreneurs, who through corruption managed a system of

subcontracts in the construction sector, cooperatives, and reception centres for asylum seekers and refugees. There have been extended debates as to whether they can be labelled as a mafia-type association, insofar as this organisation does not possess all the features of traditional Sicilian and Calabrian mafia groups. One of the main differences is that the group used corruption instead of violence as a tool through which to control economic and political actors. Overall, corruption is a less visible and less risky tool (Mete and Sciarrone, 2016).

Corruption is a favoured tool of Italian mafia-type associations when seeking to infiltrate tenders and the legal economy in general. It has been ascertained that there is a strong correlation between mafia-type associations and crimes against public administration, and, indeed, recent trials have corroborated the suspicion that these organisations are increasingly engaging with the legal economy, and that this often happens through corruptive practices. In order to combat this phenomenon and make the Italian public administration system more resistant to mafia infiltration, since 2017 the Anti-mafia Commission (Direzione Nazionale Antimafia, DNA) and the National Authority Against Corruption (Autorità Nazionale Anticorruzione, ANAC) have begun to share information and collaborate.

Organised crime, and especially criminal groups that are rooted in their territory of origin, such as mafia groups, need to infiltrate institutions not only to achieve their monetary goals, but also in order to obtain a sufficient level of tolerance from these institutions that aids their ability to survive and operate within society. The following sections examine how the yakuza has been able to obtain almost total immunity and a de facto legitimised status throughout their history.

Japan: old-fashioned collusion

The exercise of political dominion is an often-overlooked feature that is central to the survival of mafia-type associations. In order to function, Italian syndicates, as well as their Japanese counterparts, must claim absolute power over their members: this power superseded the state's power, inasmuch as these groups had absolute control over the private lives of their members and their entire communities, policing them and settling disputes. Mafia-type associations are particularly dangerous because they are not only concerned with generating profits from illegal markets, but also wish to both exercise

political power in their regions and regulate the lives of those in their communities (Paoli, 2004).

Rather than being a competitor of the state in the provision of private protection, as suggested by Gambetta (1993), the yakuza since their origins have functioned in a complementary way with the state and at times have even been encouraged to provide certain services by the state. Since its inception, the state has formally recognised the two groups that formed the yakuza. *Tekiya* (peddlers) groups were recognised by the authorities between 1735 and 1740: the legitimisation of their status increased their power, but did not eliminate the criminal element amongst their groups, who continued to expand their protection rackets and engage in armed brawls. Contemporarily, the authorities also recognised the status of some *bakuto* (gamblers) groups. Even though some *bakuto* groups refused to cooperate with the police, by recognising the legitimacy of these groups the authorities set a precedent that lasted throughout the proceeding eras, and, ultimately, shaped the relationship between the yakuza and the state in such a way that culminated in political corruption reaching the highest ranks of Japanese government (Kaplan and Dubro, 2003). *Bakuto* groups were often welcome in the villages in which they ran their gambling dens, as they were providing a service that was desired by the population. At the same time, these groups also acted as protectors of the villages in which they were staying, especially from *rōnin,* who were wandering samurai with no master that attacked villagers. Their role as town soldiers (*machi yakko*) bestowed social recognition upon them, and they were sometimes asked to act as mediators in village disputes. Since they were acting in accordance with the state's interests, the government was accommodating to *bakuto* groups and actually strived for cooperation in maintaining order at the local level. Nevertheless, this cooperation was not a conscious strategy per se, but rather a necessity that found its origins in the political weaknesses of the Japanese state (Siniawer, 2008). With the advent of the Meiji restoration, and in an attempt to build a more egalitarian society, rigid divisions between social classes were abolished. The cities' self-governance was dismantled in favour of local governance, which was granted by the central government. In this way, the many social powers of the Tokugawa period were consolidated within the state's political power. Even though yakuza groups were excluded from the class system, they had become increasingly powerful in the self-governing cities in their capacity as negotiators in disputes. The yakuza were living at the outer limits of society, constituting a class of people capable of exerting (sometimes illegally) violence and

wielding their own localised form of social power. This served as the basis for the relationship between the social power of the yakuza in the class society and the political power of the state (Miyazaki, 2008).

As the Meiji reformists began to formally introduce parliamentary and constitutional government, the yakuza groups were forced to learn to deal with new political power elites. However, actual practices were often far removed from the democratic principles espoused by the Emperor Meiji and the new oligarchs, and soon the democratisation process revealed itself to be altogether violent and destabilising. The political system and culture that came into being in the 1880s and 1890s can best be described as a 'violent democracy': despite the many restrictions on people's participation, there was more room for people's rights activists to engage in political activities, and this participation often took the form of physical force. In the first phase, political protectors and agitators (*sōshi*) resorted to the tactic of assassinating political leaders, but soon their ruffianism became more focused on committing violence on a smaller scale: brawls, fights, intimidation, destruction of property, etc., became directed towards voters rather than politicians. While the ideology of *sōshi* spanned from left to right, it was through right-wing *sōshi* that these activists gained access to the government, as they backed the government's aggressive foreign policy in East Asia. Although the yakuza were routinely employed in pressure groups, the acceptance of yakuza in politics was perhaps better represented by the election of yakuza bosses to the House of Representatives: Yoshida Isokichi and Hora Sennosuke were indeed Diet members from the Taishō to the early Shōwa period (Siniawer, 2003).

From the beginning, the yakuza were interested in establishing a relationship with the power structure. However, the extent of their participation shifted over time, as in the beginning yakuza members (more specifically, *oyabun*) assumed political roles within the local government. They used their social and material capital to directly infiltrate the newly formed political class, building close alliances with the right. However, this initial presence in the political world did not constitute the systematic infiltration of the government by the yakuza: rather, it was emblematic of a system that favoured contacts between politics and the underworld in the service of violence, and on the basis of a shared far-right ideology.

The yakuza's role in the making of modern democracy

In the immediate post-war period, given that the Occupation forces were mostly unable to speak Japanese and were wholly unfamiliar with Japanese institutions, they had no choice but to seek out collaborators both within institutions and in the streets. On an institutional level, they had to ask for help from ex-officials in the Ministry of Internal Affairs and the Ministry of Finance, which ensured that both the bureaucratic ruling elite and their policies remained largely unchanged. The Japanese bureaucracy was particularly keen to maintain its independence without bending to the occupier, as a sort of payback for the humiliating defeat, and thus put all their efforts into independently planning and implementing policies (Carpenter, 2015). On a day-to-day operational basis, Occupation forces could not count on the Japanese police, as they had disarmed them and removed all high-ranking officials from their posts. SCAP preferred collaborating with *sankokujin* (Chinese, Taiwanese and Koreans), whose members, finally liberated after year of discrimination and exploitation under the militaristic government, engaged in both legal and illegal businesses to make some kind of fortune under American rule, while, simultaneously, engaging in revengeful attacks against Japanese nationals. The yakuza, traditionally close to nationalist ideas, could neither tolerate violence from *sankokujin* nor being replaced in illegal markets. Taking advantage of the helplessness of the police, the yakuza openly fought against *sankokujin* groups, with the full support of the population who saw them as patriotic heroes fighting against the evil foreigner, in a similar vein to the Tokugawa *bakuto* groups who acted as town soldiers to defend the town. The power vacuum left as a result of the SCAP strategy allowed for the formation of these armed groups (*gurentai*), with the yakuza being more highly specialised in the use of violence than either the bakuto and tekiya (Kaplan and Dubro, 2003). In the immediate post-war context, the economy was practically nothing more than a black market. On 18th August, just three days after the surrender, the black market in Tokyo became fully operative, as sanctioned by the advertisements in the newspapers published by the Kantō-are Ozu gang. By October, these 'blue-sky markets' (open air markets) in which virtually everything could be bought and sold reached an estimated number of 17,000 nationwide, including markets as big as Tokyo's 76,000 stalls. The shortages of food and goods made these markets perpetually violent spaces, that needed to be organised. Yakuza groups took it upon themselves to regulate these markets, with the support of local governments and the local police, who had no alternative but to delegate their respective roles to local bosses

(Dower, 1999). These events demonstrate how from the very beginning of modern Japanese democracy, the state provided support to criminal groups in order to receive assistance in governing during periods of vulnerability.

Furthermore, it was the US Occupation forces that first, before the majority parties did so later, mobilised the yakuza and their related right-wing gangs to suppress left-wing groups. In this sense, governance was favoured by organised crime, while the need for the yakuza's services informally legitimised their status within society. At the same time, the yakuza was a receptacle for disaffected youths and demobilised soldiers who could not be absorbed in the distressed social system of the post-war period. The same process happened in Italy, where the Democrazia Cristiana party (supported by the US) was willing to use criminal muscle provided by the mafia to engage in violent actions against representatives of the left and in order to secure votes. In exchange, the mafia groups received favours such as the granting of permits, access to public works, and tolerance from law enforcement (Samuels, 2003).

The yakuza was not only involved in the informal governance of cities across Japan, they also took part in the formation of the post-war national government. The immediate post-war decades witnessed an ambivalent attitude towards politics: on the one hand, the population did not tolerate violent politics and was eager for democracy to kick-in, but on the other hand, conservative pre-war politics showed that their time was not over yet. United by nationalistic sentiments and anxiety over the spread of communism, conservative politicians, political fixers, yakuza, and businessmen came together and found in the US a new ally. The yakuza, in particular, 'became an integral part of a conservative nexus that was a reincarnation of the pre-war nationalist [discourses]' (Siniawer, 2008: 150). Indeed, the occupation period can be regarded as a two-staged process: the first stage (1945-1948) consisted of the implementation of progressive and democratising rules, while the second stage (1948-1952) was much more conservative and driven by an anti-communist agenda. This stage saw a campaign against the Japanese Communist Party that came to be known as the 'red purge' in 1950, and culminated in the foundation of the Liberal Democratic Party (Stockwin and Ampiah, 2017). This was founded by Kishi Nobusuke (grandfather of current Prime Minister Abe) in November 1955, who skilfully brought together right-wing politicians around shared concerns, such as the fear of socialism, dislike for union activism, assistance in business interests, and support for the re-arming of Japan. Conservative politicians deemed that the exercise of extra-legal violence that the yakuza were able to

provide was sufficiently necessary to justify the potential criticism over their association with anti-social forces (Siniawer, 2008). A movement that nicely symbolises the intertwining of post-war politics and the yakuza was the Minister of Justice Kimura Tokutarō's support in 1951 for the plan to establish an armed anti-communist group called 'Nijūmannin no Hankyōhattōtai' ('The 200,000 drawn swords anti-communist troops'). This constituted an attempt by the yakuza to reorganise their *uyoku* groups into a post-war fashion. A group of conservative politicians planned to establish a group for the righteous guidance of Japanese youth, which was supposed to be a moderate group. When these politicians sought advice from Minister Kimura, he warned them that their initiative was already too late, as the communist revolution would happen in the next six months. Kimura thought that even the police and the Reserve Forces (forerunners of Japan's Self-Defense Forces) were infiltrated by the communists, and that there was no way to stop it via simple plans about youth education. However, he stated that he would be open to supporting an anti-communist organisation, which led to the formation of the Hankyōhattōtai. In order to carry out this plan, Kimura contacted Umezu Kanbee, the influential former boss of the *uyoku* group 'Kantō Kokusuikai', but he had to give something in exchange for Kaizu's help: he amended the law on gambling and promised Kaizu that nobody would be arrested for organising gambling games. Satisfied with the deal, Umezu offered to help and got some other yakuza bosses to join the plan. On the side of the *tekiya*, Kimura reached out to the boss, Sekiguchi, with whom he reached an agreement and formed the 'Street Peddlers Union'. After having organised the forces of the underworld, Prime Minister Yoshida eventually put the kibosh on Kimura's plan due to a lack of funds (Ino, 1999).

It is significant that in the post-war period, the first attempt to organise the far-right and the underworld came from a minister of the newly formed government, and not from a representative of the anti-social forces. We can thus draw a parallel here between Italian mafia groups and the Japanese yakuza: the policies enacted by the occupation forces – and to a much smaller extent by the government – in the immediate post-war period completely resuscitated these two criminal organisations by providing them with resources and granting them policing responsibilities in both these devastated countries.

Flowing underground: corruption post-*Bōtaihō*

The *Bōtaihō* represented the first evident fracture in the long-lasting friendly relationship between the yakuza and the state. Prior to 1992, the yakuza was not only tolerated in practice, but also legally, insofar as it was not targeted by any specific laws.

The relationship that was most visibly affected by this law was the one between the yakuza and policemen. Prior to the introduction of the *Bōtaihō*, policemen could maintain friendly personal relationships with yakuza members and contact them whenever they needed some information. This was a pragmatic approach to policing, predicated on the logic that such a friendly relationship would produce more dividends than problems. This flow of information was not necessarily enforced through bribery, but officers would reward cooperative groups with less strict law enforcement (Hill, 2003). A yakuza boss confirmed that the relationship with legal sectors in society is not the same anymore, especially after the promulgation of the 2011 *Bōhaijōrei*, as in order to avoid trouble for their counterparts they cannot be seen in public together. However, that does not mean that the exchange of favours and information does not continue: 'Behind the scenes, the relationship with the police, of course, is going on, as with the politicians. There is like a consultation, they may ask us something like: when Trump comes to Japan can you please keep your head down? They just come and tell us. There is that sensibility in Japan, yakuza would never refuse to do that' (interview kumichō, January 2018).

Since the *Bōtaihō*, any public relationship with the yakuza is less and less condoned, and politicians have also had to keep their distance from the syndicates. However, according to journalist Suzuki Tomohiko, this relationship just became invisible.

> 'Recently, there was the mayor election in the city where I live. The voter turnout was 10%, so you can understand how easy it is for the yakuza to shift votes. In a small city, they are able to elect the candidates with whom they have a relationship, even now. In this sense, there is still a connection between the yakuza and politics, but it is absolutely invisible. Tokyo is a particular place, so it is more difficult for this to happen, but in smaller cities the local yakuza group still has the ability to gather votes' (Suzuki interview, Tokyo, 16/04/2018).

However, Sukuki denies that there is a structural influence on the national government:

'Even if one becomes a politician for the yakuza, he will not do bad actions overtly: well, he will do irregular things in the sense that he will work so that the group's front companies can get more income, but it will just be limited to money-related business' (Suzuki interview, Tokyo, 16/04/2018).

As aforementioned, from the very beginning of elections being held in Japan, yakuza bosses have run for positions in the local government and the Diet. Kaplan and Dubro (2003) argue that '[a]lthough cases of mob-connected politicians are not unfamiliar to Americans, at times the yakuza go well beyond simply aiding the candidate of choice – they run for office themselves' (ibid.:101). The direct participation of the yakuza in the elections does not appear to be relegated to the past; in fact, it may well be a viable strategy for the future, given that regulations are getting stricter and the relationship with institutions is deteriorating (or at least there is a higher chance that the news of a connection may become a disastrous scandal if it is picked up by the media), which, in turn, makes it more difficult to develop contacts and arrange payouts. An ex-yakuza from Kyushu confirmed that his group (a powerful one in that region) did not actually engage in political corruption. The only case he was aware of was that of a person closely related to the organisation who was elected to the prefectural government (interview ex-yakuza, April 2018).

Mizoguchi believes that the yakuza managed to maintain a semi-legal status in a tolerant environment thanks to the relationship with the police:

'Compared to Italy the yakuza are not so related to politicians. Their relationship has not been as intimate or close as the one between mafia and Italian politicians, and now it's even more distant. What I think is that the yakuza cannot control politics. In the second half of the 1940s the yakuza had some leverage [on politicians], but at the moment politicians are not so powerful, and, anyway, the yakuza does not have influence over them. There has always been the idea that the presence of the yakuza is important for public order. The yakuza was never violent, and the police are scared because they have always dealt only with the yakuza, they are not used to other forms of crime. There are still policemen that think that it is better to have a friendly relationship with the yakuza. In the Aichi prefecture, home of the *Kōdokai*, a lot of people think like that, that it's better to have a friendly relationship' (interview Mizoguchi, Tokyo, 22/01/2018).

The promulgation of anti-yakuza countermeasures have evidently bore important repercussions for the nature of connections between the yakuza and institutions, insofar as it removed the possibility of open exchange. However, these laws targeted only one of the many actors in a system that is intrinsically prone to corrupt malpractices, which is to say that it has not really removed the risk of yakuza infiltrating institutions. As argued above, the yakuza can connect to institutions not only through politicians, but also through far-right groups, and the construction sector. Nevertheless, within the present political milieu, it is crucial to examine their relationship with the most powerful post-war party: the Liberal Democratic Party.

Access to the state: the yakuza's connections to the Liberal Democratic Party

The Liberal Democratic Party has been in power almost without interruption since the beginning of modern Japanese parliamentary democracy at the end of WWII, creating a single-party system whose rule has only been broken twice in contemporary Japanese history. Moreover, the Japanese political system is built in such a way that candidates must maximise their votes through personal support associations (*kōenkai*), which are difficult to build and, as such, are often inherited, which gives rise to the issue of political dynasties, especially within the Liberal Democratic Party (Stockwin and Ampiah, 2016). The immutability of the political panorama, which has saw the same party and recurring figures hold power for more than 60 years, raises the suspicion that the Liberal Democratic Party's identification with the state has allowed them to be immune from accusations of corruption, as incrimination of the Liberal Democratic Party would be tantamount to the incrimination of the state itself. Japan has been defined as a country with a 'first-rate economy, but third-rate politics', which is indicative of a situation in which one of the world's leading economies exists within an inefficient and clientelist system. Japanese systematised political clientelism has also produced three by-products: particularism (prioritising the wants of a small sect at the expense of the public), political corruption, and economic inefficiency. Scandals are nothing new in the Japanese political panorama, and contrary to how it is commonly portrayed, they are not even rare (ibid.).

Kaplan and Dubro (2003) argue that the yakuza's political influence is crucial during election periods. In the countryside, the election chief is often the head of the local *nōkyō* (agricultural cooperative), who is affiliated to the local yakuza group. These

cooperatives are backed by construction companies, who are also connected to the yakuza. Agricultural cooperatives and construction companies are powerful interest groups, and control hundreds of votes, and, hence, their blessing is essential for the Liberal Democratic Party to get their candidates elected. The same happens in the cities, where agricultural groups are replaced by the security sector (bodyguards, etc). In exchange, the yakuza obtains access to politicians of the Liberal Democratic Party and – until recently – is accorded a semi-legitimate status in which they can broadly operate.

Even recently, the Liberal Democratic Party has again been in the spotlight for alleged connections between its leader, PM Abe, and the yakuza. A picture from 2008, less than a year after Abe resigned as Prime Minister due to health problems, shows Abe with the former republican governor of Arkansas, Mike Huckabee, and Mr Nagamoto, who was subsequently arrested for loan sharking and has been identified as a financial broker for the Yamaguchi-gumi. Abe's office released a statement when the picture surfaced after Nagamoto's arrest, stating that a supporter from Abe's hometown interceded for him to go and meet Mr Huckabee, and stressing that there is no personal connection between Abe and Mr Nagamoto (News Postseven, 15/10/2012). Whether this is true or not, the case nevertheless highlights how Japanese pork-barrel politics makes it easy for yakuza members to get in touch with politicians at all levels. Influential sponsors have leverage over candidates and can act as brokers.

The journalist Yamaoka Shunsuke investigated an arson incident involving Prime Minister Abe in 2000, in which Molotov bombs were thrown at Abe's residence in Shimonoseki (the Yamaguchi prefecture) on five different occasions, causing three cars to be burnt. A local yakuza member, Mr Koyama, was arrested and served 13 years in prison, before finally being released in February 2018. According to Mr Koyama, Abe wanted his preferred candidate Ejima Kiyoshi to be re-elected as mayor, and commissioned, through his connections to the Kodokai, disturbance in the electoral process against the opposition candidate Koga Takaaki. Mr Koyama reported that, in the event that Abe's protégée was re-elected, he would have received building permits on a part of land that he was planning to readjust, but Abe did not respect his end of the bargain, and the arson attacks were thus retaliation for not receiving the agreed compensation. Later, Mr Koyama received ¥3,000,000 in hush money from Sakie Nobuyuki, Abe's secretary, but that money was made out to be an extortion demanded by Mr Koyama, in order to set him up and have him arrested (Mizoguchi, 24/7/2018; Yamaoka, 9/6/2018). As also noted by Mizoguchi (24/7/2018), mainstream media

outlets did not report this story, and neither did Prime Minister Abe explain his role in this incident. After the first interview with Yamaoka, Mr Koyama was supposed to talk to other newspapers, and there was also the possibility that he would give an interview to broadcast stations. However, on 7th July 2018 Yamaoka reported that Mr Koyama had a sudden change of heart, refused to do any interviews and ceased all contact with the journalist. This abrupt interruption occurred during the steamrollering of the 'Casino bill' by Abe's cabinet, which was eventually enacted on 20th July 2018 despite facing stiff opposition. This bill allowed for the opening of casinos (including hotels and shopping facilities), and according to Prime Minister Abe legalised gambling would generate more foreign visitors and revitalise regional economies outside Tokyo (The Japan Times, 20/07/2018). However, many have raised concerns pertaining to what the casinos potentially represent for yakuza and other criminal groups: the government have insisted that they will include an article that will ban yakuza members from these premises, but it is not clear how this will be enforced. Ironically, Ejima, the Liberal Democratic Party candidate that was allegedly re-elected thanks to the election disturbance commissioned by Abe, later became a Diet member and is now a member of the Cabinet Committee that is currently deliberating on the 'Casino bill', which raises questions over the administration's will to stop anti-social forces from taking advantage of the many opportunities offered by casinos for illegal activities (Yamaoka, 07/07/2018).

Abe's possible closeness with yakuza members did not go entirely unnoticed. During the Diet session of 17th July 2018, Yamamoto Tarō questioned Abe's relationship with the yakuza, given that the Prime Minister was also chairman of the new law on Casino development, that ostensibly would provide a new revenue source for yakuza groups. As reported by Mr Yamamoto, the new law prohibits companies belonging to yakuza groups to work in the casino through sub-contracts, and prohibits access to yakuza members in the venues due to the risk of money laundering. However, it is not possible to control access of people who are related to the yakuza. Since the Casino management commission is chaired by Abe, and the members are all selected by him, Mr Yamamoto questioned whether the PM had a relationship with yakuza members, and cited the example of the incident in the Yamaguchi prefecture. Abe replied that the person who committed the arson attack was convicted, and that he was a victim in this instance. However, he did not respond in merit to the accusation of having attempted to interfere in the mayoral elections through disturbance acts commissioned

to the local yakuza group (House of Councillors, Cabinet Commission, 17/07/2018; Nihon no Seiji Channel, 17/07/2018). At the same time, there have also been dissenters espousing that Prime Minister Abe was not prosecuted because his Chief Secretary at that time was an ex-senior policeman in the Yamaguchi prefecture, and, as such, was able to interfere with the investigation (Terasawa, 2018).

Abe Shinzō is not the only one in his family who is currently suspected of having relationships with the yakuza, however: it has recently been revealed that the company of his wife Akie is managing a guest house (named Uzu House) in Shimonseki (the Yamaguchi prefecture, and birthplace of Abe Shinzō), which was formerly a headquarter of a local yakuza group, and, hence, directly purchased from this group (Money Voice, 17/04/2018).

As Kaplan and Dubro observed, '[r]eports of mob ties do create a sensation in Japan, much as they would do in the United States, but politicians appear far more able to ignore the allegations and get on with their work' (ibid., 2003: 97). The single-party nature of Japanese politics is arguably one of the reasons for the soft approach adopted by the Japanese government towards the yakuza: since the early post-war period, the continuity of the Liberal Democratic Party and the nepotism within the party, has favoured an ongoing relationship between politicians and the yakuza. While continuous changes in the leading party do translate into shifting alliances, yakuza groups, sure of the success of the Liberal Democratic Party, can easily evaluate the various new candidates and maintain a stable relationship with them.

Nationalistic tendencies and international scrutiny
Further indications of an open channel of communication and favours between the Liberal Democratic Party, in particular Abe, and the yakuza emerged during Abe's re-election in 2012. Indeed, Abe's first time as Prime Minister ended in his resignation, and was proceeded by the first electoral defeat for the Liberal Democratic Party since 1955. According to many journalists, the resurrection of both the party and the Prime Minister are attributable to Abe's role in the 'Nippon Kaigi', a powerful ultranationalist group based on the cult of the Emperor that has exercised an overreaching political influence over Japanese politics since the 1970s. Indeed, since his re-election in 2012, Abe's government has promoted many of the objectives of this group, such as the widely discussed constitutional reform, the 'gag law' on state secrets (passed in 2013),

and the norm of allowing military operations abroad (passed in 2014). According to Sugano Tamotsu, an investigative journalist who researched the Nippon Kaigi, the mainstream media's reluctance to discuss the group's influence on the government is due to an alignment between the ultraconservative ideals of the group and those in the upper echelon of media conglomerates. In fact, rather than being an example of auto-censorship, the situation is to be attributed to a tacit collusion between power groups (Adelstein, 2019).

Traditionally, the yakuza have been part of a nexus on the right, which involved conservative politicians, far-right *uyoku* groups and the yakuza. The latter of these two are so similar that they often overlap. Sometimes connections to the far-right can be used as a source of income: *uyoku* groups often stroll around the city in armoured cars fitted with powerful speakers, and advocate for causes near and dear to nationalists (i.e. the return of Russian-occupied Kuril islands). A common practice is to position themselves outside a company and refuse to leave until the company pays a 'political contribution' (Hill, 2003). The police can cite regulations against excessive noise pollution (*bōsōon kisei jōrei*) and order the propaganda trucks to stop their activity, and in some rare cases have even proceed to arrest them (NPA, 2003).

The yakuza and the far-right are so closely related, both ideologically and organisationally, that sometimes it is difficult to distinguish between them. However, current tendencies within the Japanese government illustrate how a nationalist agenda is being shared and driven forward by most members of the Liberal Democratic Party. This may translate into the risk of institutionalising extreme far-right groups and their ideas, and therefore also to fringe-elements of the yakuza. For instance, the election of President Trump in the US and his blatant conservative and racially inflammatory rhetoric has emboldened alt-right movements and led to a surge in white supremacist groups (Time, 21/02/2018).

The yakuza mimic a feeling of nostalgia that has not yet disappeared from the political elites, and in recent few years this has gained renewed momentum via the re-election of Prime Minister Abe. How can we reconcile the fact that, on the one hand, the government promulgates anti-yakuza regulations, while, on the other hand, it supports many of the political agendas that the yakuza are trying to advance?

The yakuza and the *uyoku* groups base their narratives, their discourses, and their ideology on a nostalgic interpretation of the present. The object of this nostalgia varies, ranging from the Tokugawa period and the samurai code of honour, to the pre-

war militaristic period and the cult of the Emperor. War is also a current trope in the imaginary of the yakuza-*uyoku*: always careful to exclude the last part of the war and the defeat at the hands of the Allied Forces, these groups instead celebrate the conquering (and sometimes also the brutalities committed by Japanese soldiers) of Asian colonies, push for the remilitarisation of Japan, and still consider Korean-Japanese (many of who arrived in Japan during WWII as cheap or free labour) as second class-citizens. However, this stress on Japan's past is not solely the prerogative of these marginal groups: the Liberal Democratic Party, particularly in its current direction, shares much with this nostalgic understating of reality, while, simultaneously, supporting extremely neo-liberal policies. It appears that these two tendencies point towards wholly different political projects: how can longing for a remote past coexist with the most predominant expression of contemporaneity? This phenomenon is in no way limited to Japan. however: especially in recent years, with the resurgence of right-wing populist movements, many industrialised countries have witnessed the re-emergence of a culture of the past, and a proliferation of retrospective discourses. However, such nostalgic feelings are not aimed at a specific period, but rather at a more general, almost 'timeless' past. Fisher (2013) argues that these narratives, which evoke the familiar and the secure, are a response to the destruction of solidarity and security promulgated by the neoliberal system. Moreover, cultural conservatism in particular may be linked to the decline of cultural production, which is a consequence of the new modes of production that leave no time or energy. Both these conditions are present in Japan and can be used, at least in part, to explain Abe's victory in the past two elections.

Nostalgia is the ideological link between the yakuza/*uyoku* and the Liberal Democratic Party, and it can help explain why the yakuza have been tolerated and more or less explicitly upheld by the Liberal Democratic Party.

Final remarks

In the late 1990s, journalists described Japan as 'obsessed with economic growth, politically dysfunctional, extravagantly corrupt, incapable of making decisions, leaderless, a nonparticipant in international affairs, tied in knots as to its past--to say nothing of its future' (Smith, 1997). The case of Japan is emblematic of a developed nation that is considered to be not corrupt according to international corruption indexes, but, upon closer examination, its institutional practices present irregularities that leave broad space for corrupt practices. Given that Japan is also home to a longstanding

criminal organisation, it seems necessary to examine the way in which loopholes have been exploited by underworld groups in order to perpetuate their existence. Although it is undisputable that there are established networks between the yakuza and governmental actors, the main issue pertains to whether these networks are understood as being corrupt. It may well constitute a case of an ongoing quid pro quo in which both sides benefit from this tacit agreement; however, even if these connections are not seen as corruptive, they are still corruptive in practice.

Despite not being perceived corrupted as such internally (as perception indexes of Transparency International show) or internationally, many practices deemed to be legitimate in Japan can in fact be categorised as collusive. Not only within the political sector, but also within industry, there is fertile ground for forms of collusion and corruption that are not based necessarily on payouts or bribes. This system of systematic corruption works on the basis of exchange and relies on the respectable public face of the sectors involved. When a scandal breaks out, it is treated as an isolated case, an exception that confirms the rule as opposed to a symptom of more widespread systemic practices. Since there are so many 'points of access' to legitimate structures, the yakuza can choose the door through which they wish to enter the legal system. It may be through the construction industry and the *dango* practices, or through the election of a candidate close to the group, not in Tokyo per se, but definitely in smaller districts, or it might be through the nexus on the far-right, which appears to be the direction the current administration is leaning towards.

The history of the nexus between yakuza and power can be divided into before, during, and after the watershed moment of World War II. It is contended that prior to World War II the yakuza primarily related itself to power through the use of violence: as enforcers of violence, they were able to use overt violent tactics. During the occupation, violence remained the feature that defined their relationship with power, but it was necessarily the only feature. The yakuza ultimately gained power because of the legitimised role that was bestowed upon them by the Occupation forces. After the occupation ended, and subsequent to the instantiation of the democratic system, the yakuza largely relied on backroom politics and political fixers to infiltrate state institutions. This modus operandi allowed the yakuza to have less accountability, as it was able to operate in a less overtly violent fashion.

The yakuza have always displayed a right-wing orientation: this is manifested in their connection and overlap with *uyoku*, as well as the long history of scandals

connecting yakuza groups to members of the Liberal Democratic Party. The recent governmental support for nationalistic narratives and groups suggests that there is once again a convergence of interests between these two groups. The government's support of nationalistic groups brings funding to groups related to the yakuza and helps to spread dangerous ideologies within a state in which democratic institutions are not deeply rooted. This is not to say that there is an explicit plan to empower yakuza-related groups, but rather that supporting a nationalistic agenda in Japan, either willingly or unwillingly, brings support to these groups. Given the well-known history of *uyoku*, this is hardly a surprise for anyone.

To conclude, this chapter has contended that Japan is only regarded as a country with low-levels of corruption because it is difficult to pinpoint corrupt relationships within practices that contextualise favour exchanges (*amakudari*, provides many occasions for the exchanging of gifts). However, such an environment is prone to irregular practices and has strengthened the yakuza's relationship with power structures. The single-party dominance of the Liberal Democratic Party that has lasted for the majority of the post-war period has guaranteed continuity in the dialogue between the yakuza and the government, while, in turn, the yakuza's influence over voters has been used by politicians, who in exchange have received favourable attitudes for many decades. The traditional inclination of the yakuza towards nationalistic and far-right ideologies has provided them with an additional point of access to state institutions, while the recent resurgence of nationalistic tendencies within the government provides yet another point of contact between the yakuza and the ruling Liberal Democratic Party. Nonetheless, in order to prevent the yakuza from bleeding into the state's power monopoly, since the 1990s the Japanese government has introduced a series of punitive measures designed to limit the yakuza's politico-economic agency, which the next chapter sets out to examine.

Chapter 5

Pushing the yakuza underground: the punitive spiral of anti-yakuza regulations and yakuza policing

The historical, social, economic, and political roots of the yakuza's endurance that have been examined in the previous chapters must be situated within the legal framework in which the yakuza has historically operated. Indeed, foreign observers are often puzzled by the visible presence of the yakuza, and by the fact that anti-yakuza countermeasures permit their existence as semi-legal entities. The jurisdictional framework within which the yakuza acts, and the way it is enforced by the police, are explored in this chapter to assess their relevance to the longevity of the yakuza. The chapter examines the three pieces of legislation that regulate on the yakuza – the 1992 *Bōryokudan Taisaku Hō,* the 2011 *Bōryokudan Haijojōrei*, and (even if it does not target exclusively the yakuza) the 2017 *Tero Tō Junbizai*, which is commonly referred to as *Kyōbōzai* – and considers their increasingly punitive approach towards the yakuza. Moreover, I explore the shifting relationship with the NPA and the policing models adopted to fight the yakuza.

The chapter argues that the anti-yakuza countermeasures introduced from 1991 onwards are the result of external and internal pressure to regulate crime syndicates, which initially were applied half-heartedly – thereby allowing the yakuza to reorganise their structure and activities – but subsequently became full-fledged and pushed the yakuza underground. Secondly, this chapter looks at the enforcement of the aforementioned legislation, so as to account for the role of the police in the yakuza's endurance. By applying the laws circumstantially and fostering a collaborative attitude with them, law enforcement has played an important role in the history of the yakuza. I name the policing model adopted by the Japanese police the 'designation model', inasmuch as policing of organised crime has been enforced only against long-established yakuza groups, while criminal groups with similar characteristics (i.e. disorganised forms of crime such as the *hangure* criminal networks) have been left out. This model compliments the shaming paternalism of the Japanese criminal justice system (Baradel, 2019), and has helped to faciliate the continued existence of the yakuza. Finally, I argue that despite the shift in police attitudes towards the yakuza, the

two groups maintain a connection through individual relationships and their shared conservative ideology.

This chapter begins by reviewing extant literature on the relationship between law enforcement and organised crime, as well as literature on Japanese police, which was the subject of various studies in the 1970s and 1980s. I outline the contemporary police structure, and then introduce the 1964 summit strategy, which constituted the first attempt by the police to crack down on the yakuza. I consider the reasons for its introduction, as well as its contents, and subsequent impact on the organisation. Following the same structure, I analyse the first law introduced against the yakuza, the 1992 *Bōtaihō*, and introduce the 'designation model' of policing. I then move on to examine the effect of these anti-yakuza countermeasures on the crime syndicates, paying especial attention to the increased punitiveness and intrusiveness of the Japanese criminal justice system. I then proceed to consider the most recent anti-yakuza law, the 2017 *Kyōbōzai*, before, finally, evaluating the merits and demerits of adopting a 'contain and collaborate' approach towards crime as opposed to an 'eradicate and destroy' method. The chapter concludes with some considerations on the long-term effects of the anti-yakuza regulations, namely the 'mafiaisation' of the yakuza.

Organised crime and law enforcement: context and policing effectiveness

Firstly, let us consider whether and how the strategies of law enforcement are connected to the longevity of organised criminal groups. While it is generally assumed that tough policies and a higher probability of conviction will lead to a reduction in crime (Kugler, Verdier and Zenou, 2003), and in some contexts this is indeed the case, a thorough understanding of the wider socio-political context is necessary to evaluate proper action against organised crime.

The US was the first country to enforce a broad response to 'organised crime' (which they identified with the Italian Mafia), based on their pattern of activities as opposed to specific, unrelated crimes. By the end of the 1960s, sanctions against criminal groups were increasing, investigative techniques became more intrusive, and a set of responses that are still used in contemporary legislation (i.e. asset seizures, anti-money laundering regulations) took hold. The increasing influence of the US on the international stage, not to mention the fact that this approach was heralded as the exemplar of organised crime countermeasures, contributed to the routinisation of these

practices, both nationally and internationally. For its part, within the EU, the development of an internal market and the suppression of national borders, allied with the turmoil from the transitions of Eastern European countries into the free market, led to the implementation of an internal security agenda and dedicated agencies such as Europol and Eurojust (Antonopoulos and Papanicolau, 2018).

Amongst European countries, Italy has been particularly concerned with the fight against organised crime. The attacks staged by Cosa Nostra in 1992-1993 were followed by an intensification of law enforcement action targeted at mafia groups. The anti-mafia campaign culminated in the arrests of boss Totò Riina in 2003 and Bernardo Provenzano in 2006, but the widespread initiative also involved the arrest of thousands of lower-ranking mafia members (Paoli, 2007). For their part, Cosa Nostra and the 'Ndrangheta responded to the strengthened law enforcement action by changing their previous strategy of openly challenging the state. Their new approach has been 'to become as invisible and impermeable to law enforcement agencies as possible' (Paoli, 2007:864), which has resulted in a dramatic decrease in mafia-related murders, and a shift towards activities that do not cause too much resentment from law enforcement (ibid.). While fighting organised crime often hinges on measures and actions aimed at suppressing the phenomenon, it is rare that the motivations and socio-economic conditions that strengthen resilience of organised crime are taken into consideration (Antonopoulos and Papanicolau, 2018). Indeed, one of the major problems that Italian law enforcement has struggled with is the '*linfa delle mafie*' (mafia lifeblood), which is to say, the attractiveness of mafia groups to younger generations. While in some cases (i.e. the 'Ndrangheta) affiliation to a group is inherited and granted through inter-generational continuity, in some areas mafia syndicates represent the only alternative in a milieu characterised by social crisis and widespread unemployment. Indeed, the regions most affected by the mafia are also those hit hardest by economic crises. The young affiliates tend to flank, or even substitute for, the previous criminal generation. Thus, the downside of relentless law enforcement and imprisonment of older generations is a faster generational turnover, combined with an increase in predatory acts, as young affiliates (starting from as young as 14 years old) attempt a power grab (DIA, 2018).

Nevertheless, Italy's anti-mafia policies have widely been considered effective (Paoli, 2007), so much so that the Georgian government adapted them and introduced them in 2005 as a means through which to eradicate the longstanding problem of the

autochthonous mafia of thieves-in-law. These policies were predicated on the criminalisation of mafia membership, separate prison accommodation for mafia members, confiscation of goods obtained through mafia methods, purging of corrupt elements within the police force, and the implementation of grassroots civic education programs. This policy was undoubtedly successful in eradicating organised forms of crime, but, as Slade (2012) argues, it was supported by an additional series of factors: the uncertainty and violence following the Soviet Union's collapse had a strong impact on the criminal groups, who were left vulnerable and unable to deal with state attacks.

Indeed, the effectiveness of policing and sanctions is also related to the governance sector itself. While in those states where law enforcement are paid well and corruption is not endemic, increased policing and sentencing are important measures for reducing crime, in contexts defined by weak governance and widespread corruption tougher policing only results in raised rents for organised crime. In this sense, tolerating some degree of illegality may be useful, since it may help suppress rents for organised crime (Kugler, Verdier and Zenou, 2003). In some cases, widespread corruption can lead to a tight collaboration between organised crime and the police. Wang (2017) describes how the anti-crime campaigns routinely organised by the Chinese central and local governments lead to criminal groups buying protection from government officials, in particular, from the police. Taking advantage of the traditional *guanxi* network system, criminal bosses establish a connection with the police, and once this connection is established, they are able to monopolise illegal markets and negate police repression. This situation is at the antipodes of theories that consider organised crime as sellers of private protection (Gambetta, 1993; Hill, 2003; Varese; 2001).

The effectiveness of law enforcement upon the longevity of organised crime needs to be considered in a broader organisational, societal, and political context (Bakker, Raab and Milward, 2012), in such a way that allows for an understanding of how law enforcement agencies are limited by the social, political, and economic structures in which they operate (Sung, 2004). While the actions of law enforcement are deemed to have an impact on the resiliency of organised crime, tougher policies do not always result in decreased criminal activity. In fact, the very concept of 'effectiveness' *in relation to* anti-organised crime policies can often be reduced to a maximisation of symbolic value and public perception, while the actual impact on illicit activity remains uncertain. For instance, the policies pertaining to the US-led 'war on drugs' have been a success politically, despite having little material impact on the drug trade it targeted.

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Ordinarily, the number of arrests and seizures – which invariably exaggerate the monetary value of the seized shipments – are used to demonstrate the effectiveness of drug policies, but these measures are arbitrary: an increase in drug seizures may correspond to better investigative and policing strategies or simply increased drug production (Andreas, 2010). Nevertheless, this campaign served as a tool through which to internationalise the American approach to fighting organised crime (Antonopoulos and Papanicolau, 2018).

Italy was the precursor of a policing model that is based on the structure of organised crime, and relies on prosecutions and convictions to damage the social status of the mafia. Mafia membership is criminalised, and the fight against the mafia is considered an object of special legislation and policing (Sergi, 2016). La Spina (2004) looks at changes in the strategies of mafia-type associations as a means through which to assess the effectiveness of the anti-mafia policies in Italy: the fact that Cosa Nostra has become as invisible as possible, and an increased number of bosses are open to bargaining with the state in exchange for an easing in the 'hard prison' regime, suggests that the policies have had an impact on mafia groups. Discordantly, the US implemented a model based on enterprises and patterns of racketeering activities (a series of criminal acts connected to the enterprise). Given that this system targets a virtual and anonymous subject – the enterprise – this model has to use a considerable amount of resources because of its complexity, but at the same time it can be adapted to a range of different criminal groups and networks. A further model of policing, referred to as the 'visibility model', can be observed in Australia: while organised crime warrants a mention in the national security agenda, state law enforcement bases its policies on the visibility of the threat. Indeed, the Calabrian mafia, motorcycle gangs, or Asian organised crime are targeted cyclically rather than constantly, specifically when they become more visible or when their repression fits the political agenda (and electoral calendar) of the many Australian state governments (Sergi, 2017).

The policing of organised crime in Japan faces the paradox of enforcing the law over a criminal organisation that is de facto legal. This way of policing organised crime can be described as the Japanese 'designation model', in which a subset of organised criminal groups (the 24 designated yakuza groups, see appendix 1.1) are the main target of law enforcement. However, as I contend in the next sections, this model neglects other forms of crime that are on the rise within Japanese society (e.g. *hangure,* or non-

designated yakuza groups, see appendix 1.2) and leads to the stigmatisation of ex-yakuza members, which, in turn, hinders their reintegration within society.

Considering all this, in the following sections I delve into the anti-yakuza countermeasures and policing and argue that, while their increased invisibility signals a weakening of the organisation, in the long-term it could lead to the strengthening of non-codified forms of crime.

Police culture in Japan

The Japanese police have been the subject of study by criminologists who have sought to explain how they managed to maintain low crime rates throughout the post-war period of industrialisation. Bailey's (1976) study of the Japanese police relied on the idea that Japanese society prioritises the group over the individual, more specifically, the moral values shared by the group. Policeman, as governmental workers who are highly valued as a result of the communitarian spirit of the Japanese people, are thus positioned as moral tutors (Bailey, 1976) whose authority is both trusted and respected. As for the relationship between the yakuza and the police between the 1950s-1980s, extensive information is reported in Ames' study on the Japanese police (1981). According to his observations, the police and the yakuza enjoyed a robust and cordial relationship: police officers did not hide their participation in yakuza's funerals, they routinely visited the yakuza's offices and bosses' homes, while the interrogations of yakuza suspects he overheard were conducted in a relaxed and often jovial manner. The reason for such cordiality is that it was convenient for both the police and the criminal groups to have a good relationship and not escalate into hostilities. Ames argued that since the 1960s, when the criminal syndicates began to expand considerably, the police tried to limit their influence and this led to an increased number of crackdowns (the summit strategies described below); however, these repressive actions turned out to be merely a façade, as groups were often warned prior to the raid, and thus most of the arms and drugs were already removed or hidden, while arrests typically only ended in a couple of days of detention.

Whereas Ames insisted that the relationship between the yakuza and the police was not of a corrupt nature, but rather was a friendly and collaborative one, Kaplan and Dubro (2003) suggest that the resilience of the yakuza can be explained by an institutionalised form of corruption with the police. The personal friendships between

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police officers and yakuza members constitute the basis upon which corruption is built, while the gifts exchanged between the groups are the mortar that cements the system. In many instances these friendships are wholly genuine, since yakuza members and police officers often share a modest upbringing and conservative values. Their complicity is also reinforced by the institutionalised role of the yakuza, namely the well-established links between conservative politicians, far-right elements, and the yakuza (Kaplan and Dubro, 2003; see also Chapter 4).

However, Hill (2003) argues that the cosy relationship described by scholars such as Van Wolferen (1989) ended with the summit strategy in 1964. According to him, the historical tolerance of the yakuza stemmed from the link between the yakuza and powerful conservative politicians (which discouraged the police from taking action against the criminal syndicates), the yakuza's inclination towards non-predatory crimes, and the yakuza's chivalrous ideology and masculine value system, which resonated with police culture.

Doubts remain as to why the symbiotic relationship between the yakuza and the police has not been countered by the government, despite the risk of compromising the safety of the whole system. One possible explanation pertains to the fact that the police is a 'semi-autonomous body with far-reaching discretionary powers' (Van Wolferen, 1989:111), which operates in a state in which power is shared amongst a number of 'semi-self-contained, semi-mutually dependent bodies which are neither responsible to an electorate nor, ultimately, subservient to one another' (ibid.). In other words, the police have tolerated the yakuza for so long, because they were an effective way to keep crime under organised control, while other institutions chose not to oppose this modus operandi because they lacked the authority to do so and because, ultimately, it was efficient.

The NPA: a once admired multi-layered organisation

The way in which the police are organised has been deemed to have influenced their relationship with the yakuza. As Hill noted, 'the police force is not a monolithic organisation' (2003:250), and different bureaus have different attitudes towards the yakuza. Likewise, the yakuza are composed of multiple groups with varying attitudes towards the police. In this section, I examine the organisation of the NPA, consider how they have been understood by scholars, and outline the ways in which they interface

with the state and are perceived by the population, in order to understand the channels through which the yakuza can approach them.

The internal bureaus of the central police are the Community Safety Bureau (*seikatsu anzen-kyoku*), the Criminal Affairs Bureau (*keiji-kyoku*), the Traffic Bureau (*kōtsu-kyoku),* the Security Bureau (*keibi-kyoku*), and the Info-Communications Bureau (*jōhō tsūshin-kyoku*). The organised crime department (*soshiki hanzai taisaku-bu*) is part of the Criminal Affairs Bureau and includes the Organised crime policy planning division (*soshiki hanzai taisaku kikaku-ka),* the bōryokudan division (*bōryokudan taisaku-ka*), the drugs and firearm division (*yakubutsu jūki taisaku-ka*), and the Director for International Investigative operations *(kokusai kōsa kanrikan).* Parallel to this, there are seven regional police bureaus (*kanku keisatsu-kyoku*), who are each in charge of several prefectures. The Tokyo metropolitan police department and the Hokkaido prefectural police are excluded from this, and instead run autonomously (NPA, 2019a; see appendix).

All Japanese police are subjected to the authority of the NPA, which has been described as a 'largely administrative agency, filled with managers, statisticians, and report writers' (Kaplan and Dubro, 2003: 207). Prefectural police are in charge of regional policing, while bureaucrats from the central bureau are sent to prefectural police departments. This practice has been widely criticised, especially by foreign law enforcement officials working in Japan, since the bureaucrats take charge of investigations in key cases despite their lack of experience in the field, in order to advance their careers. Other criticisms have been directed at the lack of both a national investigative force and intelligence analysts (ibid.).

The vast majority of the population interacts with the police through the *kōban* (the neighbourhood police office, which is also used to refer to the smallest organisational unit of the police), whose presence and household visit system date back to the Meiji era. Thanks to this system, a police officer is always available in the neighbourhood and the citizens can rely on them for counselling and conflict resolution (Parker, 2001). However, the fact that the *kōban* work as a citizen service centre often leads to police activity being disrupted. Indeed, a rising scepticism towards the efficiency of the *kōban* system led to an increase in the use of private security agencies, which, in turn, are subject to the control of the police. Furthermore, doubts have also emerged in relation to the illicit use of surveillance technology by these private security services, which has also served to expand the workload of the police (Leishman, 2007).

At the same time, this system also enables the state to monitor and control the population.

Countering the yakuza in Japan: the first failed attempt

This section addresses the reasons that led to the first attempt to regulate the yakuza, the so-called summit strategy (*Chōjō Sakusen*) in 1964, and evaluates its merits and demerits. I argue that it constituted a significant step, insofar as up until 1960 the police and the yakuza had a friendly relationship that often involved collaboration between the two groups. Two possible explanations can be offered for the sudden turnaround in the police's handling of the yakuza: the first is that public opinion pushed the police towards this decision, while the second is that the police were trying to establish themselves and began a series of crackdowns in order to influence public opinion.

The events of 1960, 'the most politically turbulent year of Japan's post-war history' (Siniawer, 2008:161), are key to understanding the relationship between the yakuza, the police, and politicians. Indeed, the political struggle in this year saw various violent peaks: labour strikes (notably, the strike at Miike Coal Mines in Kyushu, the longest in Japan's history), mass demonstrations against the US-Japan Security Treaty (also known as Anpo), and the assassination of Japanese Socialist Party (JSP) chairman Asanuma Inejirō (ibid.). The revision of the Security Treaty was opposed by liberals and leftists, who argued that it would permanently subordinate Japan to the US (Igarashi, 2000). The weeks leading up to the ratification of the treaty, scheduled for 19 June 1960, were scattered with mass protests, to which the ruling Liberal Democratic Party responded by turning to the yakuza. Prime Minister Kishi had a special connection with the criminal syndicates through Kodama Yoshio, the political fixer who was close to the yakuza, with whom he shared a cell in Sugamo Prison immediately after the war. Kishi asked Kodama to form a coalition of violent groups to keep protesters under control, in view of the ratification of the treaty and President Eisenhower's visit on 19 June 1960. While the violence in the weeks leading up to this occasion led to the cancellation of the presidential visit, the Liberal Democratic Party managed to enact the ratified US-Japan Security Treaty (Siniawer, 2008). The political violence lasted throughout the summer, as protesters redirected their energy to the ongoing Miike strike. With the assassination of JSP Chairman Asanuma, a symbol of the anti-treaty movement, it became clear that there was a need to put a stop to such

widespread violent episodes and limit the power of the yakuza. Anxiety over the possible resurgence of fascism and the destruction of democracy prompted discussions and criticism about violence. Mainstream newspapers condemned the violent episodes, while the newly elected Prime Minister Ikeda Hayato sided with the anti-violence faction. Many parties introduced bills banning violence, and by the mid-1960s even the Liberal Democratic Party distanced themselves from the groups they had previously hired prior to the violent events of 1960. For their part, the yakuza lessened their interest in being specialists in violence: they began to transform into wealthy groups and realised that money was more efficient and less visible than violent tactics (Siniawer, 2008). Indeed, the 1964 public opinion poll on the police, which was administered by the government, reported that public opinion was showing signs of concern over the yakuza (*Seiron Chōsa - Naikakufu*, 1964, see appendix 7.1).

By 1964, when the police put into effect the 'summit strategy', the yakuza had effectively already lost their favoured privileged relationship with the police. While pre-war yakuza gangs comprised around 50 people, throughout the 1950s and the early 1960s the newly emerged yakuza groups had enlarged to thousands of members: it is estimated that in 1958 yakuza syndicates counted 70,000 members, while only five years later the number rose to 184,000 (Kaplan and Dubro, 2003). Widespread public discontent, increased intra-gang violence, and the upcoming 1964 Tokyo Olympics led to the summit strategy in 1964 (Hill, 2003). Furthermore, by this time the police force and the self-defence forces had finally become organised, and, as such, needed to assert state power over the widespread influence of the yakuza, that in the immediate post-war period had served as an alternative police force (Miyazaki, 2010). The strategy relied on two strategies: arresting high-ranking officials rather than simple members and cutting off their sources of revenue. In 1964, the police arrested 932 yakuza bosses, and 3547 high-ranking officials. Furthermore, they focused law enforcement activities on 10 important yakuza groups, which, with the exception of the Yamaguchi-gumi, subsequently had to dissolve. In the two years in which the summit str ategy was deployed, 17,000 people were arrested, 20,000 weapons were confiscated, and 475 groups dissolved (ibid.).

Ripple effects: evaluation of the summit strategy

The series of crackdowns had a severe impact on both small and medium-sized groups, whose income depended on the traditional crime types targeted by the summit strategy (i.e. gambling and extortion), while larger groups were able to remain in operation in the midst of increased law enforcement attacks (Hill, 2003). The Yamaguchi-gumi resisted these attacks by diversifying their activities domestically and abroad, while the groups that disbanded, not only reformed but came back stronger and larger. This is due to the fact that during the crackdowns of the first summit strategy, small and medium-sized groups were forced to ask for protection from bigger groups, who ended up absorbing them, or alternatively groups formed more coalitions. Therefore, the most longstanding result of the summit strategies was an oligopolisation of the yakuza, that is, fewer groups who were larger and stronger (Miyazaki, 2010). According to Ino (2000), the summit strategies created a ripple effect that engendered the shift towards what he called the *daisoshiki teikokushugiteki keikō* (imperialist tendencies of big yakuza groups).

Indications of the perceived effectiveness of the summit strategy can be extrapolated from the 1971 public poll on the yakuza and the activity of the police, which showed that, in comparison to 1964 when only 22.8% of the respondents thought that the police were actively repressing the yakuza, by 1971 this percentage had doubled. However, in 1978 the data once again registered a plunge in the perceived effectiveness of the anti-yakuza strategies (*Seiron Chōsa - Naikakufu*, 1971, 1978; see appendix 7.2).

However, the increased harshness of the summit strategy was not sustained within an ongoing initiative comparable to the one introduced by Japanese law enforcement in 1992 that continues to this day. The summit strategies were developed and enforced by the police and are thus better understood as an ad hoc strategy that was designed to be applied only temporarily.

25 years of anti-yakuza countermeasures: from the 1992 *Bōtaihō* to the 2017 *Kyōbōzai*, passing through the *Bōryokudan Haijojōrei*

The spiral of anti-yakuza legislation and regulations began with the introduction of the *Bōtaihō*, which was promulgated in 1992, and henceforth followed by a punitive trend that has seemingly not yet peaked. However, this lively area of legislation has not met with much curiosity from scholars. 15 years after the publication of *The Japanese*

Mafia: Yakuza, Law and the State (Hill, 2003), which introduced that law to Anglophone criminologists, and 25 years after the promulgation of the law itself , there is a need to assess how it has worked over time, while also considering new anti-yakuza countermeasures: the Anti-Drug Provisions Law (*Mayaku tokurei-hō,* 1991), the Organized Crime Punishment Law (*Soshiki hanzai shobatsu-hō,* 1999), and the Transfer of Criminal Proceeds Prevention Law (*Hanzai shūeki iten bōshi-hō,* 2007), which were issued with the express aim of targeting the yakuza's profits by cracking down on financial fraud, money-laundering, and transnational underworld banking (Rankin, 2011). Moreover, in 2010, the city of Fukuoka promulgated a set of ordinances, the *Bōryokudan Haijojōrei*, which have subsequently been applied across the whole nation. These ordinances propose a more radical and normative approach to the combatting of organised crime in Japan, raising additional concern over the human rights of people involved with the yakuza. Finally, in 2017, PM Abe's cabinet passed the *Kyōbōzai* (anti-conspiracy bill), a major amendment to extant law on organised crime that criminalises the act of planning a criminal activity.

Better late than never: *Bōtaihō,* the first anti-yakuza law

In this section, I look at how the first anti-yakuza law came about, as well as considering its contents and its subsequent effect on the yakuza. The *Bōtaihō* emerged during a trend of criminalisation that the Japanese judicial system underwent in the early 1990s. While for nearly three centuries the yakuza had existed in Japan via abiding by a silent social contract that allowed them to conduct their various businesses as long as no citizens were hurt, the situation escalated to a critical point by the beginning of the 1990s (Kaplan and Dubro, 2003). A climate of economic uncertainty and concern over the increasing crime rate help explain why polls reported that Japanese citizens felt less and less safe, despite the fact that crime rates in Japan had not increased to the point that such a fear was justified (Miyazawa, 2008). Similarly, in 1991/1992, when the law was created, a series of factors – as described below – made the population more cognisant of and worried about the presence of the 90,000 or so active yakuza within the national territory (NPA, 1999), and given that the dominant Liberal Democratic Party had lost control of the upper house of the Diet in 1989, the first time this had occurred since 1955, political parties were particularly receptive towards public opinion (Midford, 2011).

However, it is possible to date the beginning of the decline in social acceptance towards the yakuza to the mid-1980s. The main reasons that engendered a more severe approach to combatting the yakuza were both domestic and foreign in nature. Domestically, a series of incidents referred to as *minji kainkyū bōryoku*, or *minbō* (violent interventions in civil affairs), the escalation of the gang conflicts (the *Yama-ichi kōsō*), and the political corruption scandals involving the Liberal Democratic Party corroded the image of the yakuza as a distant actor who did not involve civilians in their businesses (Hill, 2003). The 1980s can thus be considered as the period in which the yakuza wholly transformed from '*kindai* yakuza' (modern yakuza) to '*gendai* yakuza (contemporary yakuza), a transformation that had began after the end of the war but was only finalised when the economic bubble burst (interview with yakuza researcher Hirosue Noboru, Fukuoka, 2 April 2018).

The second pressure point stemmed from foreign influences, specifically from the US. Indeed, the years leading up to the *Bōtaihō* were also defined by America's 'war on drugs', which corresponded to the fight against organised crime. In this context, the lack of regulations against criminal syndicates moving drug loads across Japan was heavily criticised by US officials, and the Japanese government was pressured into creating a specific law against their domestic syndicates (Hill, 2003).

The *Bōtaihō* law aimed to control the yakuza's demands over the population (protection money, subcontracting, etc.) by preventing harmful conduct when on gang turf, promoting the public good by preventing the damage caused by bōryokudan activities, with the ultimate aim of protecting the rights and freedom of the population (*Bōtaihō*, art.1, para.1). Public Safety Commissions were charged with designating as bōryokudan groups those that collectively and regularly promoted violent illegal acts (*Bōtaihō*, art.1, para.3). In order to complete this process, upon completion of relevant research, such commissions had to conduct public hearings in which they explained their reasons for designating a group as a bōryokudan group: the date and time of the meeting needed to be notified to a representative of such a group, who then had to attend the hearing and on that occasion could express the position of the group and present relevant evidence (*Bōtaihō*, art.1, para.5, no.1, 2, 3). The commissions also had the power to regulate local bōryokudan groups (*Bōtaihō*, art.2, para.21, no.6), and to help whoever wanted to make a claim against a bōryokudan group for damages caused by the group's demands (*Bōtaihō*, art.2, para.13). The law sought to stop the bōryokudan's demands upon citizens or businesses; for instance, it was forbidden for

bōryokudan groups or their members to use their influence to demand funds or other assets in exchange for not revealing secrets or compromising circumstances (*Bōtaihō*, art.2, para.9, no.1); asking for money or support without good reason (*Bōtaihō*, art.2, para.9, no.2); forcing a company to accept their offer of subcontracting or selling other materials (*Bōtaihō*, art.2, para.9, no.3); to use violence to collect debts (*Bōtaihō*, art.2, para.9, no.7); and to demand to postpone or be exonerated from repaying their debts (*Bōtaihō*, art.2, para.9, no.8). The law regulated the use of bōryokudan offices during turf struggles (*Bōtaihō*, art.3, para.15) by prohibiting their use in such periods; regulated membership by prohibiting coercion and solicitation to recruit new members to bōryokudan groups, or impeding the secession of a member from a group (*Bōtaihō*, art.4, para.16, 17, 18); prohibited coercion or solicitation to perform the ritual of *yubitsume*[23] (*Bōtaihō*, art.4, para. 20, 21, 22); and prohibited coercion, solicitation, or financial support for minors to get a tattoo (*Bōtaihō*, art.4, para. 24, 25, 26). Furthermore, the law controled territorial matters, by regulating offices, i.e. headquarters could be established only in certain designated areas (*Bōtaihō*, art.4, para.29).

The police translated the law via a three-pillar strategy that consisted of promoting the rehabilitation of yakuza members and preventing the involvement of young people in the yakuza; preventing acts of revenge against victims, witnesses, and people who work towards eliminating the yakuza; and guaranteeing the safety and security of concerned people (NPA, 1993).

With the introduction of the *Bōtaihō*, yakuza groups began to be officially referred to as bōryokudan, which literally means 'violent groups'. Yakuza syndicates opposed this definition, invoking the constitution and their civil rights: while many groups (including the Sumiyoshi-kai and the Inagawa-kai) insisted that yakuza groups and criminal groups were two different things entirely, and refused to be called bōryokudan in light of the negative connotations raised by the name, the Yamaguchi-gumi rejected the law altogether, claiming that it went against the right of association and the principle of equality before the law. However, they did not receive the support of civil society, and, in fact, the law was unanimously passed in the Diet after only 8 hours of deliberation (Miyazaki, 2010). The *Bōtaihō* was described as 'uniquely Japanese' by one of its authors: many of the provisions in this law were ambiguous and

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[23] The ritual of cutting off one's own fingertip as an apology to yakuza bosses.

targeted grey areas that the police had not been able to control (Kaplan and Dubro, 2003). Nevertheless, it represented the first attempt to limit the scope of the yakuza and, in this respect, marked a profound shift in the hitherto tolerant political and institutional approach towards the syndicates.

Policing organised crime: the Japanese designation model

The policing model introduced by the *Bōtaihō* differs significantly from those applied in other countries, insofar as it is predicated on the criminalisation of membership or enterprise. In the Japanese case, the policing of organised crime centres exclusively on *shitei bōryokudan* (designated yakuza groups), with the list of yakuza groups being updated every year by the Public Safety Commission. At the moment, 24 groups are designated bōryokudan and are therefore subjected to the restrictions introduced by the *Bōtaihō*, but there are also yakuza groups that are not designated as such (see appendix 1.1 and 1.2 for a complete list of all designated and non-designated yakuza groups). Groups can avoid designation by dissolving and reorganising under a different name and different leadership, or if they are not affiliated to one of the 24 designated groups. In a recent case, the Ninkyō Dantai Yamaguchi-gumi, which split from the Kōbe Yamaguchi-gumi, formed on 30th April 2017 and remained a non-designated group until 22nd March 2018. In order to avoid designation the group did not perform *sakazuki-goto* (pledging over sake cups) and did not rely on the *ōyabun-kobun* (parent-son, boss-disciple) relationship: the members were all equally medium-ranked, while the boss Oda Yoshinori did not hold the title of *kumichō*, but rather that of *daihyō* (representative). The monthly fee to be paid to the group was less than ¥100.000 (£700) for all members (Mizoguchi, 2017).

Groups acting similarly to the yakuza, such as the emerging *hangure* (disorganised criminal networks), are not the target of anti-yakuza countermeasures since they are not listed among the *shitei bōryokudan.* The fact that the yakuza are understood as being the only type of organised crime in Japan is also clear from the fact that the organised crime department (*Soshiki Hanzai Taisaku-bu*) has a specific department (*bōryokudan taisakuka*) that deals exclusively with the yakuza. Within this model of policing, which I call the designation model, yakuza groups are visible, semi-legitimate, and although membership is not criminalised per se, belonging to a yakuza group may result in harsher sentences (see Chapter 6 on sentencing).

Since the introduction of the first anti-yakuza law in 1992, there have been discussions about introducing the crime of criminal association like in the anti-mafia laws in Italy. However, the consensus is that it would be impossible to enforce such a law without infringing upon the constitution, since it is not possible to know whether a group is funded by criminal transactions, and it would be too burdensome to investigate all registered groups and associations (Tamura, 2015). Ex-lawyer of the Yamaguchi-gumi, Yamanouchi Yukio, believes that the government has not yet introduced the crime of association because of a lack of political will over eradicating the yakuza (interview, Tokyo, 15 April 2018), while Mizoguchi argues that the reason is because the police needed the yakuza's support in the past to carry out policing tasks (interview, Tokyo, 22 January 2018). The list of yakuza groups that this model of policing establishes represents a double-edged sword for the yakuza: on the one hand, if a group is included on the list of designated yakuza groups, then it is subjected to more policing compared to a non-yakuza criminal group; on the other hand, they are attributed the status of a group that is one step above a 'disorganised' criminal group such as *hangure*.

Bōryokudan Haijojōrei: policing those who police the criminals

The *Bōryokudan Haijojōrei* (*Bōhaijōrei*) are regulations that were first issued in Fukuoka in 2010 before gradually being applied discretionally and differently across prefectures. Mizoguchi (*News Post Seven*, 16/03/2016) noted how the *Bōhaijōrei* went deeper than the actual national law, in that minor governing bodies were allowed to decide the regulations to be applied against the yakuza in their territory of competence.

Let us consider two cities that applied these ordinances: Tokyo, as it is the capital of Japan, and Fukuoka, as it was the first city to implement the *Bōhaijōrei*, and because it is also the main city in a region that has a particularly high concentration of yakuza. The Tokyo Metropolitan Police set out the following principles: do not fear the bōryokudan, do not give money to the bōryokudan, do not use the bōryokudan, and, most of all, do not associate with the bōryokudan (*Keishichō*, 04/07/2016). Other measures enforced in both Tokyo and Fukuoka include the prohibition to conduct disturbing behaviour, to provide money to the yakuza, to use another person's name for contracts, to let young people into a yakuza group's office, to establish offices near schools, libraries and similar places that are frequented by young people. If a citizen makes a contract with someone who turns out to be related to the yakuza, then they are

free to immediately dissolve the contract (Keishichō, 04/07/2016; Fukuokaken Keisatsu, 2019). Similar ordinances have been introduced in all prefectures, with minor differences.

These regulations have attracted criticism over their wide sphere of influence and the rigidity with which they have been applied, with one major problem being that *Bōhaijōrei* target not only members of the yakuza but also 'persons related to the yakuza'. Members who have already quit the organisation for a period of less than 5 years after their retirement are still considered to be a 'person related to the bōryokudan', and, as such, continue to be affected by these ordinances, which results in the de facto impossibility of social reintegration (Hirosue, 2017). At the same time, social inclusion remains impossible even for those who are in the organisation but looking for legal employment, since yakuza members who do not disclose their status in the application process (which would prevent them from being hired) can be arrested. For example, on 16th January 2019 a 60 year old yakuza member was arrested for not having disclosed his status as an active member when starting a part-time job at the post office. He had worked for one day in November 2017 and had voluntarily retired four days later when his identity was revealed. Dr Hirosue, an expert on the yakuza, commented on this story and warned that nit-picking and such blind implementation of the law created a considerable risk of pushing the yakuza underground and inciting ex-yakuza to re-offend (Sonoda, 23/01/2019).

The issue of discrimination has also been raised by Tsukasa Shinobu, boss of the Yamaguchi-gumi, in an exclusive interview with Sankei Newspaper: 'All our [yakuza members'] children are now bullied and discriminated against. I know that it is said that we [yakuza] do not have human rights, but shouldn't it be different for our families?' (*Sankei West*, 31/08/2015). A concrete example of the repercussions of these regulations for people related to the yakuza was reported to me by a Japanese academic. He noted that school lunches are usually paid by bank transfer, but as yakuza members are not allowed to have a bank account, they are not able to transfer the money for their children's meals. Therefore, the children of yakuza, or for that matter any other families that cannot pay via bank transfer, have to pay cash to the teacher. This has been reported as leading to these children getting bullied (see also Murayama, 16/06/2016).

A further important aspect of this set of ordinances is that the duty to fight the yakuza shifts from the police onto normal citizens, since the leading role in the fight against organised crime is assumed by the prefectures and the population (Mizoguchi,

2012). The policing of the yakuza is a duty of the individual citizen, who now has a personal responsibility, along with companies, to confront the yakuza, avoid contact with them, or cut all ties (Hirosue, 2016). Other implications of this approach are that the government is less involved in its traditional role of policing criminals, and more concerned with the controlling ordinary citizens. As individuals must denounce the yakuza, the government neither needs to control who is a yakuza nor the activities they engage in, but rather controls whether the citizen is performing their civic duty of denouncing yakuza members. In so doing, the state enters into the personal sphere of the individual, collecting information on him/her and, if the citizen fails in their duty to denounce the yakuza, he/she can be punished.

Kyōbōzai: anti-yakuza regulations with a broad scope

The most recent law promulgated in the context of the fight against the yakuza is the controversial anti-conspiracy law, commonly referred to as *Kyōbōzai*[24]. Even though it is too soon to assess the impact of this specific law on the yakuza, I consider it here to complete the analysis of anti-yakuza regulations that are currently in force.

The *Kyōbōzai* was passed by the ruling Liberal Democratic Party in 2017 after a series of debates in the Diet. Originally, the bill was proposed and rejected at different Diet sessions in 2003, and once again in 2004 and 2005, due to concerns that its scope was too wide and it could infringe upon civil rights and liberties (Hosaka, 21/01/2017; Nichibenren, 2017). The *Kyōbōzai* – which constitutes a major amendment to an existing law targeting organised crime – targets the plotting (and committing) of any of the list of crimes indicated in the bill. According to this law, two or more persons who plan and arrange such activities – through the acquisition of money or goods, preliminary inspection of the place of the activity, and all other related preparation activities – may be prosecuted. However, if the conspirers give themselves up before the execution of the crime, then they will receive a reduced sentence or be discharged (*Terotō junbizai*, 2017).

The Japanese government stated that this law was necessary to ratify a 2000 UN convention against transnational organised crime, and that it constitute an essential tool in tackling potential terrorist attacks with a view to securing the 2020 Tokyo Olympics

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[24] Official name of the law: *Soshikitekina hanzai no shobatsu oyobi hanzai shūeki no kisei nado ni kan suru hōritsu nado no ichibu wo kaisei suru hōritsuan*, which is often shortened to *Terotō junbizai*.

and Paralympics. This has been contested by UN experts, who worried that the anti-conspiracy law may lead to unprecedented surveillance of the population and pre-emptive arrests, with the additional risk that political groups become the target of repression (*The Japan Times*, 21/10/2017). The Japanese Federation of Bar Association (JFBA) discredited the position of the government, according to which this law was necessary to ratify the UN convention, issuing a strong statement entitled '*Nichibenren wa kyōbōzai-hō no haishi wo motomemasu* [The JFBA demand the abolition of the kyōbōzai], in which they explained in detail the issues pertaining to this new law (Nichibenren, 2017).

The law has also been protested against domestically by several citizen groups, who fear that it will restrict freedom of speech and it will allow the government to unfairly restrict opposition (*Mainichi Shinbun*, 15/05/2017). Even Mizoguchi Atsushi, a journalist that has been reporting on the yakuza for decades and who has also been a victim of threats and a physical attack by the yakuza, criticised this new law. He argued against the proposed definition of organised crime group, on the grounds that it was too vague and could also be used against groups of ordinary people. Secondly, he argued that it would be impossible for prosecutors to gather enough evidence for a crime still in the planning stage, and that there was the risk of overly relying on arbitrary sources (Iwazaki, 16/5/2017). Indeed, the 2016 amendment of the wiretapping law added five new categories (use of explosive materials, kidnapping, confinement, bodily injury, and child pornography) to the list of crimes that can be investigated with the support of wiretapping (*Tsūshin bōju-hō*, 2016).

The Yamaguchi-gumi circulated a position paper amongst their members on the topic titled '*Kyōbōzai wo kangaeru*' (Let's think about the *Kyōbōzai*), explaining the new law and drawing attention to the possible risks and the precautions that should be taken. The main worry expressed in the text is that if someone is arrested for any accusation, then the police can now indict other members of the group, notably including from the management level right up to the boss, which highlights the increased powers of the wiretapping law (*Tsūshin bōju-hō,* 2016). In order not to become embroiled in a false accusation, Yamaguchi-gumi members are told that when another member is arrested, they should take precise notes of the police interrogation and provide them to their lawyer (*Asahi Shinbun*, 12/07/2017).

**Evaluation of the anti-yakuza countermeasures: pushing the yakuza underground**

The impact of the anti-yakuza countermeasures on the syndicates is considered here by looking at the fluctuations in gang members and gang dismantlement. While these laws marked a reversal in the traditionally accepted presence of the yakuza, ultimately the groups adapted to the new hostile scenario by going underground and reducing their levels of violence.

Data on yakuza membership from the White Papers of the Police clearly show that after the introduction of the *Bōtaihō* there was a drop in the number of full-time members, but many observers argue that the reasons for this decline are to be found in the restructuring of the different groups to evade the law. Indeed, the growing number of part-time members suggests that membership numbers did not change drastically in the aftermath of the implementation of the *Bōtaihō* and throughout the 1990s (Hill, 2003). Police data suggests that numbers of both full- and part-time members of yakuza groups continued to decline (NPA, 2008; NPA, 2018; see appendix 5). However, it is not clear what happened to the tens of thousands of those who are said to have left the organisation over the past 10 years. Hirosue (2017) suggests that a number of these people became '*autorō*' ('outlaws'), which is to say that they engaged in crimes independently, without being affiliated to a group, some of them maintaining legal occupations during the day. They commit a wide variety of crimes that target weak subjects or normal citizens, such as stealing shop safes, kidnapping, stealing cars, smuggling drugs, fraud, forgery, and are also believed to be collaborating with foreign criminal networks (notably Chinese) to smuggle drugs into Japan.

In order to evaluate the success of the *Bōtaihō,* Hill (2003) also considered the number of disbanded groups, observing a clear break before and after the implementation of the new law, as well as acknowledging the popular belief that during the 1990s dispute settlement mechanisms became more pacifistic and could be achieved through third party mediation and payment of monetary sums. Even though the resolution became more pacifistic, there was the possibility that gangs may have been disbanded only to subsequently be reabsorbed by other gangs (Hill, 2003). Data from the White Paper (NPA 2000 to 2016, as shown on the next page) shows that there was a drop in the number of dismantled groups after 2000, and the following upward trend lasted for four years between 2002-2006. Following that juncture, the number of dismantled groups continued to slowly decrease. If we compare the number of yakuza

belonging to dismantled groups[25] to the total numbers of yakuza membership during the same period, we find that between the years 2000-2016, around 3000 groups were dismantled involving a total of c.a. 20,297 members, while the decline in general terms of yakuza members for the same years was 36,700. This suggests that the members belonging to dismantled groups were not reabsorbed, and, moreover, that the decline in the number of groups appears to represent a decline in the general workforce of the yakuza. However, the issue of the subsequent occupations of those members who left, remains.

Dismantled groups and members 2000-2018
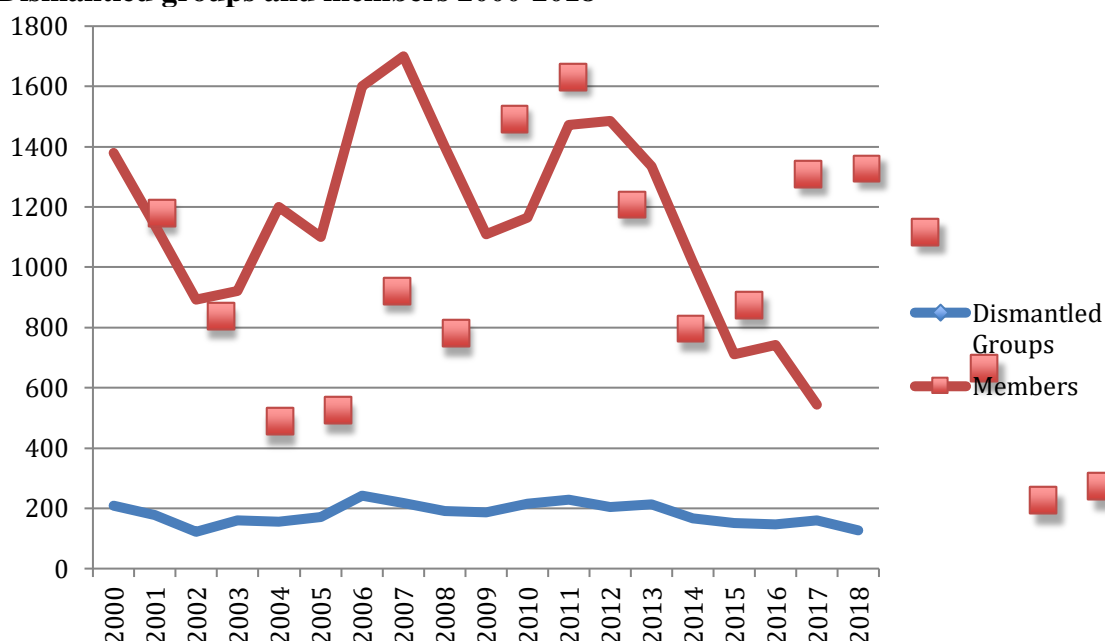
Data source: NPA, 2000 to 2016

However, it has been argued that the achievements ostensibly represented by these numbers cannot be considered as a true success for the government. This is because, according to yakuza experts, such as Hirosue (2017) and Miyazaki (2007), the yakuza have been undergoing a process of *mafia-ka* (mafiaisation): yakuza syndicates, due to the inability to earn money through legitimate businesses bearing their names, are now increasingly using front businesses and figureheads to infiltrate the legal sector (NPA, 2018).

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[25] The 2003 White Paper does not mention the number of dismantled groups for 2002, and therefore the average number of yakuza who belonged to dismantled groups in 2001 and 2003 was used to estimate the number for that year.

In the 8 years since the application of the *Bōhaijōrei* at the national level, the total number of officially retired yakuza members is 4170. Of these, only 90 were able to find employment. Unfortunately, there are no data regarding the remaining 98%[26], and it is not clear whether those who found a job were able to keep it, as there have been cases of bullying towards ex-yakuza members in the new workplace (Hirosue, 2017). Indeed, a significant problem for ex-yakuza members is establishing a new identity: while leaving the yakuza is not so difficult, holding down a job with a stable income is the hardest part. Moreover, the problems that come with changing one's identity from a yakuza member to that of a normal citizen should not be underestimated (Moriyama, 2017). They are often abandoned and ostracised by both the state and society at large, which leaves them with little options. Many observers, such as Miyazaki (interview, Tokyo, May 2017) and Hirosue (2017), suggest that the impact of this law could also be deleterious for Japanese society, insofar as it pushes the yakuza underground and makes them more difficult to control, while, simultaneously, it makes it practically impossible for ex-yakuza to start a new life via legal means, so they are forced to go back to crime on a 'freelance' basis.

Finally, the levels of violence of the yakuza have also been affected by the *Bōtaihō*, the *Bōhaijōrei*, and by the different attitude that the population and law enforcers show towards them. Indeed, one of the reasons for the creation of the *Bōtaihō* in the first place was the series of gang turf wars that happened in the 1980s across Japan, which also produced civilian and police casualties. A similar situation occurred recently when there was a split within the Yamaguchi-gumi in 2015, and once again in 2017 when there was a split in the newly-formed Kobe Yamaguchi-gumi, from which the Ninkyō-dantai Yamaguchi-gumi separated. However, despite the tensions between the groups, and despite the preoccupation of law enforcement, the few shootings that did occur caused no casualties (see Mizoguchi, 2017).

Although it is evident that anti-yakuza countermeasures have negatively affected the yakuza, the continued semi-legal status and deep roots of the yakuza in Japanese society, as well as in the economic and political spheres (see previous chapters) has protected the yakuza from extinction. The anti-yakuza countermeasures were a response to internal and external pressures to comply with international standards in combatting organised crime (Hill, 2003), and their application throughout the 1990s was often

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[26] A more recent article by Hirosue indicates that the percentage of ex-yakuza (including those whose employment status is unknown) who are unemployed is 97% (Hirosue, 15/03/2019).

arbitrary and limited. However, these regulations have the distinguished merit of having shifted the population's once tolerant approach towards the yakuza, which has been deleterious for the syndicates insofar as this relationship with communities constituted a strong basis of their power, and was advantageous for their various revenue streams.

Small bridges between crime and the police: individual connections and common values

I have argued that the police enabled the existence of the yakuza by arbitrarily enforcing the law, but that adopting a harsher approach specifically towards yakuza members has marked a profound change in their law enforcement strategy. The anti-yakuza regulations now in operation encompass a wide range of behaviours that were hitherto not formally criminalised, which, in turn, means that the police have stronger legal tools through which to incriminate a higher number of yakuza-related subjects. The selective enforcement of anti-yakuza regulations favoured the yakuza until the 2000s, while the new harsher attitude of institutions towards the yakuza has been primarily carried out via targeted attacks against well-known groups or specific groups that have a history of animosity towards law enforcement, in an attempt to boost the police's reputation.

Concretely, policing the yakuza was formerly based on personal relationships and direct contacts between the police and the yakuza. Indeed, this recurred throughout the interviews I conducted with journalists, researchers, and (ex) yakuza members. As an ex-yakuza, who was in a Sumiyoshi-kai affiliated group between 2000-2010, recounted:

'I could do pretty much everything, and that was a time where you could also talk freely to the police. It was fun back then, we still had power in the city, but not now. If you give your name out, they'll catch you immediately, but in the past you could go and be noisy and do what you wanted. […] Not everybody could talk to the police, in my case we had one or two people who had the contacts. So, you get information, but you don't give it out. I mean there are some people that do so, but I've never done it. You can exchange information with your friends, but with police you make them drink, have fun, you treat them well and you just get the information' (interview with an ex-yakuza, 1 February 2018).

This was confirmed by an ex-member of the Kudō-kai, a yakuza group based in Kyushu. Although the Kudō-kai has long been famous for higher levels of violence

(which he ascribed to the Kyushu-like traditional way of thinking), he noted that a shift in the population's tolerance towards the group was the result of the implementation of the new laws. He confirmed that his group did not have formal and systematic contacts with the police, but rather an informal relationship based on personal contacts (interview ex-yakuza, 3 April 2018).

According to the investigative journalist Suzuki, the police needs to maintain a certain degree of contact with the yakuza because of the information they can provide, but this relationship is now strictly utilitarian (interview Suzuki, Tokyo, 16 April 2018). Since the police cannot effectively communicate with disorganised forms of crime (i.e. *hangure*), personal contacts with the yakuza remain a valuable source of information for the police (interview Yamanouchi, Tokyo, 15 April 2018). Whereas in the past the police managed to receive pieces of information directly from the yakuza, the growing distance between the yakuza and the police means that they now resort to informants, such as owners of bars where yakuza often hang out, managers of semi-legal brothels, drug dealers, and prostitutes. For a one-hour chat with a policeman, an informant can earn between ¥20 to 30,000 (£130 to £200). However, since there have been cases in which informants gave false information and split the cooperation fee with the policeman, this practice was strongly criticised and subsequently changed to only provide an information fee for valuable information, rather than for every meeting (Suzuki, 2011).

The continued negotiation between the yakuza and the NPA through a multitude of personal small connections allowed for a flow of information and requests that favoured the yakuza, insofar as they avoided harsh repressions if they behaved in accordance with police expectations. In turn, the police benefitted from the collaboration as the yakuza assisted them in ruling and policing disorganised and foreign criminality, while, simultaneously, taking sole credit for the low levels of street (i.e. visible) crimes.

Bridges breaking down: the increasing insularity of the Japanese police
Prior to the enforcement of anti-yakuza regulations, the relationship between the yakuza and the police used to move within the borders of the informally licit, but today that grey area has turned inarguably black. Given that private connections with the yakuza

are now penalised, the relationship between the two groups has underwent a renegotiation and is now carried out behind closed doors.

> 'Behind the curtains the relationship with the police, of course, is going on, as with the politicians. We have something similar to a consultation: [they ask us] can you please keep your head down because Trump is coming? They come and tell us. There is that sensibility in Japan, yakuza would never refuse to do that. Soon there will be the Olympics: we know we have to be quiet, the police don't even need to tell us.' (interview *kumichō*, 27/01/2018)

However, this transition is causing distress for both parties: the police, in order to prove their detachment, are targeting high-profile members to show to the public that the cosy relationship they used to entertain with the yakuza has come to an end. In 2006, Takayama Kiyoshi, *kumichō* (leader) of the Kōdō-kai and *wakagashira* (2nd in command) of the Yamaguchi-gumi, was investigated for making threats against a common citizen. However, Takayama was not present at the time of the threats, nor when the money was exchanged. The builder was himself a vice-*kumichō* of a yakuza group (Nakajima Rengō-kai ōta-kai). He declared that he had paid ¥40,000,000 (£275,000) to the yakuza group and later denounced the extortion, but there are serious doubts as to whether the charges were instrumentally filed in order to issue an arrest warrant against Takayama (Mizoguchi, 2013). Indeed, Takayama had been a target of the police for a long time, as testified to by the words of the chief of the NPA, who stated in 2010: 'Without the weakening of the Kōdō-kai, there is no weakening of the Yamaguchi-gumi, and without the weakening of the Yamaguchi-gumi, there cannot be a weakening of the yakuza' (Suzuki, 2011:15). Eventually, Takayama was sentenced to 8 years in prison with labour (Mizoguchi, 2013), and will be released in October 2019. However, it has been suggested that the police are planning to re-arrest him shortly after his release, so that he will not interfere with the 2020 Tokyo Olympics. Some even argue that the police are planning to keep him in jail until his death, similarly to what happened to Yamamoto Ken'ichi, leader of the Yamaken-gumi and *wakagashira* (2nd in command) of the Yamaguchi-gumi. Another reason for keeping him in prison is that the politics of fear enforced by Takayama was one of the main causes of the split within the Yamaguchi-gumi, which split soon after his imprisonment, and therefore the police fears that upon his release he may take action to reunite the group and thus lead to more violent episodes in a period of heightened international scrutiny (Mizoguchi,

22/01/2019). Indeed, since October 2018 (one year before Yamaguchi's release from prison), there has been an increase in members returning to the Yamaguchi-gumi (Okita, 31/10/2018).

For their part, the yakuza are denouncing their perceived ill treatment. The chief secretary of the Kudō-kai has argued that the police are persecuting them: 'We do not think we can grapple with the police and win. But if the police try to hurt us, we shall resist. We will denounce prevarications and make fools out of them' (Mizoguchi, 2013:122). The group uses social media as a means of communicating with the public and spreading awareness of the perceived injustices to which they are being subjected: for instance, after a car accident involving a detective in front of the residence of the Kudō-kai's boss, the group uploaded a video on YouTube of the altercation between the yakuza and the policemen as proof of the injustice to which they are being subjected (Takahashi Hiroki, 26/05/2015).

The Japanese police are not only unapproachable when it comes to the yakuza, but also with respect to the few journalists and researchers working on organised crime. Given that the police did not grant me an interview with officers in the anti-organised crime team, I was forced to collect information from researchers and journalists that work on organised crime and therefore deal with the police on a regular basis.

The growing detachment of the police from the yakuza was showcased in Mr Hijikata's documentary on the yakuza.

> 'We can't say we are friends [with the yakuza], because the police doesn't like us [the crew] since we made this report on the group. In particular, the Osaka police is very cross with us…we didn't contact them before or during our shooting. We broadcasted the commercial of the documentary on TV, and then the police called me. They wanted to know whether I was offered and accepted something from the yakuza group. I asked them if I was under investigation for something I did, and they answered that they just wanted to talk to me. I turned to a lawyer for advice, and I was told I was not under any obligation to talk to the police, so I quit communicating with them. The police then started pressing the yakuza group, they were threatening to arrest their boss. […] They wanted us to cut the scene of the police search […] because they were worried that they would be criticised for how they conducted the search. Also, I was with the group for six-months, and the police were not aware. So, they were worried that the

national police would criticise them [Osaka police] for not knowing that a journalist was there with the yakuza group for so long. They wanted to protect themselves, they were worried they would enrage their superiors. […] In the end we didn't cut any scene. We talked to a lawyer and he reassured us that we could keep it as it was. The producer and I had doubts, but in the end, we just broadcasted the whole thing. At first the police were very cross, but in the end it was ok. The police gave us more trouble than the yakuza. It was like a triangle: the media has influence over the police, the police over the yakuza, and the yakuza over us' (interview Hijikata, Nagoya, 07/02/18).

The increasingly invasive searches have troubled the yakuza, who were not used to such aggressive intrusions by the police in their activities and premises. In February 1998, the Kudō-kai, Taishū-kai, and Dōjin-kai released an eight-point document prescribing behaviour during searches and arrests: for example, the document orders members not to talk to the police, not to release information regarding their own group or an allied group under any circumstances, not to collaborate if they are asked for their urine for drug tests, and to always call the executive office of their group before undertaking any action in cases in which the police are involved (Mizoguchi, 2013).

Furthermore, many of the journalists that report on crime receive their information directly from the police, and, as such, are dependent on them. As they do not want to antagonise their sources, journalists tend to follow the police's narrative (interview with Hijikata, Nagoya, 07/02/18). In addition to this, independent academic and researcher, Dr Hirosue, has pointed out how the information handed out by the police is manipulated by them in such a way that reflects a positive image of themselves, and, hence, has little utility for researchers (Hirosue Noboru, private conversation).

As aforementioned, prefectural police divisions are in charge of police in the corresponding prefectures, and there is no central investigative agency that coordinates all of the departments (Kaplan and Dubro, 2003). The *Bōhaijōrei* is thus defined and enforced at the local level: each prefectural police organisation is entrusted with applying the regulations, which are valid only in the region of competence. Conversely, yakuza groups are nationally organised (see appendix 2) and thus connected incidents may happen across different jurisdictions, but be investigated separately. This represents an advantage for the yakuza, and especially for the top three groups

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(Yamaguchi-gumi, Sumiyoshi-kai, and Inagawa-kai). Bordering jurisdictions keep in touch through personal contacts, and the yakuza are able to make good use of these personal relationships. A high-ranking yakuza from the Kōbe Yamaguchi-gumi explained that in each prefectural police department there is usually a spy, who does not leak information or facts about their own jurisdiction, but is willing and able to give information about investigations by other prefectural police forces. Also, there are cases in which detectives have resorted to leaking police information in order to quickly gather intelligence for their office, which was reported by a member of the Yamaguchi-gumi (News Post Seven, 16/03/2016).

Enforcers of anti-yakuza countermeasures: Police and policing NPA style

The police appear to have played a key role in the yakuza's endurance, by rarely and gently policing the syndicates and allowing the yakuza to function as an alternative dispute resolution agency. This raises the question of whether the yakuza have been able to survive because of the inefficiency of the Japanese police, or because of a 'symbiotic relationship', as argued by Van Wolferen (1989) and others? Here, I contend that the police have not tolerated the yakuza because of a corruptive symbiotic relationship, but rather because of a conflation of ideology and interests, which plays out through the individual relationships between yakuza members and police officials. Even though since the 1990s the police have officially adopted a harsher stance towards the yakuza, and the White Papers continue to proclaim about the success of the crackdowns and initiatives to eradicate the crime syndicates, the resurgence of nationalism and the continued relevance of conservative and far-right ideologies in Japan, which are wholly supported by Abe's government (see Chapter 4), has established an ideological common ground between the yakuza and the police that allows for the continuance of collusion via private channels.

The common thesis is that the yakuza operate as an 'alternative' form of dispute resolution: litigation rates in Japan have been traditionally low (Ramseyer and Nakazato, 1989; Ginsburg and Hoetker, 2006), and, indeed, the yakuza have regularly offered their mediation services in cases of bankruptcies, tenant disputes, and even traffic accidents (Hill, 2003). A yakuza boss admitted that whenever the neighbourhood has problem with construction sites (noise, disruption of daily activities, etc.), his group mediates with construction workers and solves the problem (interview *kumichō*, 27

January 2018). This is consistent with Cao, Stack and Yun's findings that suggest that, despite the general assumption that the Japanese public highly trust the police, empirical analysis of the data actually demonstrates that the general population hold lower levels of confidence in the police than US citizens do (Cao, Stack and Sun, 1998). Indeed, the latest survey on trust in institutions reported low levels of trust in the police (*Chūō Chōsasha* [Central Research Service], 2018; see appendix 7.3), especially compared to Italy, where 71.5% of the public have trust in the police (Eurispes, 2019), or apropos the fact that over the past 25 years US citizens' confidence in police has also been consistently above 52% (Norman, 10/07/2017). Given the low levels of trust that the Japanese public have in the police, it appears reasonable to think that alternative forms of dispute resolution must come from elsewhere, i.e. the yakuza.

Regarding the relationship between the yakuza and the police, this should be framed in the context of the history of the yakuza and institutions (see also Chapter 1). As Suzuki points out, the yakuza have survived because of their influence over authorities, including the police. Indeed, the traditional stance of the police towards the yakuza is that they are necessary for maintaining public order. For instance, the lack of foreign crime in Japan is often attributed to the pervasive presence of the yakuza within the territory (*Business Journal*, 01/07/2018), as well as the fact that the yakuza are unwilling to work with foreign criminal groups and are keen to preserve their monopoly (*News PostSeven*, 07/09/2018). For instance, according to an ex-yakuza, the reason for the lack of Chinese restaurants in Kyushu can be attributed to the presence of the Kodo-kai (interview ex-yakuza, 03 April 2018). In this respect, the yakuza have often been considered as *hitsuyō aku,* a necessary evil that is tolerated insofar as they compensate for the shortcomings of the police (see Shinoda, 2001).

Final remarks

Eradicate and destroy or contain and collaborate?

The Japanese way of policing the yakuza has been radically different from approaches largely adopted elsewhere, in that for many years it has favoured a strategy aimed towards redirecting yakuza activities away from predatory and socially detrimental crimes. Despite their seemingly dialectical relationship, the police and yakuza remain vaguely aligned with regards to their broader ideological stances and interpersonal relations. Furthermore, this strategy was successfully adopted, in part, because of the

yakuza's willingness to self-regulate and avoid violence and bloody conflict. The fact that organised crime has been a constant feature of contemporary democracies, and that punitive law enforcement does not appear to reduce crime unless assisted by other factors (Kugler, Verdier and Zenou, 2003; Slade, 2012), inevitably begs the question: why not adopt the Japanese approach of containing and controlling, rather than persisting with the ineffective strategy of repression and eradication?

In Italy, the official position of the police (and governments) has always been one predicated on eradication, but yet politicians have not been so rigorous in shutting down communication with the mafia. Indeed, the history of the mafia and the Italian state is littered with episodes in which political institutions and mafia groups have negotiated and collaborated, from before the unification of Italy when amnesty for mafia and camorra bosses was deemed necessary to halt social turmoil in the Kingdom of Two Sicilies, up to the wave of murders and bombings between 1992-1993. In the most recent (known) case of the State-Mafia pact (*trattativa stato mafia*), the state entered into negotiations with head mafia bosses in order to stop the campaign of terrorism in 1992 and 1993 at the hands of the mafia (Morosini, 2011; Torralta, 2010). After years of trials, in 2018 the Palermo court recognised that the state entered into negotiations after the killing of judge Falcone, which subsequently led to more bombings until the state accepted to act as a go-between for requests from the mob (Amarelli, 25/07/2018; Pantaleone, 20/04/2018).

The Japanese containment approach adopted towards organised crime appears to be one that is born out of necessity. The father-son *oyabun-kobun* relationship that exists between a boss and the members of their groups is not an employer-employee relationship: it is a private one, one in which the law cannot and does not intrude (Mizoguchi, 2017). Policing the yakuza has thus never been a real option, because the ties within the yakuza group are based on a personal relationship, and, similarly, the relationship between the yakuza and the police is based on a series of personal relationships that serve to keep the two organisations communicating with one another.

Suzuki argues that the police tolerate the yakuza for egoistic reasons. For instance, the organised crime division exists insofar as the yakuza persists, and, indeed, would be dismantled if the yakuza were to be completely eradicated (interview Suzuki, Tokyo, 16/04/2018). While it may be somewhat of an overstatement to say that the yakuza's existence is condoned overall so that a particular police department is not disbanded, when viewed in terms of the way institutions operate in Japan (see

Carpenter, 2015; Kerr, 2001), it provides a relevant, albeit partial, explanation. Mizoguchi agrees with this argument, positing that even though the police are employing ever more personnel to fight the yakuza, to a certain extent they need them to legitimate their own presence. As long as the yakuza are under control, the police are not really bothered by their presence (News Post Seven, 16/03/2016).

Similarly, a yakuza *kumichō* was confident that if the yakuza were to disappear, the police would be the most affected (interview with *kumichō*, 27 January 2018). Mr Yamanouchi, ex-lawyer of the Yamaguchi-gumi, was also doubtful of the police's conviction to fight the yakuza, since the yakuza are providers of services that are in considerable demand by the population. According to him, '[t]he police is trying to find a balance between the enforcement of the law and these services that are required by the society.' (interview with Yamanouchi, Tokyo, 15 April 2018).

Nevertheless, the recent punitive turn in governmental legislation and law enforcement suggests that Japan is moving towards an eradication approach.

> 'If we decide that the yakuza are bad, then it's ok to cut ties with the society, but this is only an appearance, it's not a long-term plan. I don't think it's a good plan either, because now there is more weird crime. Society wants some services (drugs, etc.), and in the case of Japan they knew who provided them, and stopped them sometimes, but it is just to look good. I don't think the police is trying to understand what goes on in the dark where the yakuza are not working' (interview ex-yakuza, 1 February 2018)

There are obvious ethical and moral objections to adopting a collaborative approach towards organised crime. However, it is important to point out that the Japanese approach is not coexistent with that of a mafia state (a state that has effectively been criminalised): the boundaries between the state and the yakuza have always been very clear. As was delineated in the politics chapter, the yakuza have not completely infiltrated the state nor wholly compromised institutions; rather, they are one of the key actors that benefit from a system that relies upon corrupt transactions and malpractice to sustain itself. In terms of the longevity of organised criminal groups, the case of the yakuza suggests that a collaborative approach assists mafia-type associations to perpetuate their existence. However, the real issue lies in whether it assists them any more or less than an eradication approach does: in Italy, for example, while harsh laws have reduced the impact of the mafia on civil society, the number of victims of the

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mafia remains higher in Italy (1,220 mafia homicides in the period 2003-2017, Istat, 2018) than in Japan.

Towards a *hangure* led underworld

The *Bōtaihō*, the *Bōhaijōrei*, and the *Kyōbōzai* appear to follow a spiral that points towards punitivism and stigmatisation. While at the juncture of the promulgation of the *Bōtaihō*, Japan had a presence of almost 90,000 yakuza (NPA, 1999), and thus the need for an anti-organised crime law was clear. However, there has not been an increase in crime rates rapid enough since then to justify the increasingly authoritative and punitive approach adopted by the Japanese criminal justice system (Hamai & Ellis, 2008; Miyazawa, 2008). The decrease in yakuza membership only began in the mid-2000s and accelerated after 2010 (NPA, 2008; 2018), which testifies to how the *Bōtaihō* was initially gently applied, and only became full-fledged subsequently with the support of the later countermeasures.

However, the effect of these laws on the resilience of the yakuza cannot be measured solely in terms of membership numbers. Indeed, a major effect of the anti-yakuza regulations is the 'mafiaisation' of the yakuza, which is being driven underground and becoming less visible. The Italian mafia responded similarly to increased law enforcement activities (Paoli, 2007), but there is a pronounced difference between the involvement of younger generations in the Italian mafia and their Japanese counterparts, especially in the context of economic downturns and the mafia's role as an alternative employment source. Specifically, while in Italy young men consider the mafia as a possible future career, due, in part, to the fact that punitive legislation has accelerated the pace of generational turnover within the mafia, in Japan, despite the longstanding recession, few youngsters join the yakuza as instead opt for 'freelance' criminal careers (as also argued in Chapter 3). The long-term effects of anti-organised crime legislation should not be underestimated, as the summit strategy and consequent oligopolisation of yakuza groups has shown. Here, the mafiaisation of the yakuza has driven aspiring criminals towards non-codified forms of crime (*hangure*), which are being overshadowed by anti-yakuza campaigns, and, as such, are less subject to law enforcement. At the same time, members' ability to leave the yakuza is being hindered by the increasingly punitive features of the anti-yakuza regulations, which, in turn, reinforces the tendency to join *hangure* over the yakuza.

Moreover, the chapter considered the role of law enforcement agencies in the policing of the yakuza. Up until the 1990s, the police adopted a collaborative stance towards the yakuza: their objective was to contain rather than eradicate. The promulgation of the *Bōtaihō* brought about a shift in the acceptance of the yakuza from both the police and the public. The designation model introduced by the new legislation imposed the compilation of a list of yakuza groups that were to be subjected to countermeasures. This model of policing is predicated on the ability to designate groups specifically as yakuza groups, who then suffer from intensified law enforcement action. However, this way of policing is leading to severe stigmatisation of yakuza members. The increasing punitiveness of the Japanese criminal justice, allied with the designation model, leads to an increasingly harder path of reintegration for ex-yakuza members, who are forced to turn to other forms of crime.

The network of personal relationships between the yakuza and the police allows for the maintenance of a collaborative stance: as requests for less violence were traded for greater tolerance towards illegal conduct, the situation culminated in an equilibrium that benefitted the public images of both the yakuza – matching their narrative of chivalrous defendants of traditional norms – and the police – displaying their ability to keep predatory crime under control. However, the rise of what I have elsewhere called shaming paternalism, that is, a model in which the state is growingly intrusive and punitive (Baradel, 2019), worsened the relationship between the two, since the police were required to enforce a punitive policy befitting of the hard line adopted by the government, especially in the run-up to the Olympics and the related international scrutiny.

At the same time, although the anti-yakuza countermeasures produced a fracture in the relationship between the yakuza and the police, commonly held values, and the fact that conservative discourses are now proliferating across the country, continue to favour a 'contain and collaborate' approach rather than a full-fledged 'eradicate and destroy' method. As Hughes (2007) argued apropos England and Wales, where similar trends have been noted, these normative tendencies within criminal justice systems are symptoms of a political agenda that aims to centralise more power in the hands of the state. This explanation fits well with the contemporary panorama of Japanese politics, especially as in the 2010s the dominant Liberal Democratic Party reached an internal consensus on ideological matters that decisively steered it towards the far-right, while the current Prime Minister Abe has often been described as a nationalist with

authoritarian tendencies (Stockwin and Ampiah, 2017). Repression of the yakuza is carried out arbitrarily, i.e. against either groups which use violent tactics or famous high-ranking yakuza officials, to assure the media and the public of the sincerity of the efforts to eradicate the yakuza. Nevertheless, the personal relationships that have kept open the channels of communication between the police and the yakuza are still at work behind the scenes, even if in diminished form, at least for as long as the older generation of police officers and yakuza lives on, therefore ensuring the yakuza's existence in Japanese society for the foreseeable future.

In this chapter, I dealt with anti-yakuza countermeasures and policing, arguing that anti-yakuza regulations have followed an increasingly punitive approach, but that their effects have likely only been superficial, in part, due to policing practices. Following on from this, in the final chapter I examine how these laws have been applied, by looking at sentencing and prison practices in relation to the yakuza. This is crucial in terms of the aims of this research, as it considers how modes of punishment have historically contributed to the longevity of the organisation.

Chapter 6

'Sympathy for the underdog': the yakuza on trial and the yakuza in prison

Sentencing in Japan has been the subject of extensive research since the 2000s, because of the introduction of a new mixed lay judge system (the *saiban'in seido*) and an emergent tendency towards more punitive sentencing. After five years of preparation, from 2009 guilt and punishments are assessed and deliberated upon by a mixed panel of professional judges and lay jurors (Foote, 2014). Contemporaneously, victims' participation in trials has also been introduced following two revisions of the Keiji Soshō-hō (Code of Criminal Procedure): the new system allows victims to participate in trials, state their opinions both to the prosecutor and in relation to the findings of the trial, and in some cases the victim can even question witnesses and the defendant (Saeki, 2010). These changes in the judiciary system must be considered against the backdrop of an increased sense of crisis that has enveloped Japan since the 1990s, as a result of the economic turmoil (Vanoverbeke et al. 2014). The social and economic crisis translated into anxiety over public safety, as surveys measuring the public's fear of crime registered a 44% increase between 1995 and 2004 (Hamai and Ellis, 2006). These three factors – the *saiban-in* system, the increased participation of victims in courts, and the growth in the fear of crime – appear to have engendered a more punitive stance in sentencing[27]. Scholars such as Miyazaki (2008) have referred to this tendency as *genbatsuka*, while even Western scholars have noted a shift in the punishing pattern of Japanese courts, arguing that they are drifting away from what Braithwaite called 'reintegrative shaming', which is a more lenient approach, towards 'popular punitivism' (Hamai and Ellis, 2008). This is relevant to our discussion here on the yakuza's longevity, because it explains, at least in part, the leniency with which yakuza members were treated in court up until the early 2000s. Allied with the new anti-yakuza countermeasures discussed in the previous chapter, this shift in sentencing is likely to have also impacted on the sentencing of yakuza members.

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[27] For an overview of perspectives on both the turn to punitiveness (or lack thereof) and what this might mean in a broader sense, see Nelken, 2011.

Although politicians and law enforcers periodically announce major crackdowns on bōryokudan, sentencing practices *vis a vis* the yakuza have not shown a dramatic change since the introduction of anti-yakuza countermeasures (notably, the *Bōtaihō* in 1991, the Organised Crime Punishment Law in 1999, the *Bōhaijōrei* in 2011 and the *Kyōbōzai* in 2017). Although courts now have stronger tools through which to sentence yakuza members for longer durations, yakuza members continue to be criminalised for small infractions, which means that they spend short periods of time in prison, but more frequently, which, in turn, only superficially disrupts the activities of the yakuza. This also confirms the hypothesis of the previous chapter, insofar as high numbers of arrests of yakuza members presents a positive public image for the police, while, simultaneously, having little notable impact on the activities of the yakuza. Furthermore, harsher sentences for yakuza members have also produced the undesired effect of members disavowing their yakuza membership upon their arrest. In other words, given that a crime committed by a yakuza member leads to longer sentences, yakuza members, supported by declarations from their bosses, increasingly state that they had left the group and committed the crime as an independent criminal (as in Hirosue, 2017). This pushes the yakuza further underground, which, in turn, makes it harder to research the true current state of the yakuza. As for the prison system, I contend that the yakuza exploits the weaknesses of the increasingly fragile welfare state to increase their network: as the support system for ex-convicts in Japan is underdeveloped, and reintegration into civil society is problematic at best, the yakuza often represents one of the few viable solutions for ex-convicts.

This chapter argues that the courts, until the promulgation of harsher anti-yakuza countermeasures, used to be extremely lenient towards the yakuza, and, indeed, even now tend not to give sentences that are detrimental to yakuza activities. For its part, the yakuza have been able to exploit the prison system, the anaemic welfare state, and social norms for their own ends, as a recruiting agency for future collaborators. In particular, I posit that the lack of measures for confiscating capital and goods contributed to the rich health of the yakuza, which is in accordance with scholars of organised crime in the Italian context, who see asset seizures not only as a symbolic instrument that diminishes the prestige of the organised criminal, but also as constituting a source of investment in grassroots movements that support local societies and reinforce the social fabric.

I begin by examining how sentencing and prisons are dealt with in jurisdictions in which organised crime, and mafia-type associations in particular, is a predominant concern. Secondly, I explore sentencing practices in Japan, particularly with respect to how yakuza members are treated when they go through the court system. I also take into consideration the category of external participants, who include both licit and illicit actors who engage in criminal activities with criminal syndicates without being officially part of the group. The role of asset seizures (a strong tool used across many jurisdictions to weaken criminal organisations) and monetary fines are then assessed, as Japan just recently introduced regulations that target the movements of illegal funds and asset seizures. Finally, the chapter delves into the Japanese prison system, more specifically, the way in which yakuza members navigate detention, and how they are able to exploit the prison system by using it as a means through which to connect to other criminals.

Sentencing mafia-type associations

Given the endurance of the yakuza as an openly visible criminal organisation, one could argue that sentencing practices in Japan have not been sufficiently disruptive to the activities of the yakuza. Indeed, identifying members of a criminal group, finding evidence of the crime, and sentencing criminals would appear to all be much easier given the degree of visibility of the yakuza. Because of the serious and systematic nature of crimes committed by organised criminal groups, many countries have adopted a range of measures, such as enhanced sentencing, as part of a broader punitive turn in trying members of organised criminal groups. Italian Criminal Law regulates organised crime membership through articles 416 (simple criminal association) and 416bis (mafia-type criminal association), according to which the associative bond itself is classified as criminal, irrespective of whether a criminal act is committed or not. Law enforcement agencies and practitioners agree that 416bis is the 'strongest component of the anti-mafia legislation and the historical turning point of the organized crime strategy' (Sergi, 2015: 197), insofar as it constitutes the 'real turn of the screw of the system' (ibid.: 198). While this article was initially aimed at targeting the Sicilian Cosa Nostra, over the years Italian judges have interpreted the norm in such a way that includes also other deeply rooted and longstanding criminal groups, such as the 'Ndrangheta. The behaviours that make a criminal group a mafia-type association deserving of being

targeted by this norm are the following: 'the existence of associative bonds that intimidate the community; the condition of subjection of both associates and non-associates to the group and their *omertà* (voluntary silence, non-cooperation with authorities); the commission of criminal activities by the group as a whole to directly or indirectly acquire control of business activities, authorisations, licences, contracts, public services or other gains or benefits; the ability to influence and/or alter political elections' (Sergi, 2016). Paoli (2008) points out the effects of the combination of harsher sentences and the confiscation of goods on mafia families, which is that it drove some mafia families to bankruptcy and left them unable to pay salaries to convicted members (a tenet of the mafia code). The intensification of law enforcement action after the staged terrorist attacks of 1992-1993 led to a marked turnaround in the strategy adopted by the mafia *vis a vis* the state: while up until the early 1990s mafia groups openly challenged state sovereignty, since then they have become invisible and impermeable to law enforcement. This resulted in a sharp decrease in mafia-related murders, and an increase in economic activities that do not provoke too much popular resentment. However, to compensate for their economic losses, high-density mafia districts became more heavily exploited by mafia groups (Paoli, 2008).

In contrast, the US introduced a different approach to tackle the emerging problem of mafia-type associations. In 1970, the US responded to the Italian mafia groups – which had by that time already settled and mutated from their original Italian counterparts – with the Racketeer Influenced and Criminal Organisation (RICO) Act. Through this countermeasure, US prosecutors were able to go after a large number of mafia members and associates, in an effort to undermine their influence in major US cities. RICO targets those who repeatedly (at least twice in ten years) engage in racketeering activities, irrespective of whether they are federal or state felonies (Scotti, 2002). RICO's scope has also been continuously broadened by the US judiciary over the years, who ordinarily interpret and apply the Act at their own discretion.

Enhanced punishment for organised criminals has also been introduced in China. According to the 2011 revision of article 297 of the 1997 Criminal Law, criminal ringleaders are held legally responsible for offenses committed, and, hence, are subject to enhanced punishment measures that include the forfeiture of property. State functionaries that are involved in organised crime activities are also punished (Broadhurst and Farrelly, 2014). Furthermore, since the 1978 post-reform period in China, political and legal debates over how best to police and punish serious crimes

have centred around the reform agenda and its development goals. This led to a culture of campaigns for justice, which for 25 years have set the tone for the Chinese criminal justice. In this sense, the policing and punishment of serious crime is highly controlled by politics. State campaigns include the generic 'strike hard' campaigns, in which politico-legal organs (criminal detectives, judges and prosecutors) focus their efforts on a variety of crimes for a set period of up to three years, or the 'specialised struggle', in which 'strike hard' is used as a policy to target a specific subset of crime. In 2006, this campaign led to trials for 377 syndicates: within months, the 2749 members belonging to the 244 mafia-style syndicates were convicted, with half of them receiving sentences ranging from 5 years to life imprisonment, and in some cases the death penalty (Trevaskes, 2010). Despite these peaks of anti-organised crime activities, organised crime in China has not declined (Zhang and Chin, 2008).

Jurisdictions that have little in common adopt severe sentencing practices towards members of criminal organisations, since the target is not only individual criminals, but rather the disruption of the organisation itself. Since the yakuza are a deeply rooted phenomenon whose activities and modus operandi has been well-known to the state for more than a century, one would expect that apposite countermeasures would have been implemented earlier in the history of the modern Japanese state. However, as is clearly showcased by the exceptionally high levels of visibility of the yakuza, Japan has traditionally adopted a lenient approach to them, or, at the very least, has treated them no harsher than they have any other criminals.

Leniency over visibility? Yakuza members in court

Much like other jurisdictions, since 1992 Japan has implemented harsher countermeasures against the yakuza. In this regard, I contend that the leniency that was shown to the yakuza prior to the introduction of the new legislation is a crucial factor in explaining the yakuza's longevity up until the 1990s. Furthermore, the new regulations and the attendant harsher sentencing practices functioned more as a deterrent, as, in practice, neither the length nor frequency of these sentences substantially changed. One by-product of this new approach has undoubtedly been lower levels of yakuza membership, but doubts remain as to whether some of the yakuza drop-outs merely simulated leaving the organisation in order to receive shorter sentences.

First, let us briefly consider what is actually meant by punitiveness, tolerance, and leniency, in an attempt to avoid ethnocentricsm, as warned by Nelken (2009). If we look closely, the indicators that are often used to measure punitiveness or leniency are problematic, insofar as the judiciary context may differ tremendously across countries. For instance, solely considering fluctuations in punishment outcomes, such as imprisonment rates, ignores differences in crime rates across countries. Moreover, sometimes politicians decide to deliberately alter imprisonment rates to be in line with international standards, or engage in collective pardoning Similarly, tolerance can be the result of increased welfare intervention, or a consequence of non-enforcement, or loose application, of the rules (Nelken, 2011). The issue of valid indications of the level of punitiveness or leniency in a country is not readily solvable. What is more, the merits of labelling one approach as 'punitive' and another as 'tolerant' are questionable. The choices made by those in the criminal justice system are limited by what room for manoeuvre they have, and what they consider their role to be *vis a vis* larger social problems (Nelken, 2009). With regards to the present discussion, I do not wish to generalise discourses on the yakuza, nor label the whole Japanese judiciary as being more or less punitive than, say, the Italian one in regards to the mafia. Rather, I aim to analyse how institutions have handled the yakuza by considering the presence of the yakuza in the courts and in prison, their prosecution rates, and length of their sentences, in light of the treatment they have traditionally received in the past.

Let us now move on to consider how yakuza members in particular are sentenced in Japanese courts. The Japanese judicial system presents some particularities that should be addressed before taking a closer look at how yakuza members in particular are sentenced. Firstly, the Japanese judiciary is well-known for its extremely high rate of convictions. The reason for this can stems from the fact that Japanese prosecutors, a department that is notoriously understaffed, only bring their strongest cases to trial, which means that these cases almost inevitably lead to convictions. Furthermore, acquittals can have a negative impact on the career of the judge who administers them, in that they are likely to serve for longer in branch offices. On the contrary, a reversed conviction is not met with significant penalties. In this context, defendants' confessions are beneficial for everyone as they speed up trial lengths, and in exchange receive a lighter sentence than those in a contested trial (Ramseyer and Rasmusen, 1998). It is also important to note that pre-trial conditions are set up in such a way that confession is, to some extent, encouraged. A suspect is brought in front of a

judge within 72 hours of their arrest, at which point the prosecutor can apply for a 10-day pre-trial detention to interrogate them before pressing charges (this happens in around 85% of cases). At the end of this period, if no confession is obtained, a 10-day extension can be granted, which means that the total pre-trial detention period can last as long as 23 days. Interrogations last up to 10 hours, and interrogators may resort to a range of severe techniques, including interrogations in the middle of the night, forcing suspects to stand for hours, or binding their fingers. As many observers have noticed, these methods and the conditions of detention violate international protocols for the treatment of suspects and prisoners (Vize, 2003).

Recently, the *saiban'in* (mixed panel) system was introduced. The *saiban'in* system was discussed and approved in the Diet in 2004, before being first implemented in 2009. According to this system, lay jurors work in collaboration with professional judges in both determining the guilt and sentencing defendants in trials involving severe offences. The participation of the jurors in trials has not had a considerable effect on determining either the guilt or innocence of the defendant (conviction rates are constantly above 99% as mentioned below), but rather has impacted on the harshness of the punishment (Senger, 2011). Indeed, traditionally, defendants in Japan are not concerned with proving their innocence, but rather with reducing the severity of the sentence. This is due to the fact that over 90% – and in first instance courts the rate goes up to over 99% – of defendants confess to most of the elements they are being charged with (Shiroshita, 2009). The extraordinarily high confession rate has raised concern over forced confessions and wrongful convictions. Specifically, factors such as the use of substitute prisons (which were widely discussed by the international media at the end of 2018 due to the arrest and prolonged detention of Nissan's chairman Carlos Ghosn (Lyon, 2018)), limited access to defence counselling, use of physical and psychological violence to obtain confessions, Japanese judges' tendency to indiscriminately use confession documents, and inadequate access to pre-trial release have raised concerns about the issue of fals convictions in Japanese courts (Fukurai and Kurosawa, 2010).

Prosecution rates for yakuza members vs. common offenders
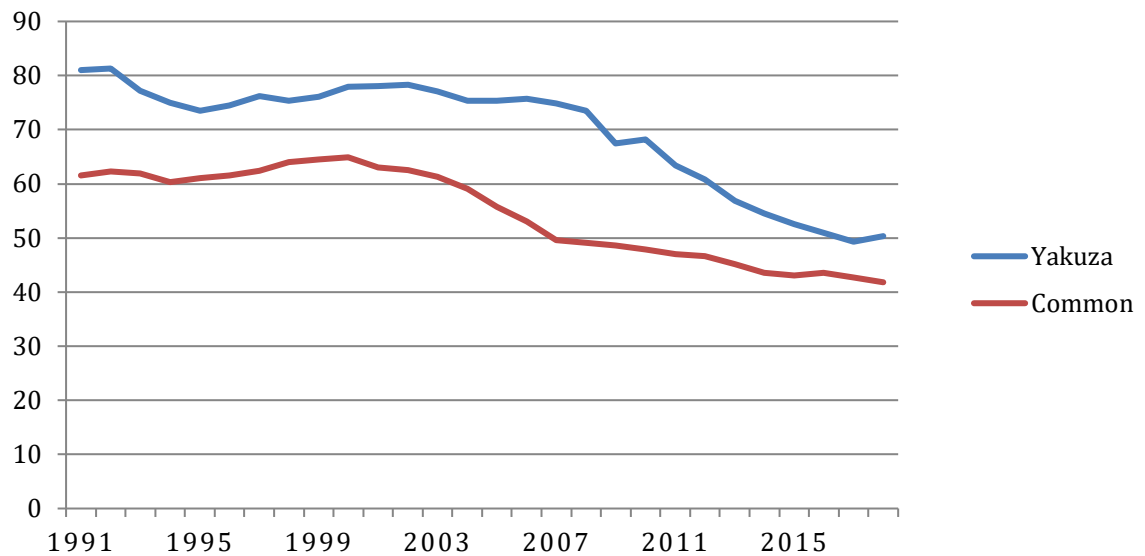
Data source: Hōmushō, 1991 to 2017

The White Papers on Crime published by the Minitry of Justice accurately record the number of yakuza member who go through the criminal justice system. As is clearly shown in the graph above, in 2017 the prosecution rates (cases brought to trial by the Public Prosecutor's Office) for yakuza members totalled 50.3%, which was slightly higher than the 41.8% rate for common offenders, as reported in the Police's White Paper of Crime of the Ministry of Justice (Hōmushō, par. 4.3.2.3, 2017). However, if we consider these numbers across a wider timeframe, then the decline in the prosecution rates for yakuza members is substantial. Throughout the 1990s, and in the first part of the 2000s, the prosecution rate was consistently above 70%: in 1991 and 1992, it was over 80%, while for the rest of the decade it hovered around 75% (Hōmushō, par. 1.2.3, 1991; par. 1.2.3, 1992; par. 3.4.3.1, 1993; par. 3.4.3.1, 1994; 3.2.3.1, 1995; par. 2.3.5.5, 1997; par. 2.2.6.5, 1998; par. 4.2.3.1, 1999; par. 7.4.1, 2000; par. 1.2.1.3, 2002; par. 1.2.1.3, 2003; par. 1.2.1.3, 2004; par. 2.6.3.1, 2005; par. 3.2.3.1; 2006; par. 3.2.3.1, 2007; par. 3.2.3.1, 2008). In 2009, it fell below 70% for the first time, and was 67% (Hōmushō, par. 3.2.3.1, 2009). From that moment on, the decline in prosecution rates for yakuza members remained constant, ebbing to 60% in 2012 and then drepping by a couple of percentage points every year until the most recently available statistics (Hōmushō, par. 3.2.3.1, 2010; par. 4.2.3.1, 2011; par. 4.2.3.1, 2012; par. 4.2.3.1, 2013; par. 4.3.3.1, 2014; par. 4.3.3.1, 2015; par 4.3.2.3, 2016; par. 4.3.2.3, 2017; par. 4.3.2.3, 2018). The trend in the conviction rates for common offenders has

also steadily declined, starting from slightly over 60% in the 1990s, and now remains stable well below 50% (ibid.). With respect to the same dataset, suspensions of indictment have consistently been reserved for common offenders: in the 1990s and 2000s, 10-15% of yakuza-related indictments were referred, while the rate for common citizens was consistently around 30% (ibid.).

At the same time, conviction rates, for which the Japanese judiciary is renowned, remained firmly over 99%, while, most notably, in the 2010s it remained closer to 99.99% (Hōmushō, par. 2.3.2.1, 2000, par. 2.3.1, 2018). Given that prosecution almost inevitably leads to convictions, when examining prosecution rates we already have a clear image of the sentencing rates. However, it is important to keep in mind that prosecution rates are skewed, insofar as prosecutors decide what cases to take to court based on the probability of them resulting in a guilty verdict, and which cases should be deferred. All in all, the overt public announcements about cracking down on the yakuza do not appear to have translated into harsher prosecution rates for yakuza members, as the downward trend indicates that less and less yakuza members are being prosecuted and, hence, convicted.

Mr Yamanouchi, who worked as a lawyer for the Yamaguchi-gumi, contends that the sentencing in yakuza-related cases is often characterised by opportunism. Despite his alleged 'lack of criminal inclination', he has been tried twice (Yamanouchi, 2017:19). He cited Hōryukai boss Takizawa Takashi's case as a clear example of how the judiciary is skewed against people associated with the yakuza. Takizawa was firstly indicted for possession of a firearm, along with Tsukasa Shinobu and Kuwata Kaneyoshi, who were both candidates for the position of *wakagashira* (2nd in command after the boss) within the Yamaguchi-gumi, in a shooting incident related to an intra-gang turf war that occurred in 1997. Tsukasa and Kuwata were accused of knowing that a member of their group had a firearm, and despite the lack of material evidence, they were found guilty. This was the first time that responsibility for members' actions was ascribed to bosses. Takizawa was found innocent in 2004, but the prosecution appealed, and he was tried again in the Osaka Supreme Court in 2006, were the charges were once again dropped. In 2009, the prosecution brought the case to the Osaka district court, where Takizawa was retried and found innocent for the third time in 2011. The prosecution appealed once more at the Osaka Supreme Court, which again transferred the case to the district court. At the seventh hearing, 20 years after the incident, the then 79 year old Takizawa was sentenced to 7 years of imprisonment with labour (ibid.;

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Sankei West, 24/3/2017). This case is an extreme example of how the prosecution can influence the sentencing process until it obtains the desired result.

There are no official guidelines that help the judge determine the length of a sentence, however it has often been noted that the demands of prosecutors are used as a reference point to establish an appropriate punishment (Herber, 2009; Weitzdörfer, Shiroshita, Padfield, 2018). Indeed, statutory penalties in Japan range widely, but often sentencing is influenced by factual guidelines based on precedents and prosecutorial demands, as in 70 to 80% of cases prison terms are set in accordance with prosecutors' reccomendations (Shiroshita, 2009). There appears to be a correlation between affiliation with the yakuza and the length of sentences. In 2017, common offenders were more likely than yakuza offenders to receive a sentence of one year or less (21.7% to 13.1%, respectively). The majority of yakuza offenders received sentences below 2 years (34.7%, which was similar to common offenders', 36.7%) and 3 years (28.7%, compared to 24.4% of common offenders). Sentences below 5 years amounted to 17.1% (which was similar to common offenders' 12.4%), while sentences above 5 years were relatively low for both yakuza offenders (6.4%) and common offenders (4.9%) (Hōmushō, par. 4.3.2.3, 2017).

Length of sentences for yakuza vs. common offenders
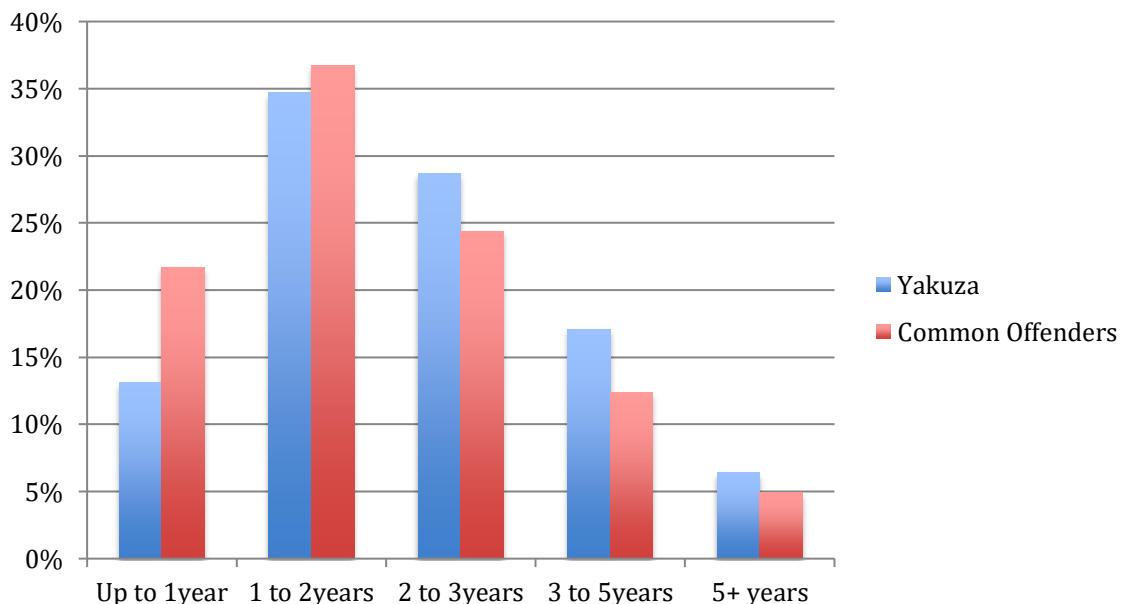
Data source: Hōmushō, 2017

Compared to the past (Hōmushō, par. 1.2.1.3, 2003; par. 3.2.3.1, 2007, par. 3.2.3.1; 2010, par. 4.2.3.1, 2013), the length of the sentences received by yakuza

members had not undergone significant changes: the most common length was 1 to 2 years, followed by 2 to 3 years. While 3 to 5 year sentences slightly increased (14% to 17%), sentences over 5 years were rarer. If we look at statistics from previous years (Hōmushō, par. 4.2.3.2, 1999; par. 7.4.2.2, 2000; par. 2.4.4.2, 2001; par. 1.2.1.3, 2002; par. 1.2.1.3, 2003; par. 1.2.1.3, 2004; par. 2.6.3.2, 2005; par. 3.2.3.2, 2006; par. 3.2.3.2, 2007; par. 3.2.3.2, 2008; par. 3.2.3.2, 2009; par. 3.2.3.2, 2010; par. 4.2.3.2, 2011; par. 4.2.3.2, 2012; par. 4.2.3.2; 2013; par. 4.3.3.2, 2014; par. 4.3.3.2, 2015; par. 4.3.2.3, 2016; par. 4.3.2.3, 2017), it is evident that yakuza members traditionally did not receive particularly long sentences. While sentences of 2 to 3 years and 3 to 5 years have underwent a proportional increase of 8% and 7%, respectively, even in the past yakuza members were consistently given relatively short prison terms. Nevertheless, these data must be viewed with caution, given that many inmates have subsequently reported that they indicated to the police that they had left their gang, purely for the purposes of receiving shorter sentences.

Length of sentences for yakuza members 1999 to 2017
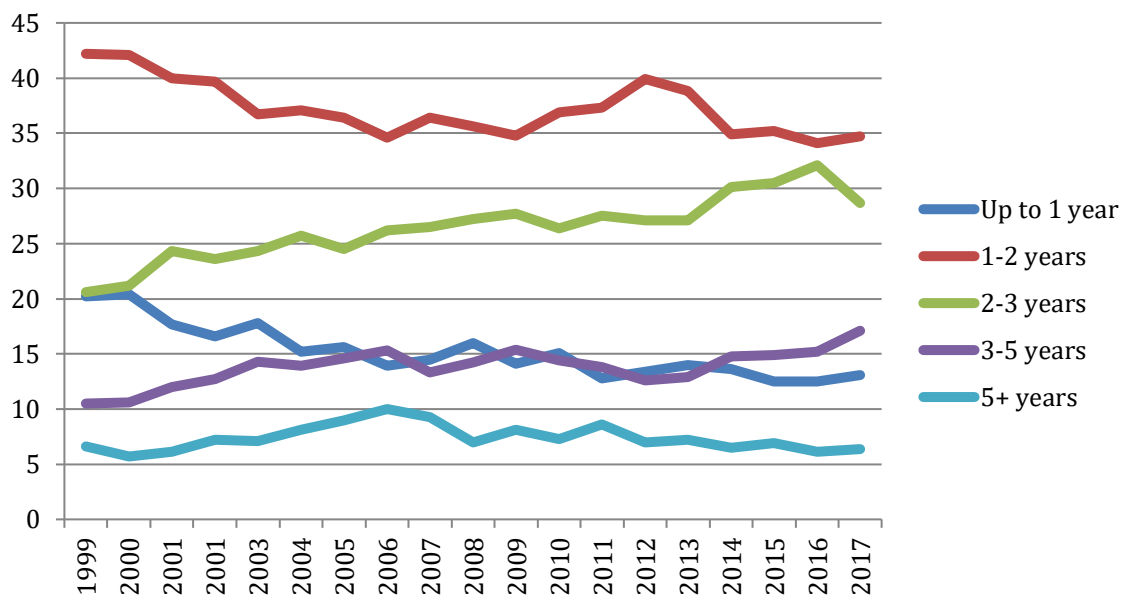
Data source: Hōmushō, 1999 to 2017

The yakuza are much more likely to be sentenced for reoffending: only 16.5% of yakuza offenders were convicted for first-time offences, while 42.2% of common offenders were serving their first conviction. More than half of the yakuza offenders had been convicted four or more times previously (Hōmushō, par. 4.3.2.3, 2018).

Since there is no enhanced sentencing established by law for members of the yakuza, theoretically speaking, there should be no differences in the sentencing of yakuza members. Nevertheless, in practice, yakuza-related defendants are given longer sentences because of the likelihood that the crime was committed in a systematic fashion. For instance, if the charge is gambling and the defendant belongs to a yakuza group, he may be sentenced with 'habitual gambling', which results in a longer sentence. Yamanouchi recollected the words of a judge in regards to sentencing yakuza members: 'If a defendant belongs to a yakuza group related to the Yamaguchi-gumi, the aims and activities of the Yamaguchi-gumi itself may not be clear to him, but if, according to evidence, this persons' criminal history is long, we must infer that the organisation this person works for aims at accomplishing crimes, and that he maintains this criminal behaviour in order to sustain the criminal group' (Yamanouchi, 2017:31). In order to avoid this, people on active duty 'formally' quit the bōryokudan in prison. The *oyabun* writes it down so that person can get a mitigation of a penalty, and then sends it to the police. By doing so, that person is officially no longer part of the bōryokudan, but it's just a formality (interview Igarashi, 21 December 2017, Tokyo).

Suzuki Tomohiko, an investigative journalist who has reported on the yakuza for years, argues that sentences for yakuza members do not have a real impact on the organisation, but rather are used like a nuisance to the groups:

> 'Now they are doing a lot of arrests amongst the yakuza, but it's never for a serious crime it's always something trivial, such as something wrong with their driving licence, using a girlfriend's credit card (it's considered a fraud, etc… by doing so they put them in prison for one or two months, but for the police it's important just to 'arrest', doesn't matter for what or for how long. There is a bit of an impact on the organisation, but as it's a short-term arrest, it's not really that much' (Interview Suzuki, Tokyo, 15 April 2018).

The internal split within the Yamaguchi-gumi has ignited the interest of the police for the past two years, as such struggles often result in shooting incidents and injuries, which actually did happen as the group split and new associations were formed. Even though the police likely used these violent events as an excuse for a massive crackdown on the strongest yakuza group in Japan, the ensuing law enforcement action was often superficial and myopic. In December 2018, the police arrested two yakuza bosses related to the Yamaguchi-gumi, one for document forging and the other for

violation of occupational safety laws. A person related to the group commented 'It is an established practice within the Yamaguchi-gumi to hold *nōkai* [end of the year meetings] on 13th December, and taking aim at this period, the police makes many arrests. The suspects arrested on this occasion were charged on a minor infraction of administrative law. The objective is not to prosecute and sentence them, but to hold them in custody so they do not participate in the *nōkai*' (Okita, 2018).

With respect to the data from the White Paper on Crime of the Ministry of Justice (Hōmushō, 2007, 2017), several observations can be made. Firstly, the overall number of arrested yakuza has declined. Whereas in the 1990s and 2000s the numbers remained steadily over 30,000, the most recently available figures indicate that 20,050 yakuza members were arrested in 2016. When considered in relation to the overall number of yakuza members, we can say that, proportionately speaking, more yakuza were arrested: in the 1990s and 2000s, yakuza membership fluctuated between 80 to 87,000, while now it is down to less than 40,000. Nevertheless, the number of arrests must be related to the percentage of cases being prosecuted, which was around 80% in the 1990s but is now down below 50%.

Sentencing of external participants: the over-expansion of collective punishment

The issue of collective punishment and how the individual responsibility of a group of people who commit a crime together should be treated is an open question that continues to discussed, both in terms of morality, as well as how it is translated into legislation and applied to criminal cases (Lawford-Smith, 2018). In this section, I consider the practical implications of collective punishment, specifically in terms of how, amidst much controversy, it is used to tackle organised crime.

As noted in the previous chapter, individuals that are not members of the yakuza can also be sentenced for crimes related to organised crime. According to the 2011 regulations, civilians who are in a business relationship with the yakuza (including those who are forced to pay off the yakuza) are liable for prosecution. Similar legislation targeting people external to organised crime who nevertheless 'facilitate' the group is also applied in other countries. Notably, in Italy, people who are not members of mafia groups but who participate in the group's activities are prosecuted via the concept of '*concorso esterno*' (external participation) as set out in 416-bis (see Visconti, 2003). In practice, however, the distinction between membership and external

participation has proven to be highly problematic, and has garnered considerable discussion (D'Auria, 2016), insofar as criminal law considers as 'members' not only those who are affiliated formally, but also those who behave as a member *facta concludentia* (Intoccia, 2017).

Whereas countries like Italy or the US have adopted approaches that consider organised crime as a unitary entity, UK legislation compensates for the lack of an unlawful association offence with laws that tackle conspiracy and joint enterprise (Sergi, 2015). In the past decade, the common law doctrine of joint enterprise has been used to tackle the problem of street gangs. Under this provision, an individual in a group who is aware of the group's common purpose and agrees to act together to reach said purpose, by either assisting or encouraging a crime is deemed to be guilty. Yet, given that there is uncertainty around the limits of being a gang member, an aspiring member, or a friend of a gang member who sporadically joins in, and a youth living in a gang-affected neighbourhood who inevitably has contact with such gang, joint enterprise has been widely criticised (Pitts, 2014). Critics of joint enterprise have highlighted how peripheral roles in serious offences can result in convictions even without substantial evidence (Jacobson, Kirby and Hunter, 2016), and how this has disproportionally been used against young Black and Asian men, whose groupings are often portrayed as gangs and criminalised accordingly (Williams and Clark, 2016).

These criticisms have also been expressed in Japan in relation to the introduction of the 2011 *Bōhaijōrei*, that is, the prefectural anti-yakuza regulations applied nationwide, whose principal focus is on prosecuting persons *related* to the yakuza, who are commonly referred to as 'bōryokudan *kankeisha'* (person related to bōryokudan) by newspapers and other media outlets. This ambiguous term can be applied when there is uncertainty about the membership of a person, but it is also used for ex-yakuza members, people around the yakuza, members and people doing work for the yakuza, and relatives of yakuza members. Despite not being official terminology, '*bōryokudan kankeisha*' or similar expressions (i.e. *jun-kōsei'in*) are often used in documents issued by the police or other authorities (Mizoguchi, 2011). For instance, the police defines a '*jun-kosei'in* as someone who is not a yakuza, but holds a relation with the yakuza, backs the organisation by committing illegal acts, provides funds and weapons to the yakuza, or participates in the maintenance and operations of the group (NPA, 2018). Another word that is used by the police to define yakuza enablers is '*kyōseisha'*, who are designated as a person or a group who support the yakuza by participating in the

economic activities of a group, who invest in activities managed by the yakuza, or who accept funds from the yakuza and invest them to generate profit for the yakuza group (NPA, 2007). Therefore, this category includes *sōkaiya*, front businesses, labourers, and fake social movements. Finally, the '*hanshakaiteki seiryoku*' (anti-social powers) include fake social and political movements, white-collar crime associated with the yakuza, as well as all groups that make an economic profit from fraud-like activities (Mizoguchi, 2011).

The 2011 *Bōryokudan Haijojōrei*, as thoroughly clarified in the previous chapter, targets the relationship between the yakuza and members of the public, theoretically by criminalising all willing and unwilling transactions with the yakuza. To that extent, if strictly applied, the scope of these regulations is incredibly wide, but yet once again the borders of the legislation are confusing at best. As explained in the previous chapter, one of the aims of the *Bōhaijōrei* is to hinder the yakuza's income by criminalising individuals or groups who engage in business transaction with the syndicates. A common approach adopted by the prefectures via the introduction of the 2011 ordinances has been that of 'naming and shaming': at first, a company doing business with the yakuza is warned, and if the ties are not severed, they may face a fine of up to ¥500,000 (£3500) and imprisonment for up to a year (Okinawa-ken, 2014).

Even minor transactions may be criminalised. Mr Hijikata, who was shooting a documentary on a yakuza group on Osaka, declined the offer of *takoyaki* (ball-shaped snack with octopus) from a yakuza member as well as a lift to the hotel, because he believed that he could be held accountable for doing so (Tōkai Terebi Shuzaihan, 2016). Even though this could be deemed an exaggeration, the limits of what precisely constitutes collaboration with the yakuza are not clearly defined, and both the law and its application are open to interpretation. This 'over-expansion' of collective punishment is related to the implementation of higher levels of surveillance over the population, as well as being integral to what I have elsewhere called 'shaming paternalism' (Baradel, 2019), a model of criminal justice in which the state is increasingly intrusive and punitive.

Some critics view the definitions of bōryokudan or bōryokudan *kankeisha* as simultaneously overly vague and inflexible. Despite the fact that groups who are not clearly related to the yakuza can be included in these categories, insofar as they meet the criteria, in practice, 'foreign' (or at least those groups who are talked about as being foreign by the police) criminal groups and *hangure* groups are considered neither

'bōryokudan' nor '*hanshakaiteki seiryoku*' (Mizoguchi, 2011). Examples of criminal groups that could come under the definition of bōryokudan would be Chinese criminal groups, who specialise in fraud involving digital currency, Malaysian groups involved in credit card fraud, or drug networks composed of Iranians or Taiwanese (NPA, 2017). It follows that crimes committed on behalf of these groups are not considered to be organised, and, hence, they invariably receive more lenient sentences.

Prison: criminal correction or criminal connection system?

While acknowledging the complexities and liveliness of academic debate on prisons (e.g. on mass incarceration, prison privatisation, solitary confinement, the validity of measures such as life-without-parole), this section focuses on prison conditions for members of organised crime, who represent a subset of criminals that are usually treated differently in the penal system of many jurisdictions. Melossi (2001) highlighted how the ethos of punishment is deeply entrenched in the environment and culture in which they are conceived, thus making it impossible to produce a genealogy of punishment in general. For instance, the Italian judiciary has traditionally adopted a soft authoritarian paternalism, and, consequently, is characterised by low levels of penal repression, with the exception of politically motivated campaigns, such as those targeting mafia-type associations. Indeed, central governments have traditionally showed ambiguous behaviour towards mafia groups in the South (ibid.), which may account for one of the reasons for the mafia's longevity in Italy. Similarly, the ambiguous behaviour of the Japanese state, in particular the way it has historically administered justice in relation to the autochthonous form of criminal organisation that is the yakuza, is contended here as being one of the key reasons for the longevity of the yakuza. What is more, is that the yakuza did not only benefit from leniency towards their existence (even though the laws are now increasingly restrictive), but it has also been able to use in its favour the punishments that are occasionally inflicted upon their members. Cases from different jurisdictions may inform us as to whether this is a common pattern, as well as what actions have been taken to disrupt criminal links in a space entirely controlled by the state.

Traditionally, the prison system has been one of the defining elements of the *vor v zakone,* the Russian criminal fraternity that emerged in the 1920s, insofar as the prestige accorded to a *vory* was also determined by the amount of time they had spent in

prison. The ideology at the base of this group was founded on rituals that were born in prison, just like their organisation itself. Especially in the past, the culture of *vor v zakone* was strictly related to the Russian prison system and, to a certain extent, was one of its by-products. Once released, *vory* could rely on a vast network that helped them settle down, while they contributed to the wellbeing of those still in prison by sending money and helping them to escape. From the 1990s, the number of *vory* in prison increased, but the prison background ceased being so prominent to their identity; indeed, a survey showed that some of its members had never been incarcerated (Varese, 2001). The gang culture that flourished in Russian penal correctional colonies (formerly correctional labour colonies), allied with the need to reduce expenses, led to a restructuration of the geography of the penal system. The very geographical location of penal institutions (usually located far away from major centres) had a negative impact on inmates' relationships with their family and friends, insofar as the distance and difficulties of communication cut them off from any form of social interaction outside prison (Moran, Pallot and Piacentini, 2011). It is easy to see how some of the changes that were implemented within the Russian penal system (i.e. 'cellular accommodation for all serious offenders, the separation of different types of offenders in different correctional institutions, expanding the range of alternatives to incarceration for offenders receiving non-custodial sentences […]', ibid.: 80) all aimed at limiting one's contact to inmates.

Italy has often been criticised for the article 41bis, which imposes '*carcere duro*' (a hard incarceration regime) on mafia members and people investigated on mafia-related charges. This article aims to prevent contact between mafia bosses and their relatives and underlings, and instead to encourage mafia members to cooperate and give up information on their groups, through integration with the law on mafia cooperating witnesses. This regime can last 4 years, after which it can then be prolonged every two years. It includes a number of measures, including: isolation, in which the inmate has a single room and cannot access common spaces; yard time is limited and takes place in a reserved area; special surveillance by a particular branch of the penitentiary police, who do not have contact with other police; and visits are permitted only once a month, for a limited time and with no physical contact allowed. However, this should not be considered as enhancement of punishment measures, but rather as a preventative tool. The aim of 41bis is to isolate mafia bosses to reduce the criminal power of their organisation. Nevertheless, more visiting permits have recently been granted to mafia

bosses (31 were released to the 727 bosses who were in prison in 2017). This does not come without risk. Boss Domenico Gallico, who is under the hard incarceration regime after having been sentenced to seven life sentences, was still able to control his *cosca* from 1990 to 2013 through his relatives. His mother, who also received a life sentence for mafia activities, conveyed the message of the order that led to the killing of a truck driver in connection with a protection money dispute (Polizia Penitenziaria, 2018).

Article 41bis has been criticised by Italian jurors and international organisations, including Amnesty International, who defined the hard incarceration regime as 'cruel, inhumane and degrading' (Amnesty International, 1995; Johnson, 2007). The Italian Constitutional Court and the European Court of Human Rights have not spoken out against this measure *in toto*, but have expressed concerns over single cases. Recently, Strasbourg condemned Italy for the detention, under the 41bis regime, of mafia boss Bernardo Provenzano during the period 23rd March 2016 until his death on 13th July of the same year, on the grounds that his deteriorated mental condition left him unfit to plead. On hearing the decision of the Court, the Italian Minister of Justice Alfonso Bonafede reiterated that article 41bis will not be amended (Sole 24 Ore, 25/10/2018).

As fighting terrorism has become one of the priorities of Western countries, processes of radicalisation have also come under scrutiny. It has been known for a long time that prisons are fertile ground for recruiting militants for extremist causes: in the US, right-wing extremists and militia groups of different kinds recruit many of their members from the vulnerable prison population. Given the lack of a reintegration system for ex-convicts, these individuals are often defenceless once they are released for prison (Cilluffo, Cardash and Whitehead, 2007). Powerful criminal groups, such as the Primeiro Comando da Capital and the Commando Vemelho, have their origins in Brazilian prisons. Some of the 9/11 attackers, the perpetrators of terrorist attacks in Casablanca, London and Madrid, not to mention Abu Musab al-Zarqawi, the founder of Al-Quaeda in Iraq, were all introduced to radical Islam in the context of prison. Scholarship is divided on this subject: if, on the one hand, the alarmist stance connects prison conversions with terrorism, on the other hand, there is also evidence showing that religion plays an important role in the rehabilitation of prisoners (Hamm, 2009; Mulcahy, Merrington and Bell, 2013). Nevertheless, what stands out above all is that prisons are confined places where vulnerable people are easy to access, and can be used as a 'connection system' in which expert or organised criminals scout new members.

Making the best out of a bad situation: prisons as recruitment hubs

Prisons are not a complete waste of time for the yakuza. While a long period in prison may take away some of the manpower of the group, time spent in prison can also be an occasion for creating a web of contacts. In this respect, the yakuza have managed to use the punishment measures used against them in their favour. The contention here is that prison has been used as a recruitment hub for networking with possible new recruits or collaborators, and that the yakuza have also benefitted from the diminished welfare system that many have to engage with after their release from prison.

Leaving aside those prisons specifically for underage offenders or people in need of medical treatment, Japanese prisons are categorised as *a-kyū* or *b-kyū.* A-*kyū* prisons are for prisoners serving time for their first conviction, who are easy to rehabilitate, and that do not represent a danger to other inmates. This category also includes the *LA-kyū* prisons (L is for long), where prisoners serving a term of more than 10 years are held. In *b-kyū* prison all the inmates are reoffenders, with strong criminal inclinations, and scarce possibility of being reintegrated into society (Saisho, 1980). Yakuza members belong to the second category of prisons, especially as most incarcerated yakuza are reoffenders. With respect to the types of prison in Japan, they adopted the system of prison factories in the late 19th century, and have been running them in this way ever since. The context in which prison factories are operative helps explain their role within the criminal justice system: Johnson (1994) argues that in the case of Japan, the rationale for this system can be found in the rehabilitative nature of the judiciary, insofar as prison factories can be seen as 'an instrument for 'self-purification', whereby the rule-breaker earns acceptance as a 'worthy' person' (ibid.:53). The ideal development of this kind of prison can be found in the 'Social Rehabilitation Service Centres' built in collaboration with the private sector under the Private Initiative Fund (Choo, 2003). This initiative was welcomed by local governments as a means through which to reinvigorate sluggish local economies (*The Japan Times*, 2006), while, simultaneously, acting as a kind of social engagement project in the community that provided vast array of educational, therapeutic, and vocational programs for detainees (Leighton, 2014). However, these 'rehabilitation centres' are not available to yakuza offenders, or any repeat offenders, as they come under the category of *a-kyū* prisons. Hence, it would be more appropriate to consider them as a 'release valve' for the overwhelmed prison system, which came under significant strain as a result of the economic slump of the 1990s and the increased

public debt that reached 140% in 2002 (Choo, 2003). As was argued in the previous chapter, doubts remain over the well-meaning aims of the Japanese judiciary, largely pertaining to whether the Japanese criminal justice system is as benevolent and focused on the rehabilitation of its prisoners as it is claimed to be my many scholars.

As the graph on the next page makes clear, the yakuza's incarceration rates have been on constant decline since the beginning of the 1990s. In 1991, the year prior to the first implementation of the anti-yakuza countermeasures, 5,036 out of a total of 21,084 new prisoners were yakuza, which means that they constituted over 23% of that year's incoming prison population. The incarceration rate for common prisoners started to increase from 1999, reaching a peak of 33,032 defendants being sentenced to prison in 2005, of which 4,143 were related to the yakuza (12.54%). Although the yakuza population has followed the trends in the total incarceration rates, the percentage of yakuza-related inmates has continuously dropped, especially if we consider that at the beginning of the 1990s yakuza members constituted 23% of those who were sentenced to prison. The most recent numbers reported in the 2018 White Paper of Criminality, which refer to 2017, show that the yakuza now represent only 6.18% of all new prisoners (Hōmushō, par. 4.3.2.3, 2017). This impressive decrease in yakuza imprisonment needs to be understood in the context of a declining yakuza population: while in 1991 the yakuza population amounted to 88,259 (Hōmushō, par. 1.2.2.1, 1991), in 2018 it reached a record low of 34,500 (Hōmushō, par. 4.3.2.1, 2018), which means that in 1991 5.71% of yakuza members were sentenced to prison, while the percentage has now declined to 3.46%. This difference can be accounted for by the decline in the yakuza population generally, while the difference in their representation in prison can be attributed to both stricter regulations and the aging of the yakuza members, who are naturally dying.

Common offender inmates vs. yakuza inmates, 1991 to 2017
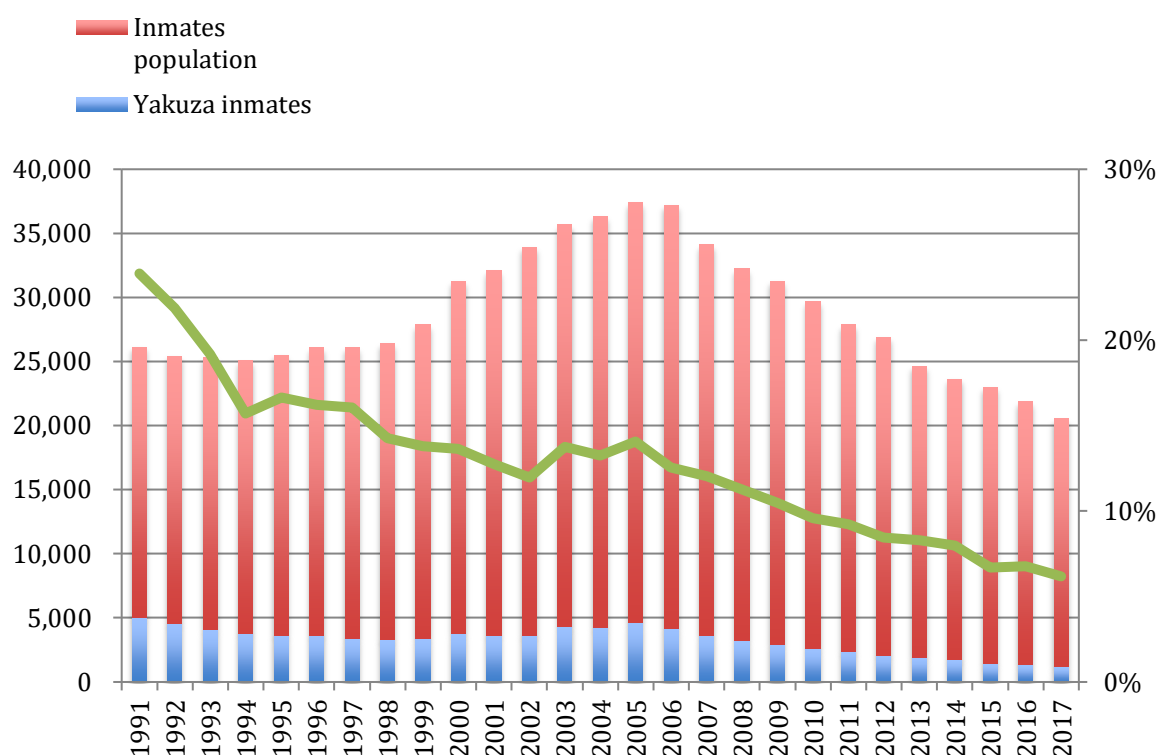
Data source: Hōmushō, 1991 to 2017

Finally, there is the possibility that yakuza members hide their membership of a criminal syndicate, because this makes it impossible for them to be released on parole. Formally withdrawing from the yakuza is thus a straightforward and effective method through which to avoid additional prison time. The process is simple: if the member is already detained, he writes a 'withdrawal notification' addressed to their boss and hands it to the penitentiary police, who then have it delivered to the group's headquarters. After the boss puts his stamp on it and the letter comes back, the member is officially out of the group (Hirosue, 2017).

It is established by law that all sentenced prisoners are required to work, while those who were sentenced without labour or those in custody may decide whether they wish to undertake paid work. In 2018, on average, 45,968 prisoners worked in prison factories every day, including 85.9% of those who were sentenced without labour but chose to work (Hōmushō, par. 2.4.2.2.1, 2018). Prison work includes: production work (woodwork, printing, dressmaking, metal production, etc.), social services (weeding in the park, and other jobs that encourage the rehabilitation of the prisoner), and independent work (cooking, cleaning, assisting older prisoners, general fixing, and anything else that needs to be done inside the prison). There is also the option of

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working outside the compound in a facility administered by the prison, or in industries that collaborate with the prison. When the prisoners are outside prison facilities, they are monitored though a GPS system. Workdays are 8 hours long, while prisoners get weekends, bank holidays, and New Year's off, with the exception of those working in jobs that need to be done every day (cleaning, etc.). All money earned through the prisoners' activities flows straight into the state's coffers: the revenue for 2016 amounted to ¥39 billion (around £27,625,000). Prisoners' monthly wage is on average ¥4,340 (around £30), and with respect to those prisoners who were released in 2016, 35% of them had earned around ¥50,000 (around £350) (Hōmushō, 2017 par. 2.4.2.2.2).

Many ex-yakuza members reported that prisons are the same across Japan, and that there are no differences at the level of prefectures. An ex-yakuza member also reported that there are no differences between the prefectural courts, and that all prosecuted persons are treated the same nationwide. However, he explained some of the mechanisms of the work assignment:

> 'Once you are done with your trial, you will be assigned to a factory, and then as soon as you arrive you will be asked whether you are a yakuza or a common offender. If you say you are a yakuza you will then talk to the other yakuza who are employed in the same factory, and you will work with them. There is a bit of favourable treatment if you are a yakuza, but most of the yakuza will not walk around showing off their membership, they will behave properly. Because that is the way of the yakuza.'
> (Interview ex-yakuza member, Kyushu, 2 April 2018).

However, there are instances in which prison guards have displayed different behaviour towards yakuza members, in the case of guards who have sought to use prisoners for personal gain or show favouritism towards yakuza members over common prisoners. Also at the more general level, an ex-yakuza who was in prison in the early 2000s admitted that the yakuza often receive favourable treatment (interview ex-yakuza, 23 January 2018). Mr Higarashi, who spent 20 years in different Japanese prisons, observed that yakuza members or people who are closely related to the yakuza often experienced a more comfortable life in prison. A yakuza member may make it clear that his *aniki* (big brother) is a member of some *gumi* (group), as this will exert an intimidating effect on common people, without the threat of the use of violence. Moreover, yakuza members have more direct access to lawyers than common prisoners, as in many cases they are provided by their group, according to Mr Igarashi:

'In prison jargon we call them *hato* [pigeon]: for instance, if someone has to give money to someone else who is out, they tell their lawyer to do it. They can't run away. Basically, they use psychological techniques, so that people can't run away. By doing so, they use these people and make them do business. […] In prison, everyone is alone, but if you are a yakuza you are not alone. You have your *kobun* [younger members], you have your brothers, you get letters' (interview Igarashi, 21 December 2017, Tokyo).

An ex-yakuza member, who served time in prison in the 2010s, admitted that his membership o a yakuza group made his incarceration easier. According to him, one of the perks of being in prison as a yakuza is that when a member goes to prison for the group, their family is looked after. However, rules vary across groups, and it is increasingly common to hear that allowances for families of members who are in prison are diminishing due to the decline in yakuza revenues (Interview ex-yakuza, 23 January 2018, Tokyo). An ex-yakuza from another group who was in a long-term *b-kyū* prison agreed that common offenders and yakuza had different experiences in prison:

'There are absolutely staggering differences [between yakuza and non-yakuza inmates]. Especially, if you receive a long sentence for having done a job for your group, that will get you a lot of attention. Not to mention the places where prisoners gather: the prison yard does not belong to common offenders, it belongs to the members of the yakuza. If a *katagi* [non-yakuza] does something disrespectful to a yakuza member, he will immediately be taken away to a place to stay, and he will be kicked out of the factory. However, if a yakuza member keeps serving only his own interests and behaves inappropriately, he will also lose his job in the factory. And even if you find a new job in a new factory, when the word spreads that you have been thrown out of the factory, you will also lose the new job. It is true that in any world you live in, you reap what you sow…And the prison world is so small, that this rule is indeed very evident.' (Interview ex-yakuza, 1 February 2018, Tokyo).

Yakuza members do not seem to impose a system of governance for all prison members, as is the case in the context of Mexican prison gangs who are able to provide resources and institute a system of governance that goes beyond the prison walls (Skarbek, 2011), rather they apply their codes of behaviour inside the prison between

themselves. This code of behaviour is recognised by non-yakuza members, and, as such, does bear some influence on the organisation of non-yakuza prisoners. However, the behaviour of the yakuza members varies: 'There were many yakuza amongst the inmates. There were those who stole snacks from normal inmates, but also those who before their release went to everyone for a polite salute and to give thanks. If inside prison you engage in bad behaviour, you also ruin the reputation of your group, so it is important to treat everyone with care and respect' (Hirosue, 2017: 109). Given the advantages that yakuza members enjoy in prison, other inmates can seek out their support, which extends also to the moment of release. The lack of programs for reintegrating ex-convicts often leave young delinquents or repeat offenders without a place to go once they are released. In this respect, the yakuza become a safety net on which prisoners can rely to avoid homelessness and unemployment:

> 'From their point of view, a person in the organisation has money, has women. If they want a woman, they can have her because they have the money. So, if a yakuza says: "come to our place when you're out, we'll look after you", they will just go. By saying this, the yakuza are scouting people in prison that they can use outside. They don't look for *kyōdai* [brothers, meaning members] though, just for people they can use for business. So, when this other person goes out, they go pick him up, and at that point they just discuss the good parts. So, they make good use of these people, especially if they are underage. Minors have lower sentences, so they use them. And, as you know, there is a lot of telephone fraud: they use those kind of people for that. So, the management cannot be caught' (Interview Igarashi, Tokyo, 21 December 2017).

In fact, the yakuza provides an even more complete and attractive package of welfare services to their members:

> 'When you get out of prison you don't know where to go, you don't have anything to eat, it's difficult with no work, and so on… But if you're in the yakuza and leave prison, you go to your *oyabun* [boss]: you'll be fed, you'll be given money to do things. This is called *kumi-goto*. *Kumi-goto* is the job of the *kumichō* (boss). So, if you do something for the group, are caught and imprisoned, *kumi-goto* means that the organisation will back you up 100%. This means that if you

have a wife and children, they'll be looked after. There is no need to worry about anything.' (Interview Igarashi, Tokyo, 21 December 2017).

This was corroborated by an ex-yakuza member, who added that the yakuza group take care of their members and relatives only in cases in which the sentence directly resulted from doing an act for the group, while if he goes to prison for an unrelated offence (i.e. a brawl) the group does not take responsibility (interview with-ex yakuza, 23 January 2018). The 'welfare package' provided to yakuza who are imprisoned also includes a pickup service (*demukai*). This prison-release ceremony includes members of the group lining up in their expensive foreign cars outside the prison and welcoming back their member who served time for the organisation: the higher the rank of the released yakuza, the greater the pomp of the celebration. This rite symbolises that state rehabilitation has failed, showcases the strength of the group, and allows newly released convicts to get back in touch with the group (Kaplan and Dubro, 2003). In the past, *demukai* was a flashy event[28]: when in 1969 Inagawa Kakuji, boss of the Inagawa-kai, was released from prison where he had been serving time for a gambling offence, hundreds of yakuza arrived in expensive cars and lined up according to their status in the organisation. Despite the increasingly restrictive regulations, *demukai* is still performed, albeit in a much more modest fashion (private correspondence with a *kumichō*, 2 February 2019).

Shinobu Tsukasa, leader of the Yamaguchi-gumi, in the interview that he released to the mainstream national newspaper *Sankei West* (2015), stated:

> 'If the Yamaguchi-gumi dissolved now, public order would deteriorate greatly. The reason for this, is that there are a handful of high-ranking officials who have their savings and do not need to worry about their livelihood, but there are also 30 to 40,000 yakuza members, and therefore 500 to 600,000 relatives and families of these members, whose destiny is very clear. Young people will run astray on the streets, and in the end, they will join another yakuza group, or they will become a gang of their own. So, it makes no sense to dissolve our group. It is not a nice thing to say, but when the wind blows dust and dirt away, and it all gathers in the corner, similarly in this world there are people who are outcasts: people

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[28] It is possible to find *demukai* videos on YouTube: Sanyō yakuza Asano-gumi kanbu hōben iwai kakugumi no oomono zokuzoku kōkyuusha de tōjo (urajōhō.com, 16/02/2019); Yakuza no sekai: wakagashira ga keimusho kara shussho, soshite hōben iwai (Jannie Gerard, 21/07/2016).

who are left behind, people who do not adapt into society, there are also these kinds of people in this world. Our organisation is the place upon which those people can rely. But if they are not under our control, they will have no rules and no boundaries, nobody will punish them, and they will do as they please. And that is anything that provides an income. Hideous crimes such as theft and robbery will increase'.

Mizoguchi (2013), a journalist and one of the main experts on the yakuza in Japan, agrees to some extent with Shinobu Tsukasa, and even goes one step further, arguing that what the boss described here is already happening, insofar as more and more members are out of work and engaging in predatory crimes to make ends meet. Those who are not skilled or inclined to commit crimes even use prison as a 'safety net'. Indeed, an ex-yakuza member will almost certainly have a criminal record or a suspended sentence. Therefore, even if they only commit a petty crime, it is very likely that they will serve two or three years in prison. With this in mind, yakuza sometimes commit a minor crime on purpose to get arrested, because they see prison as an 'emergency exit'. In prison, clothing and shelter are guaranteed, they can obtain a job in the factory, and provided they do not mind restrictions of their freedoms, prison becomes the only chance of survival for some ex-yakuza. The calculated annual cost of maintaining each prisoner is ¥800,000 (£5560), but if we include personnel expenses and facility costs, it rises to ¥2,500,000-3,000,000 (£17,380-20,850). The welfare costs to support an elderly person living in a flat is around ¥100,000 (£695) monthly, and ¥1,200,000 (£8,340) annually; therefore, it is more expensive to incarcerate old ex-yakuza than to give them housing benefits. In Mizoguchi's words, 'Welfare is said to be the last safety net, but for ex-yakuza members, beyond welfare, there is the last of the last safety net, prison.' (ibid.:112). However, even if they are in prison for some time, it is likely that they will find ever more difficulties upon their release, while there is also the possibility that many of them will die in prison. Mizoguchi concludes that it is debatable as to whether it is more miserable to die in prison or die of loneliness, but in any case the future for the yakuza looks bleak.

The ageing of the population, combined with changes in sentencing and parole practices, has led to an increase in the amount of elderly prisoners in both Europe and the US. Indeed, in the UK, older prisoners (50 and above) are the fastest growing population (Forsyth et al. 2014). This subset of the population presents institutions with specific health care needs, problems with adjusting to prison life, and difficulties in

maintaining family relationships. Research on this population has shown that dying in prison is a common fear amongst older inmates serving long sentences, who often express sentiments of loneliness and hopelessness. At the same time, release and resettlement are also accompanied by pessimistic feelings, anxiety, and dread. Much of this uncertainty appears to be caused by the lack of social networks, fear of being homeless, and, at least for some, the fear of being attacked in retaliation for the crimes they previously committed (Crawley and Sparks, 2006). A similar phenomenon is also happening in Japan: according to an investigation of the BBC, the crumbling of family ties and lack of adequate social care provision for the elderly in a society were over 18% of the population are over 60, pushes seniors to commit petty crimes, which are met with increasingly harsh sentences after the second conviction (BBC Radio 4, 21/01/2019). The White Paper of the Ministry of Justice confirms this, as 10.9% of the male prisoner population and 19.7% of the female population, at the time of entering, are over 65, and almost all of them received sentences of imprisonment with labour (Hōmushō, par. 2.4.1.3, 2018). Older yakuza members, who do not receive a pension and often have weak family ties, are highly likely to be included in this population. Regarding the period from 1999 until 2018 (for which data are available), the trends in the age of incarcerated yakuza members present clear patterns: members in their 20s and 30s are continually decreasing (from 18.3% to 8.7%, and 37.7% to 24%, respectively), while members over 40 are increasing. In particular, members in their 40s have shifted from representing 23.4% of the yakuza prison population in 2012 to 38.5% in 2017; members in their 50s showed a small increase (15.3% to 19.4%); while members above 60 years old have doubled. This specific subset of the population constituted 5.2% of the yakuza prison population in 2006, but this doubled by 2014. It continued on an upward trend in 2015 (10.1%) and 2016 (11.2%), before decreasing slightly in 2017 (9.5%) (Hōmushō, 1999; par. 7.4.1, 2000; par. 1.2.1.3, 2002; par. 1.2.1.3, 2003; par. 1.2.1.3, par. 1.2.1.3, 2004; par. 2.6.3.1, 2005; par. 3.2.3.1; 2006; par. 3.2.3.1, 2007; par. 3.2.3.1, 2008, par. 3.2.3.2, 2009; par. 3.2.3.2, 2010; par. 4.2.3.1, 2011; par. 4.2.3.1, 2012; par. 4.2.3.1, 2013; par. 4.3.3.1, 2014; par. 4.3.3.1, 2015; par 4.3.2.3, 2016; par. 4.3.2.3, 2017; par. 4.3.2.3, 2018). These numbers are consistent with the ageing of the yakuza population; however, it is important to note here that yakuza groups are waiting longer to affiliate younger members, and, consequently, it is unclear whether other general prisoners have been incarcerated for crimes that may have to do with yakuza activities.

Age of incarcerated yakuza, 1999 to 2017
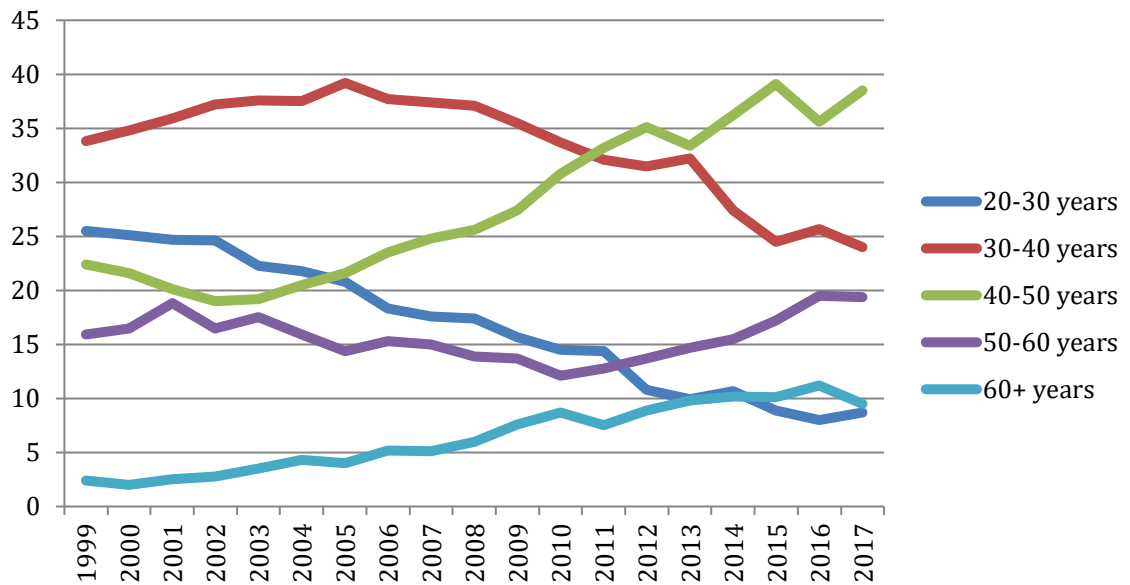
Data source: NPA, 1999 to 2017

The economic recession that placed so much pressure on the welfare system also had a negative impact on family bounds and traditional familial responsibilities (i.e. young men and women being expected to take care of parents, but having to move away for work); in conjunction with the expansion of the penal state, individuals from the most vulnerable positions are often forced to resort to the most desperate solutions to make ends meet. The neoliberal policies that permeated Japanese society during the period of the economic miracle contemporaneously led to the growth of inequality and removal of significant aspects of the private sector safety net (permanent contract with benefits that compensate for the lack of welfare benefits). The concomitant aging society, low birth rate, depopulation, and deteriorating situation of rural areas only serve to worsen these strains. Nevertheless, the current Japanese government led by PM Abe has decided to tackle the crisis via reactionary and nostalgic discourses, increased control over the population, increasingly authoritative domestic policies, and more assertive international politics (Stockwin and Ampiah, 2017). The marked turn towards the right began in 1990s, and it is safe to assume that in the years to come welfare provision will continue to occupy the lowest of positions in the list of governmental priorities.

New tools: asset seizures and monetary fines

Given that the survival of organised criminal groups is based on their ability to earn revenue, several jurisdictions have applied punishment measures such as asset seizures to undermine their financial stability. The visual symbols of economic power of the yakuza prove that the lack of application of these measures has indeed strengthen criminal groups, at least on a symbolic level.

Francesco Inzerillo, member of a Palermo mafia clan, summed up Cosa Nostra's position on asset seizures as follows: it is better to end up dead or in prison, than to have one's goods confiscated (Frigerio, 2009). Italian anti-mafia interventions are cognisant of the mafia's attachment to their assets, and, as such, stripping the *Mafiosi* of their wealth is grounded in anti-mafia symbolism: the message that the state is trying to convey to the public is that crime (in this case, a specific subset of crime) does not pay (Sergi, 2016). Trust in the state and community is reinforced by obfuscating the image of the rich 'man of honour' (Frigerio, 2009). In Italy, asset seizures against the mafia were first applied during the first 'maxi-trial' against Cosa Nostra in 1986. This norm was introduced in the 416-bis: comma 7 of the law states that it is mandatory to confiscate assets that were either used to commit a crime, or were the price, product, or profit of that crime. The underlying assumption of this norm is clear: it is not possible to combat the mafia solely by tackling single crimes; rather, one must hit the mafia in the asset accumulation phase, as material capitals represent the added value of the organisation. As a result of the huge funds they accumulate, mafia groups are always able to reorganise when they are disrupted by law enforcement, and, contemporarily, these dirty funds corrupt the local economy and society. After a series of attacks against Italian judges in the early 1990s, grassroots movements were organised to protest against the mafia. The social pressure led to another law on asset seizures in 1996, which served to reassert the importance of the monetary component when tackling organised crime. As a result of Law 109/1996, properties seized from the mafia can be used for broader aims such as public order or protection of civil society, as well as being transferred to *comuni* (municipalities) for institutional or social aims, or be given to charities or civil associations (Frigerio, 2009). Once again, this provision is deeply rooted in anti-mafia symbolism: in this case, not simply by selling previously mafia-owned assets for a profit, but by establishing that they must be used for social purposes, the state asserts the power of civil society over organised crime (Sergi, 2016).

Similarly, asset seizures in the US are seen as a significant part of criminal law enforcement, which serves a multitude of aims, including punishment, deterrence, and curtailment of criminal revenues, while, simultaneously, providing funds for victims, the community, and law enforcement agencies. While in some cases the assets subjected to forfeiture are limited, in cases where RICO applies, the judge can seize the defendant's entire interest in an enterprise (Cassella, 2018). The potential for profit from forfeiture statuses sparked a decade-long debate over the disposition of seized assets: if, on the one hand, supporters deem it to be appropriate that the police manage these funds, on the other, critics point out that governmental agencies should not generate revenues through their duties (Worrall, 2001). This measure is often used in the fight against drug trafficking, but critics argue that it has been used to increase the civil power of the state, while, simultaneously, undermining the individual rights of the accused (Jensen and Gerber, 1996). The practice of asset seizures has been described as a dysfunctional policy, in which the seizing assets prevails over the actual enforcement of the law, so much so that insignificant suspects are targeted due to the value of their properties, while major players are ignored (Mille and Selva, 1994). Worrall (2001) offered evidence that a substantial number of law enforcement agencies have come to depend on forfeiture proceedings, therefore making asset seizures essential for contemporary law enforcement. This bears a set of negative implications, as if law enforcement becomes a means through which to make profit, then the criminal justice system is destined (and accordingly will be designed) to fail in order to keep generating revenue.

Asset seizure in Japan is not a commonly used tool against the yakuza. The 2007 Law for the Prevention of the Transfer of Criminal Revenues (*Hanzai ni yoru Shūeki no Iten Bōshi ni kan suru Hōritsu*), which was subsequently amended in 2018, aims to prevent the use of revenues from criminal activities from being reinvested in ways that bolster the criminal group, on the grounds that these funds' circulation and reintegration within the legal market negatively impact upon the legal economy in general. This Law is used together with the Law on punishment of organised crime (*Soshiki Hanzai Shobatsu-hō*, 1999), and the Drug control Law (*Mayaku Tokurei- hō*, 1991). Under this law, suspicious transactions are investigated by the Public Safety Commissions, which then pass on to the police and the prosecutor's office the cases that need further investigation and eventual prosecution. According to the White Paper of the National Police Authority, the reported suspicious transactions amounted to 350-400,000

annually during the period 2013-2017, which led to around 1000 arrests. Under these laws, it is possible to freeze the assets prior to beginning the prosecution process (NPA, par. 2.4.4.1, 2018).

Until 2006, there was no asset forfeiture for property crimes such as fraud and embezzlement, even if the responsible party was caught. The amendment to the Law on Punishment of Organised Crime (*Soshiki Hanzai Shobatsu-hō*) enacted on 1st December 2006, introduced a system in which assets seized from cases of systematic fraud and money laundering were converted into cash and placed in a fund, to which victims of fraud could apply to recover their assets (Kensatsuchō, 2018). While this law also applies to cases in which a yakuza member was involved in the fraud, the law does not specifically target yakuza groups and their assets. There may be specific cases in which reimbursement is directed at victims of yakuza fraud (for instance, see Shizuoka-chihō Kensatsuchō, 2017). The Ministry of Justice has provided figures for confiscation and repayment[29] over the past 10 years. Annually, the amount of confiscated goods varied between ¥1 and 2 billion (£7-14 million), but in 2013 seizures reached a peak of 18 billion (£1.2 billion). However, in 2016, only 10% (43 people) of those arrested in violation of the Law on punishment of organised crime were related to the yakuza (Hōmushō, par. 4.3.1, 2017).

In conclusion, asset seizures are a relatively new tool used by Japanese law enforcement, and, as the numbers show, it is still limited in its application. The lack of regulations specifically targeting yakuza assets has a two-fold effect: firstly, by leaving the yakuza intact the organisation is unharmed. The yakuza are heavily involved in the construction industry and in semi-legal businesses (hostess clubs, pachinko parlours, etc.), which generate a considerable amount of revenue, and, hence, seizing these properties would significantly harm the organisation. Secondly, as has been argued by different scholars in regards to the Italian context (see Sergi, 2015; Frigerio, 2009), asset seizures carry a specific symbolism, insofar as they serve to undermine the perceived power of the organisation in the eyes of the public. Japanese lawmakers are aware of the implication of symbolism in fighting organised crime: the ban on signs outside yakuza offices and on business cards for yakuza members points in this direction, and, in turn, has contributed to a deterioration in the public's image of the yakuza. Considering the merits and demerits of the asset seizure mechanisms in Italy

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[29] In cases in which the revenues from a particular criminal activity have already been invested, the group has to repay the same amount.

and the US, if properly applied in Japan, asset seizures could represent an important source of revenue for investment in social movements and local communities.

Final remarks

In the yakuza film *Sympathy for the Underdog* (1971) by the legendary director Fukusaku Kinji – from which this chapter takes its title – the protagonist, Gunji, is sentenced to a 10-year prison sentence that causes the disbandment of his group. Instead of bonding with his prison mates throughout his confinement, once out of prison he gathers up the few loyal members he has left and sets up a new group in a remote region. In contradistinction to Gunji's experience in the criminal justice system, exploitation of lenient sentencing, skilful use of the prison system, and new methods of adapting to the increasingly stiff anti-yakuza countermeasures, constitute the pillars of how to navigate through the criminal justice system safely.

The Japanese judiciary presents some characteristic features, such as extraordinarily high confession and conviction rates. In this regard, it is important to consider the wider framework, as confession is used to bargain for more lenient sentences in exchange for speedier trials (Ramseyer and Rasmusen, 1998), not to mention that recent figures show that only half of all cases (those in which a guilty charge is highly likely) are prosecuted (see the annual figures of Hōmushō cited above). In particular, it has been shown that the prosecution rate for yakuza members has been in consistent decline since the introduction of anti-yakuza countermeasures in the 1990s, from above 80% at one point to now below 50% (still slightly higher than common offenders). While, proportionately, more yakuza are now being arrested, the evidence suggests that many of them are either immediately released or not prosecuted. The average length of prison sentences is still slightly higher for yakuza members, but has not varied significantly over the years despite the introduction of new tools that allow judges to deliver harsher sentences: the majority of yakuza members are sentenced between 1 to 2 years (a figure constantly around 35%) and 2 to 3 years in prison, while long sentences (5+ years) are slightly less common (Hōmushō, par. 4.2.3.2, 1999; par. 7.4.2.2, 2000; par. 2.4.4.2, 2001; par. 1.2.1.3, 2002; par. 1.2.1.3, 2003; par. 1.2.1.3, 2004; par. 2.6.3.2, 2005; par. 3.2.3.2, 2006; par. 3.2.3.2, 2007; par. 3.2.3.2, 2008; par. 3.2.3.2, 2009; par. 3.2.3.2, 2010; par. 4.2.3.2, 2011; par. 4.2.3.2, 2012; par. 4.2.3.2; 2013; par. 4.3.3.2, 2014; par. 4.3.3.2, 2015; par. 4.3.2.3, 2016; par.

4.3.2.3, 2017). This suggests that the firm hand that the government boasts about is more a response to the sense of crisis and insecurity in the country, than a genuine strategy to fight the yakuza. As Mr Yamanouchi noted (interview Yamanouchi, 16 April 2018, Tokyo), if the government really wanted to stop the yakuza they would move towards the criminalisation of the syndicate, whereas at the moment the police registers a high number of arrests that result in short-term detentions, and only marginally disrupt yakuza activities.

With respect to asset seizure, a widely used tool across multiple jurisdictions, Japan has introduced it only recently, and, moreover, the current legislation does not exclusively target the yakuza. In certain jurisdictions, such as Italy, the reinvestment of criminal profits back into the community has proven to be a successful strategy through which to diminish both the material and symbolic power of organised crime (Sergi 2015; Frigerio, 2009), and, hence, the lack of such a tool in Japan may be regarded as one of the reasons for the continued existence of the yakuza. The high levels of visibility of the organisation and their strong presence in the local community, as showcased by their offices and black cars, gives off an impression of strong influence and legitimises the group, all of which could be eroded by seizing these notable symbols of power. The Japanese state is at a crossroads where they must decide whether they would rather deal with a visible and 'approachable' group – that gains strength from this visibility – or with a secret organisation that is in all likelihood weaker but altogether more violent.

Furthermore, the yakuza also use their prolonged periods in prisons to achieve their ends. Indeed, yakuza members who are still officially part of the organisation end up in *b-kyu* prisons with serious offenders, which allows them to build a network of contacts with professional criminals that can then be exploited outside of prison. Membership of a yakuza group in prison can also help to elicit favours from other prisoners and guards. However, many yakuza have reported that this advantage is not abused, as it would negatively impact upon the group. Therefore, the yakuza use prisons as 'connection' sites where they can get in touch with other criminals. Given that the law is stricter now, many dangerous jobs need to be delegated to other professionals who are not part of the group, so as to limit damage to both the organisation and the bosses. Building on the arguments of the previous chapter, according to which the Japanese criminal justice system does not encourage the reintegration of offenders back into society, it is likely that the yakuza have provided a safety net for offenders in need

of employment when they leave prison. As my participants have observed, the lack of opportunities push ex-offenders to reach out to the yakuza that they met in prison upon their release, insofar as working for the yakuza represents the only viable option in the absence of a support system. The fact that the current government would rather promulgate nationalistic and nostalgic discourses than sufficiently address the manifold social issues in Japanese society, only serves to favour both the yakuza and the other criminal networks that are emerging in Japan (such as the *hangure*).

To conclude, enhancement of punishment for organised criminals does not appear to be fully applied in the sentencing process, and, hence, part of the reason for the yakuza's longevity may be ascribed to this factor. Short sentences and adept use of the prison system allows the yakuza to swiftly navigate through the Japanese criminal justice system without being fatally wounded by it. The overt rhetoric of increased harshness towards the yakuza espoused by Japanese politicians in recent years, fits with the portrait of a country that has been trying to resolve the social problems produced by cutbacks in welfare with policies that focus on policing and punishment. While, undoubtedly, the yakuza are becoming weaker, they are also going underground at precisely the same time in which invisible or hardly detectable forms of crime are on the rise. Japanese law enforcement, which used to openly communicate with the yakuza rather than aggressively combat it, must now prove that they are up to this challenge.

Conclusion

Out-dated gangsters: has the time come for the yakuza?

In the city in the Shizuoka prefecture where I was working between 2013 and 2015, the last bar that remained open at night was a decrepit karaoke bar that did not close until the last customer left – which was often not until the following morning. Full of vestiges of the Showa-era, in this karaoke bar time had stopped at the beginning of Heisei (1989): it had dark flowery wallpaper, red velvet sofas scattered with cigarette burns, 1980s posters of the Twin Towers and metropolis skylines, old TV screens transmitting song lyrics. One night I ended up sitting at a table with some *chinpira* (thugs) and girls working in a nearby *kyabakura* (hostess bar), while at another table a large group of people were having a wedding after-party. S., who was sitting at my table, was mistakenly shoved by a member of this party on his way to the bathroom, and began aggressively staring at the other group. Everybody else kept chatting and singing, and when my song finally came up I began yet another embarrassing singing performance, at which point a fight broke out between the two parties. K., who was sitting beside me, started shouting at them whilst placing his hand on his face (with his pinkie bent, as if he wanted to show he was missing it). The groups eventually began to brawl, until the karaoke owner and other people managed to force everyone out. However, the fight continued outside and was only stopped when S. threatened to call the local *kumichō*, for whom, I later found out, he was working. I then realized that K.'s hand gesture represented the *yubitsume* (yakuza ritual cutting off of a fingertip), and that he was warning the other table that he was connected to the local yakuza group. The next day, a bar-owner friend told me that she had banned S. from the premises of her establishment because of his rude behaviour, and most of the people I spoke to were bothered, rather than scared, by the presence of these youngsters. I had the chance to again meet S. and K.: S. turned out to be an ill-tempered, troubled young man, with no education; K. told me about his absent parents and subsequent difficult upbringing, as well as how the repercussions of the mistakes he had made as a teenager were still playing out on his life. Both had tried to work at the local power plant but had been fired, both were socially marginalised, cantankerous young men. They lived in a city

that was kept alive by the nuclear power plant, built in that spot because of pork-barrel politics and despite seismologists' warnings, where citizens' concern over 'the most dangerous power plant in the world' (Carpenter, 2015:84) were placated via the promise of infrastructure building, yearly checks, and discounted utility bills. With no education and a bad reputation, they could only aspire to work in the night-entertainment or construction sectors with the patronage of the local yakuza group.

Just like the interior of the karaoke bar, the yakuza are an anachronistic reverberation of a bygone era: they still exist, but they are considered old-fashioned, and young people are not charmed by them anymore – unless, much like the last open bar, they are the only option to go to. The survival of the yakuza is threatened by recent external developments (i.e. the increased scope of the law and controls, a less amicable relationship with the surrounding society, more competition with other forms of crime) as well as internal issues (ageing, lack of new recruits). The contemporary plight of the yakuza proceeds a longstanding period of resilience and recurring periods of prosperity. The present thesis has examined the factors that supported the longevity of the yakuza, which I summarise in this concluding chapter with an eye towards future developments that may lead to the disappearance of the yakuza.

Research findings

The present study set out to solve the puzzle of the prolonged existence of the yakuza in what is commonly portrayed as a low-crime, law-abiding society. The pieces that comprise this puzzle are numerous and multifaceted, encompassing historical roots of the phenomenon, its social basis, economic foundations, political connivance, laws and their enforcement, and modes of punishment. In this research, I tried to put these pieces all together in order to answer the main research question: what factors sustained the resilience of the yakuza up until the present day?

In order to answer this question, I employed a mixed-methods research-design. Desk-based research of official and unofficial resources (i.e. governmental resources, journalistic accounts) were integrated with ethnographic accounts from a diverse population that included Japanese academics, researchers, journalists, and both ex- and current yakuza members. By engaging with different accounts of the same phenomenon, I was able to reduce the intrinsic bias and triangulate the information collected.

I broke down the main research question into six sub-areas. I started with an examination of the historical roots of the yakuza, before proceeding in Chapter Two to consider the historical factors that legitimised the existence of the yakuza from their origins to the contemporary era. It was argued that from the beginning of their existence, the yakuza took up various social roles at junctures in which there were power vacuums stemming from the fragility of the state. At the same time, I contended that the ideological affinity between the yakuza and conservative elites led to a nexus between the criminal syndicates and the (far) right that persists to this day.

In Chapter Three, the social dimensions of the yakuza were taken into consideration. Setting out from the argument that the levels of visibility of the yakuza are exceptionally high in comparison to most other crime syndicates, it was argued that there must be a high-level of interaction between the yakuza and civil society, or, at the very least, that Japanese society has been incredibly tolerant towards the yakuza. This is particularly notable given that Japanese society is usually ranked amongst those with the highest levels of social capital and trust, two characteristics that have traditionally been associated with the negative effects of criminal groups. I disentangled this issue through recourse to theories of social capital and trust, before positing that the yakuza have used 'dark social capital' to both gain acceptance amongst civilians and to exploit social networks to achieve monetary goals. The high visibility of the yakuza has played an important role in terms of their acceptance, insofar as they have been able to use their own image and shared cultural norms centred around nostalgic tropes of nationalism and masculinity to gain acceptance amongst the population. Finally, this chapter investigated the varied composition of yakuza groups. While theories of organised crime consider homogeneity of background as one of the prerequisites of criminal bonds, insofar as it strengthens the degree of trust in insecure environments, the yakuza appear to work via a mechanism that I referred to as an 'exclusionary basis': the bond between members is based on their shared marginalisation in a society characterised by rigid cultural norms.

Chapter Four considered the longevity of the yakuza from an economical perspective. The so-called 'lost decade', the economic slump that Japan entered into in the 1990 and which extended into the 2000s and 2010s, took its toll on the yakuza, who were forced to adapt to the stagnating economy and the harsher laws that were introduced at that juncture. It was argued that the yakuza managed to maintain their income streams as a result of their involvement with legal, illegal, and semi-legal

markets. Most notably, the system of collusion between business, politics, and bureaucracy that is commonly referred to as Japan Inc. sustained the yakuza by providing new opportunities for infiltrating the legal sector. The economic downturn that started in the 1990s, allied with increased anti-yakuza activities, had a negative impact on the yakuza, who sought to penetrate the legal sector more deeply, while low-ranking yakuza were forced to resort to petty and predatory crimes. Indeed, the widening social inequality that is intrinsic to neoliberal systems have been consistently found to be related to a rise in crime. The neoliberal system that Japan adopted, I would argue, from the 1970s, on the one hand supported the existence of the yakuza, because of its principles of economic deregulation, retrenchment of the welfare state, and cultural tropes of success and individual responsibility, but on the other, it harmed the yakuza through the regulation of informality manifested through anti-yakuza regulations and growing social inequalities that hardly hit low-ranking members.

Chapter Five provided an answer to the question of the longevity of the yakuza by looking at the political practices in Japan that backed the yakuza until the present day. Japan is depicted as one of the least corrupt countries in the world, but yet research has suggested that corruption may be more pervasive and institutionalised than it appears, which is reinforced by the very presence of the yakuza itself in the country. It was contended that Japanese institutions are vulnerable to systemic collusion, and that this creates gaps vis which criminal actors and groups can subsequently infiltrate the government. Some legitimate practices in Japan, such as the *zōto bunka* (gift-giving culture) or the *amakudari* scheme (retirement system), can also be considered as corrupt in relation to other legislation, and, indeed, provides a space for the lawful exchange of money and favours. The yakuza reach out to the government through the powerful groups that are close to them, such as the construction industry and right-wing associations. In the local context, there have been many cases in which local yakuza groups get their candidate elected, but this practice is aimed at short-term material gains. The pork-barrel system and the systematised political clientelism of Japanese politics allowed for the establishment of relationships between political parties and external agents, while the Liberal Democratic Party single-party system stabilised the relationship between yakuza-related actors and political elites. In this respect, the traditional connection between the ruling party and the yakuza seems to have been further strengthened by the nationalistic ideologies of the ruling Liberal Democratic Party and PM Abe.

Chapters Six and Seven examined anti-yakuza regulations, in terms of both its enforcement and modes of punishment, to understand how these factors supported the existence of the yakuza. First, I demonstrated that the first anti-yakuza law (the 1992 *Bōtaihō*) was a product of both external (i.e. international pressure) and internal (i.e. increasing levels of violence and public discontent) pressure. Whereas throughout the 1990s the *Bōtaihō* was applied half-heartedly, the increasing punitiveness of the Japanese criminal justice system, allied with the growing harshness of the anti-yakuza countermeasures of the 2000s and 2010s, eventually pushed the yakuza underground. My contention is that this process of mafiaisation is responsible for driving young people towards non-codified forms of crime. The role of the police in the yakuza's resilience was understood through the introduction of the 'designation model' of policing that has been adopted by the Japanese police, according to which designated yakuza groups are the target of increased policing, while similar groups that have not been nominated by the Public Safety Commission are subject to less law enforcement activities. Despite the increased hostility between the yakuza and the police, I posited that the two groups continue to communicate and maintain some form of relationship through individual relationships and a conservative ideological common ground.

The way in which the law is enforced depends also on the judiciary, and in relation to this it was demonstrated that, although courts now have stronger tools through which to sentence yakuza members, recent trends show that they continue to be sentenced for small infractions and spend shorter periods in prison, albeit that they do so more often. It was also observed that the norm according to which yakuza members ordinarily obtain harsher sentences has led to 'pro forma' yakuza drop-outs, that is, members who officially leave the organisation only in order to have their sentences reduced. Yakuza members often receive favourable treatment in prison, and it was argued that the yakuza exploits the prison system by using it as a recruitment centre. The evident shortcomings of the receding welfare state that culminates in the lack of a support system for ex-convicts, allied with the organisation of the Japanese prisons, pushes experienced criminals into the hands of the yakuza. This combination of short sentences that do not really disrupt the activities of yakuza groups, combined with the opportunity of using one's stay in prison to recruit new members or future collaborators, has played an important part in terms of upholding the yakuza's existence.

In conclusion, this research has demonstrated that the yakuza, Japanese society and its institutions are connected through a 'mutual dependency', due to a series of

social, political, and economic collusive practices that have allowed for their visible existence without the need to resort to violence, which, in turn, further legitimised them in the eyes of the Japanese public.

Contribution to knowledge of the yakuza

With this research, I sought to contribute to both extant literature on the yakuza specifically, as well as to theories of organised criminality more generally. I considered the recent evolution of the Japanese crime syndicates in response to changing social attitudes towards the yakuza, new anti-yakuza countermeasures, and a period of prolonged economic recession, therefore supplementing the findings of the two previous seminal works that specifically addressed the yakuza.

My findings support Hill's hypothesis (2003) that the yakuza founded its hegemony on the provision of private protection: the weak Japanese police left a power vacuum in the immediate post-war context, which led to the emergence of alternative forms of protection, such as the yakuza. My study extends Hill's analysis by noting that yakuza groups are still heavily linked to their territory, particularly in regions where the yakuza have traditionally been very strong, such as in Kyushu.

Furthermore, my research findings indicate that policing activities have been increasingly pervasive, and that the recent anti-yakuza countermeasures have allowed for increased levels of police surveillance over the general population, to the point that one can now be incriminated even before the enactment of an crime. Consequently, the size of the population now subjected to state intervention has therefore notably expanded. This confirms and expands Ames' (1981) and Hill's arguments that, beginning with the *Bōtaihō*, the police has been moving towards an increased administrative role, and that the increased regulatory power of the police over social and economic parts of Japanese society is reflective of a general trend of expansion witnessed in other state agencies. Hence, behind the mask of a decentralised, small-scale police force in the *kōban* system hides an authoritarian and highly centralised police force.

The findings of my research demonstrate that the phenomenon of *hangure* (which at the time of Hill's research had yet to be named) is on the rise, but it also showed that the harsher punishment measures have led to a phenomenon in which yakuza members only pretend to leave their group in order to obtain shorter sentences.

By the same token, yakuza bosses are more careful about officially letting younger members into their groups, but as one yakuza boss admitted to me, it is possible to adapt: 'We have young guys coming, but I can't just make them members, this is not the right time because the Police would get angry. It's important to know how to use them and move them.' (Interview with *kumichō*, 27 January 2018). The same *kumichō* that made this point sent me a video a few months later of an affiliation ceremony of three of his members: unsurprisingly, they were all middle-aged men. These findings echo Hill's position that due to the breakdown of social control mechanisms and the increased efforts to suppress the yakuza, outcasts that in the past would have joined the syndicates now prefer to avoid the criminal path of the yakuza, and to instead linger at the margins of society.

More broadly, my study has shed light on the extent to which this case concerns a criminal organisation that, because of increased punitiveness and hostility from law enforcement and the population, is trying to renegotiate their role within Japanese society. While the yakuza still believe in their role as chivalrous defendants of the weak, this perspective gains little traction amongst the population at the present juncture, as the social consensus that the yakuza enjoyed for so long has largely eroded.

Main findings and contributions to theories of organised criminality

Having drawn considerably on materials that are not available in English, this thesis has provided new information on Japanese organised crime, and in so doing has went some way to addressing the scholarly neglect of the yakuza as a subject of inquiry. This research has contributed to the study of the yakuza and organised crime by generating new information: the basis of the membership of the yakuza, the yakuza's use of social capital and visibility, their infiltration into legal markets – mirrored by their increased engagement in predatory crimes, the corruptive economic and political practices that have sustained the longevity of the yakuza, the nexus between the yakuza and the far-right, the lenient use of sentencing and the ways in which the yakuza use prison as a connection system. Furthermore, by analysing new anti-yakuza regulations, this research has revealed the effects of increasingly severe regulations and policing on the criminal syndicates, as well as their attempts to mitigate these negative effects. This thesis has shed light on the deteriorating situation of criminal syndicates in Japan, and the difficulties that ex-members face when trying to reintegrate within society.

However, the contribution of the thesis goes beyond this, by considering the implications of the yakuza for mainstream criminological theory, particularly those pertaining to organised criminality.

In general, this thesis relied on southern criminology and highlighted how non-Western jurisdictions, such as that of Japan, can contribute to broad criminological theories. Specifically, setting the yakuza against other forms of organised crime, as I have done throughout the thesis, has shown how paradigms that rely on the uniqueness of the Japanese case are ultimately problematic, since comparison is in fact possible, and, indeed, desirable. At the same time, Japan has adopted approaches towards crime that have never been considered elsewhere: allowing a criminal group to be visible and semi-legitimate, establishing a dialogue between institutions and criminal groups, a collaborative policing strategy with open channels of communication between the criminal syndicates and the police. These approaches make the case for different possible approaches to crime that deviate from the predominant European and American perspective, in which organised criminals are faced with ostracism and severe punishment. This thesis does not wish to advocate for a more lenient (or more severe) handling of organised crime, but rather insists that unorthodox approache – such as a state that allows autochthonous criminal syndicates to have offices and signs – have their respective merits in managing crime, and, hence, push criminologists to think beyond Manichean distinctions between good and bad. Most notably, Japan and East Asian countries, which have been admired for their traditionally low rates of crime, should not be used as exceptional cases that confirm the (West-based) rule but, instead, provide the opportunity to expand and democratise concepts within mainstream criminology. Cases like Japan problematise the global universality with which Western cases are treated, and instead propose a framework that also includes dynamics from the 'periphery', in order to better respond to issues of global justice and security, in such a way that is not uniquely based on the specifics of the 'centre'.

The sensitive nature of researching criminal groups inevitably poses major challenges for researchers. In this particular case, the scarcity and historical nature of the literature on the yakuza in English (but also to some extent in Japanese) posed limitations and hurdles from the beginning of the research process, specifically in terms of the decision over which methodology would be adopted. The yakuza represent an anomaly in the panorama of illicit organisations, in that their visibility, irrespective of how diminished it is currently, allows them to produce and release information about

their own organisation. While this aspect has always been a defining feature of the yakuza, it has hitherto been overlooked in Anglophone academia. This may be a product of the language skills that made it possible for me to engage more deeply and widely with Japanese language sources.

In particular, the study of the phenomenon of the yakuza allows for the exploration and testing of various assumptions, such as the relationship between social capital and the emergence of mafia-type associations. There is a strong degree of scholarly consensus that high levels of trust and social capital negatively influence crime, insofar as general trust within a society affords its members the space to organise themselves defensively if assailed by criminal groups or individuals (Lederman, Loyaza and Menendez, 2002). Low levels of social capital and trust have been linked to low levels of social cooperation, and inversely to higher levels of crime; the clearest example of this being the Southern regions of Italy, which present this pattern of low trust and the emergence of mafia-type criminal groups (see Putnam, 1993; Gambetta, 1993). Nevertheless, as this study has shown, the case of the yakuza demonstrates that mafia-type associations may hijack bonds of trust and emerge in high-trust societies by engaging in community building, and through using established social and cultural norms to legitimise their presence and activities. In this sense, it has been argued that the yakuza can be considered as a creator, rather than a disruptor, of social capital: it follows that mafia-type associations can thus emerge and grow in both high-and low-trust societies.

Research has often found that a common ethnic background is central for criminal cooperation, since it creates a strong social bond that is wholly necessary in an environment that lacks property rights and contract law (Becchi and Rey, 2004; Morselli et al. 2011). This is often observed in crimes concerning mafia-type associations and gangs (Paoli, 2003), and, indeed, membership of Sicilian and Calabrian mafia-type associations is strictly based on bloodlines (Blok, 2002; Paoli, 2007). Although the narratives around the identity of the yakuza deploy the same tropes of family and nationalism, the yakuza's composition is, in fact, heterogeneous and includes indigenous Japanese – mostly *burakumin* (an outcast group) who for a long time were ostracised from a society – and Korean and Chinese descendants. Such a variety of diverse backgrounds appear to coexist and cooperate on the basis of having been excluded by mainstream society, that is, as both a reaction to marginalisation and as compensation for discrimination. Hence, these individuals gather in groups that

provide them with an identity, which, if not necessarily admired, is certainly feared and respected. The hypothesis put forward in Chapter 3 is that some criminal associations can work on an exclusionary, rather than an ethnic-basis, in which the criminals are those who have been rejected, for whatever reason, by mainstream society.

As for theories on the relationship between organised crime and the economy, Japan confirms theories that see a relationship between economic downturns and a rise in certain type of crimes: as I showed in Chapter 3, notably non-predatory forms such as criminal services demanded by the population (i.e. drugs, gambling, prostitution) are in continued demand regardless of economic fluctuations. The Japanese case also confirms inequality as a cause of increased crime, as has been previously asserted by some scholars (Box, 1987; Lederman, Fajnzyber and Loyaza, 2002). In this sense, this research also confirms the link between neoliberalism and crime, insofar as many of the implications of neoliberal systems (i.e. inequality, competitiveness, economic deregulation, welfare state devolution, cultural trope of individual responsibility and success, expansive/intrusive penal apparatus) are conducive of criminal behaviours (see Holmes, 2006, Wilkinson, 2005, Wacquant, 2009). At the same time, it was shown that neoliberal systems also bear negative influences on organised crime: most notably, the policing of informality (concretely manifested through anti-yakuza regulations) damages criminal groups. Although there has been increased media interest around the alleged rise in frauds, my research has shown that there appears to be no correlation with negative economic performance. Furthermore, this thesis confirms the claim that the use of political and economic actors is a prerequisite for the infiltration of organised crime within the state structure.

The Japanese criminal justice system has traditionally been considered as benign: Braithwaite's 'reintegrative shaming' (1989) and Foote's 'benevolent paternalism' (1992) respectively argue that criminals are shamed for their irregular behaviour but then are allowed to reintegrate into society, and that the state uses criminals' forgiveness and reintegration to gain information into delinquent subjects. My findings trouble these paradigms via the introduction of 'shaming paternalism', a model that I have discussed in greater detail elsewhere (Baradel, 2019).

Critics of the Japanese judiciary, such as Miyazawa (2008), have argued that members of society who challenge and disobey the power structures and social contract are met with harassment, harsh punishment, and eventually expulsion. Japanese people conform to the norm because they are highly rewarded for doing so, while disobedience

brings extremely high costs. Furthermore, according to Miyazawa (2008), those who commit a crime have little chance of being reintegrated, as police and other criminal justice agencies do not provide the necessary support to prisoners and ex-prisoners to help them build a new life (Miyazawa, 2012). At the same time, the turn towards popular punitivism within the Japanese criminal justice system has been connected to increased activism on the part of victims' groups. This movement has proliferated from 1996 onwards, when the police issued a set of guidelines to instruct police officers in how to treat victims to avoid secondary victimisation. Hamai and Ellis (2008) claim that these groups actually constitute powerful lobbies that are indirectly supported by the NPA, whose ultimate aim is to influence crime control policy discourse. These groups encouraged a revision of the Penal Code in 2004 that prompted a widening of the criminal justice net and a harshening of prison sentences, which led to the subsequent increase in the prison population. This trend of increased punitivism can also be observed in other criminal justice agencies, such as probation and parole services (ibid.).

Japanese anti-yakuza legislation appears to thus be following broader punitive patterns observable within Japanese criminal law: it adopts shaming without reintegration, and paternalism without benevolence. Firstly, the increasingly intrusive nature of the state is manifested in the *Bōhaijōrei*, which shifted responsibility for fighting crime from the police onto citizens: instead of policing criminals, the state polices citizens, who in turn police the yakuza. Secondly, the state still uses shaming as a mode of punishment, but it no longer grants any benefits in exchange for the invasion of personal autonomy. According to this 'shaming paternalism' model, the person who commits a specific kind of crime (which varies in relation to the prevailing political agenda of the moment) is shamed and shunned by the community with scarce chances of reintegration. Furthermore, due to the new anti-conspiracy law, the state is not only intrusive in terms of investigating a crime that has been committed, but also behaves in this way prior to any crime occurring. These provisions can be better understood if they are situated within an international trend in criminal justice that has been referred to as the 'pre-crime society', in which 'the post-crime orientation of criminal justice is increasingly overshadowed by the pre-crime logic of security' (Zedner, 2007:262). While pre-crime tendencies can be traced back well before 2001, the 9/11 attacks and the subsequent counter-terrorism legislation have undoubtedly consolidated these trends (Amoore and De Goede, 2008). This logic of counter-terrorism pre-crime society

measures has also been introduced in the case of the *Kyōbōzai* (McCullock and Pickering, 2009). Indeed, the intrusive tendency of this process has been noted by many observers, as these new provisions have been critiqued by lawyers, civil groups, and – unsurprisingly – yakuza groups, who expressed fear that the scope of the law had been infinitely enlarged.

With regards to the yakuza, the increased focus on shaming and disinterest in reintegration may, at least in the long-term, act as a disincentive for members to quit. The lack of welfare care for ex-prisoners, as evidenced in Chapter Five, may lead to immediate reoffending. In this sense, the shaming paternalism of the Japanese judiciary has been instrumental in allowing for the yakuza's continuity. Until the 1990s, the yakuza had been on the side of maintaining social order (see Kaplan and Dubro, 2003), but the introduction of anti-yakuza countermeasures engendered a shift from acting as alternative law enforcers to becoming the main target of social control efforts. When they were exonerated from state repression and operated as an active part of the policing of communities as well as the underworld, there was little required in the way of shaming or reintegration. Moreover, the lack of possibilities for reintegration is deemed to have pushed ex-yakuza towards reoffending, thus acting as a deterrent for leaving the group.

As for the effects of strict regulations on organised crime, the abovementioned process of mafiaisation may be of especial interest for practitioners, insofar as it raises the issue of the usefulness of anti-organised crime organisations. In other words, is it better to have recognisable groups that the police can directly address? Does pushing a criminal group underground, and hindering their use of social networks, work in the long-term? To answer these questions, scholars and practitioners should continue to observe the case of the yakuza.

The historical roots of the yakuza are long and robust. Despite the change of narrative surrounding the yakuza – from acceptable, even admirable romantic chivalrous heirs of the samurai tradition, to dangerous outlaws – the cultural norms on which the yakuza plays and the tropes that the yakuza claim to embody are still very much alive in Japanese society. Despite a superficial transformation, behind the scenes the relationship with the police and with power elites appears to be still in operation, while the combination of the nationalist tropes that are back in vogue and an increasingly authoritarian government suggest that the nexus between the far-right and

the *uyoku*, the political branch of the yakuza, may again provide a channel of communication between the yakuza and institutions.

Thinking about the future: Will the yakuza disappear?

While the yakuza managed to survive modernisation, new governments, war, peace, foreign occupation, economic crisis, and increasingly harsher regulations, the crucial question that researchers and journalists – as well as the yakuza – are now asking is: will the yakuza disappear? Undoubtedly, the number of yakuza members are rapidly declining (see appendix 5), but doubts remain over the reliability of these statistics: according to the 2018 White Paper of the Police, over the past 10 years 50,000 members left the yakuza (NPA, 2018), but yet there is no indication about if and how they were reabsorbed in the workforce. As has been argued by Hirosue (2007), to the extent that the shaming paternalist nature of the Japanese criminal justice system hinders the reintegration of criminals, and especially ex-yakuza members, it is likely that a considerable number of these individuals remained at the margins of the society, or became informally associated with their former yakuza group or as *hangure*.

It is indisputable that the yakuza are undergoing a period of radical change. Let us take into consideration the emblematic case of the Yamaguchi-gumi: until 2015, the Yamaguchi-gumi was the largest yakuza syndicate in Japan, comprising half of all yakuza members in Japan, followed by the Sumiyoshi-kai, and the Inagawa-kai. At the moment of writing, the Yamaguchi-gumi has split twice in the past three years: first, in August 2015, the Kobe Yamaguchi-gumi separated from the main group (Roku-daime Yamaguchi-gumi), while later in April 2017 the Ninkyō-dantai Yamaguchi-gumi broke off from the Kobe Yamaguchi-gumi (Mizoguchi, 2018). In contradistinction to what happened in the 1980s, when intra-gang disputes were solved through force, the turmoil within the largest yakuza groups left no casualties. This serves as a further indication of the fact that the yakuza are trying to minimise violence and open conflict to avoid intervention from law enforcement, or, alternatively, that there were violent episodes and they are being covered up for the same reason. Either way, dynamics are changing, and the evolving nature of the yakuza poses a continuing problem in solving the puzzle over its endurance. As has been noted in this thesis, the yakuza are 'going underground' and it may become ever more difficult to access and study the syndicates in future, as they increase their levels of secrecy and decrease their visibility in public.

Given the dynamic nature of this field, continued investigation is needed to monitor the developments of the yakuza. In particular, the issue of the population's acceptance and tolerance of the criminal syndicates needs to be examined further: as shown in the present study, the yakuza are losing contact with the population, even though at the local level there are still significant ways in which the yakuza engage with local communities. Furthermore, the economic means of the yakuza, which, on the one hand, are becoming increasingly sophisticated, and more predatory on the other, will likely undergo significant changes as they are pushed out of what I called the 'grey zone' of the Japanese economy. A further issue that requires investigation is the nexus with politicians, specifically with the ultra-conservative right-wing. Indeed, the far-right narratives enthusiastically carried forward by the current government and powerful conservative groups, such as the Nippon Kaigi, may still provide a path towards existence for the yakuza. Scholarly research should focus on the increasing rivalry between the yakuza and the NPA, along with monitoring the long-term effects of the increasingly punitive anti-yakuza regulations. Finally, the emergence of new forms of organised crime, including the *hangure* and foreign criminal networks, and the ways in which they adapt to the current criminal underworld (that is still for the moment dominated by the yakuza), is deemed to become a prolific research field. Future research should analyse how matters of extra-legal governance will be settled, how illegal markets are divided, and how local communities react to these new actors of the underworld.

As for the future longevity of the yakuza, I asked many of my respondents whether they thought that the yakuza would disappear. The answer was invariably no, with the recurring argument for this being that drugs, gambling, and prostitution are in high demand amongst the population as these are 'necessary services […] that will never disappear' (interview with Yamanouchi, ex-lawyer of the Yamaguchi-gumi, Tokyo, 15/04/2018). A yakuza boss argued that only groups that are rooted in their territories will survive, but that new groups will be formed when enough disorganised criminals form a group large enough to warrant being targeted by law enforcement.

While I tend to agree with the interviewees' position that the yakuza are not moribund just yet, I believe that they are not kept alive by the demand for illegal goods and services: other criminal groups can just as easily provide the same services, and, indeed, are increasingly doing so. As identified in previous chapters, the yakuza have been kept afloat by a series of factors that extend beyond their ability to sell illegal

goods: the complicit nature of their relationship with power elites as well as social groups has been a central pillar of their resilience, supported by countermeasures that target the underdog rather than the boss. Furthermore, the influence of the mythology and cultural references of the yakuza should not be underestimated: talking to those who were and are in the organisation, my feeling has always been that they are people who, for different durations of time, had a strong belief in an ideal, and that, in fact, the yakuza's involvement with illegal markets was something that often drove them out of the organisation. The fact that nostalgic, ultraconservative, nationalistic, and xenophobic ideas now have a strong grip on disengaged youth in Japan is something regularly observed in most Western democracies hit by economic and social crisis. While deviant girls are 'taken care of' by the strongly patriarchal features of Japanese society, rebellious boys have been embraced by a visible criminal organisation with a rich mythology and high levels of social approval. While the emergent alternative forms of criminal organisations, such as *hangure* and Chinese-led gangs*,* threaten the monopoly of the yakuza in the underground, the yakuza have not lost the upper hand as of yet, even though they are losing visibility and power. It is still to be determined whether they will be able to adapt to invisibility, or whether the links and connivance that enabled the yakuza's existence up until now still provide a path towards a future as a (semi) legitimate group within Japanese society.

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Appendix 1.1: List of Shitei Bōryokudan (Designated yakuza groups)

Number and date of designation	Name	Headquarter	Boss	Area of influence	Members	Daimon
1 23/06/1992	Roku-daime Yamaguchi-gumi	Kobe, Hyogo	Tsukasa Shinobu (Shinoda Kenichi)	1 To 1 Dō 2 Fu 39 Ken	4700	
2 23/06/1992	Inagawa-kai	Minato, Tokyo	Kiyota Jirō (Shin Gyongyu)	1 To 1 Dō 16 Ken	2300	
3 23/06/1992	Sumiyoshi-kai	Minato, Tokyo	Seki Ikio	1 To 1 Dō 1 Fu 15 Ken	2900	
4 26/06/1992	Go-daime Kudō-kai	Kitakyushu, Fukuoka	Nomura Satoru	3 Ken	380	

5 26/06/1992	Kyokuryū-kai	Okinawa, Okinawa	Tominaga Kiyoshi	1 Ken	340	
6 27/07/1992	Roku-daime Aizu Kotetsu-kai	Kyoto, Kyoto	Baba Mitsugu	1 Dō 1 Fu	80	
7 27/07/1992	Go-daime Kyōsei-kai	Hiroshima, Hiroshima	Moriya Atsumu	1Ken	150	
8 27/07/1992	Shichi-daime Kōda-ikka	Shimonoseki, Yamaguchi	Suehiro Makoto	3 Ken	70	
9 27/07/1992	Yon-daime Kozakura-ikka	Kagoshima, Kagoshima	Hiraoka Kisaka	1 Ken	60	
10 14/12/1992	Go-daime Asano-gumi	Kasaoka, Okayama	Nakaoka Yutaka	2 Ken	70	

11 14/12/1992	Dōjin-kai	Kurume, Fukuoka	Kobayashi Tetsuji	4 Ken	500	
12 16/12/1992	Ni-daime Shinwa-kai	Takamatsu, Kagawa	Kira Hirofumi	1 Ken	40	
13 24/12/1992	Sōai-kai	Ichihara, Chiba	Shiidzuga Noboru	2 Ken	140	
14 04/03/1993	San-daime Kyōdō-kai	Onomichi, Hiroshima	Ikezawa Nozomu	5 Ken	90	
15 04/03/1993	Taishū-kai	Tagawa, Fukuoka	Hidaka Hiroshi	1 Ken	110	
16 26/05/1993	Kyū-daime Sakaume-kai	Osaka, Osaka	Yoshimura Mitsuo	1 Fu	30	

17 21/07/1993	Kyokutō-kai	Toshima, Tokyo	Matsuyama Shinichi (Kyo Gyufa)	1 To 12 Ken	560	
18 04/08/1993	Ni-daime Azuma-gumi	Osaka, Osaka	Takamoto Hiroshi	1 Fu	130	
19 10/02/1994	Matsuba-kai	Taito, Tokyo	Ogino Yoshirō	1 To 7 Ken	450	
20 10/02/2000	San-daime Fukuhaku-kai	Fukuoka, Fukuoka	Tagaoka Torao (Kim Insun)	3 Ken	130	
21 28/02/2008	Namikawa-kai	Omuta, Fukuoka	Namikawa Masahiro	1 To 5 Ken	230	
22 15/04/2016	Kōbe Yamaguchi-gumi	Kobe, Hyogo	Inoue Kunio	1 To 1 Dō 2 Fu 32 Ken	2000	

23 22/03/2018	Ninkyō Yamaguchi-gumi	Amagasaki, Hyogo	Oda Yoshinori	1 To 1 Dō 2 Fu 12 Ken	460	
24 25/04/2018	Kantō Sekine-gumi	Tsuchiura, Ibaraki	Ōtsuka Shigeaki	1 To 1 Dō 3 Ken	160	N/A

Appendix 1.2: List of hishitei bōryokudan (Non-designated yakuza groups)

Name	Headquarter	Boss	Members	Daimon
Ni-daime Tōsei-kai	Minato, Tokyo	Hayano Yasushi	30	
Hachi-daime Nijima-kai	Taitō, Tokyo	Matsuhashi Minoru	70	
Anegasaki-kai	Taitō, Tokyo	Nakanome Shigetaki	N/A	

Chūkyō Shinnō-kai	Nagoya, Aichi	Santō Eiji	N/A	
Chūsei-kai	Kobe, Hyogo	Oomori Masaaki	20	
Matsuura-gumi	Kobe, Hyogo	Matsuda Sadashi	10	
Kumamoto-kai	Kumamoto, Kumamoto	Morihara Hidenori	30	
Sanshin-kai[30]	Kumamoto, Kumamoto	Inoue Atsushi	30	N/A
Hakoya-ikka	Matsudō, Chiba	Nakamura Gō[31]	50	N/A
Chōjiya-kai	Taitō, Tokyo	Nakasugi Takuya	N/A	

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[30] Founded in 1954 as Sanya-kai, in 1992 the group became a designated bōryokudan group, in that it was affiliated to the Kumamoto-rengō (which subsequently became Kumamoto-kai). In 2001, the Sanya-kai dissolved due to an internal fight, although it subsequently reformed under the name Sanshin-kai, and lost its status as a designated bōryokudan.

[31] Expelled from Inagawa-kai.

Shichi-daime Aizu Kotetsu-kai	Kyoto, Kyoto	Harada Noboru[32]	15	
Go-daime Marutomi Rengō-kai	Kyoto, Kyoto	Kitabashi Hitoshi	N/A	N/A
San-daime Chūgoku Takagi-kai	Hiroshima, Hiroshima	Daigen Hideyoshi[33]	N/A	N/A
Kyūshū Murakami-gumi	Oita	Matsuoka Ichi	N/A	N/A

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[32] In January 2017, Harada severed the relationship with boss Baba Mitsugu and split from the Roku-daime Aizu-Kotetsukai.

[33] The first and second bosses were counsellors of the Kyōsei-kai, while the San-daime Chūgoku Takagi-kai was affiliated to the Kyōsei-kai. Later, it became wholly independent.

Appendix 2: Map of yakuza groups in Japan
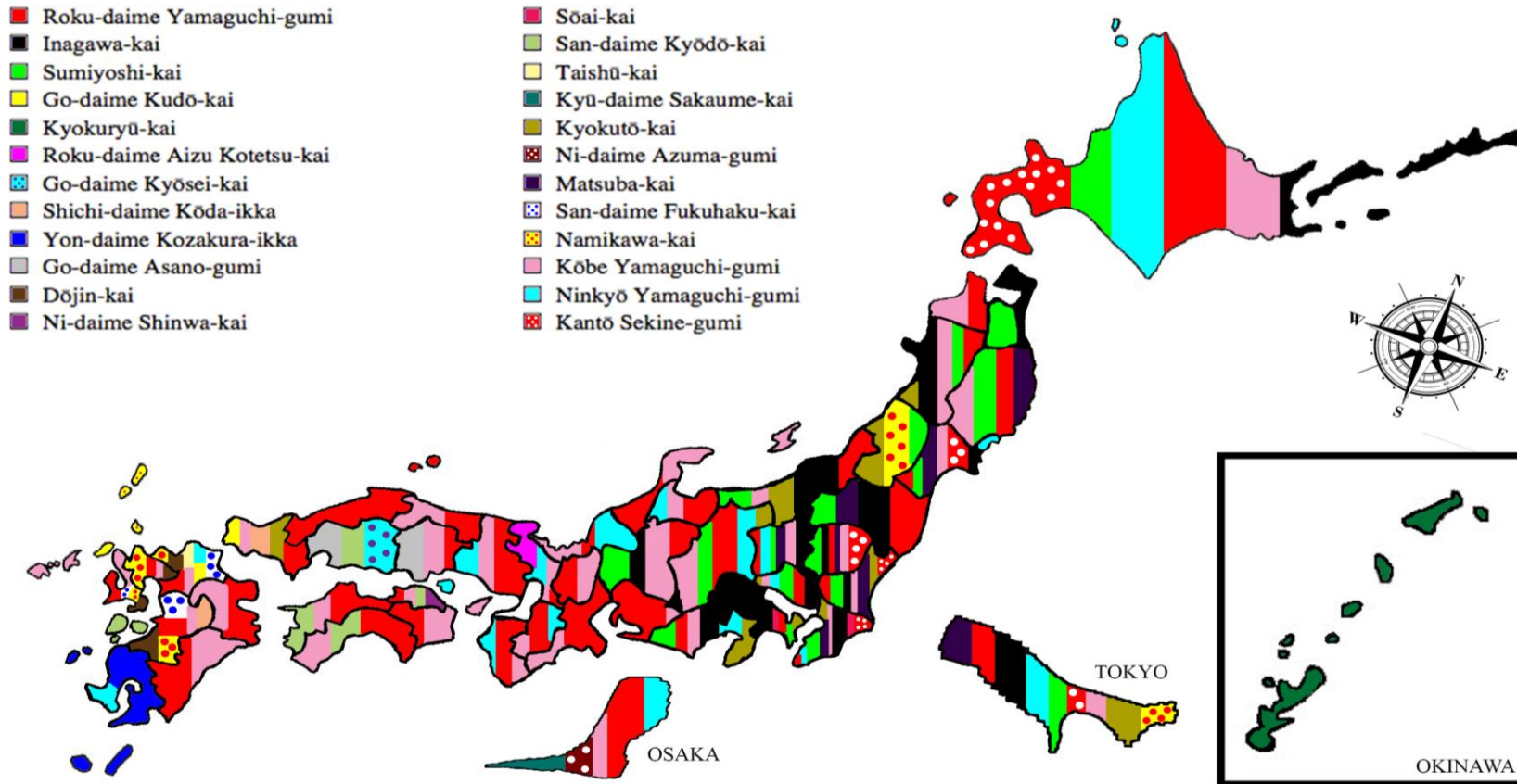
Appendix 3: Consent form

(Original, follows translation)

平成　　年　　月　　日

氏名：

<div align="center">研究手順の説明
参会者情報取扱い同意書</div>

　研究の手順、または情報の取扱いについて、以下の事項をお読みください。

記

１．　参加された方から収集した情報の利用について
　　収集した情報は、本人の許可なく博士号の研究以外の目的では使用致しません。

２．研究からの撤退について
　　研究への参加を許諾された後でも、いつでも研究から撤退することができます。
　　答えにくい質問については、ご遠慮なく研究者におたずねください。

３．個人名について
　　本人の許可なく個人名・地名等を、研究または研究に関わる出版に使用することはありません。

4．録音について
　　研究者との会話を録音してもよろしいですか？
　　□　はい　　　□いいえ
　＊「はい」を選択した場合でも、特に希望があった場合、録音後に録音を消去することができます。

６．参加者の年齢について
　　あなたは、１８　歳以上ですか？
　　□　はい　　　□いいえ

他にご質問があれば、遠慮せずいつでも研究者にご連絡ください。

上記を確認した上で署名をお願い致します。

以　　上

Date:

Name:

Explanation and Information sheet for participants

This study is being carried out as part of my PhD degree in the School of Law, Birkbeck,
University of London, and has passed the ethics review process in the School. Please read below for information about the modality of the interview and the handling of the data.

1. Handling of the data collected from participants:
The data collected will be used only for the present research.

2. Withdrawal from the interview:
Participants can withdraw from the interview at any time. Participants can refuse to answer any questions.

3. Names of the participants:
Names of the participants will not be used in any publications relating to the present research, unless specified otherwise.

4. Recording:
Please answer the following question: Do you allow the researcher to record the conversation?
☐Yes ☐No
NB: If the participant wishes, it will be possible to delete the recording at any time.

5. Filming:
Please answer the following question: Do you allow the researcher to film the conversation?
☐Yes ☐No
NB: If the participant wishes, it will be possible to delete the film at any time.

6. Age of participants:
Are you above 18 years old?
☐Yes ☐No

Appendix 4: Timeline of yakuza history

Tokugawa	Meiji	Taishō	Shōwa	Heisei	Reiwa
1603-1868	1868-1912	1912-1926	1926-1989	1989-2019	2019-
Bakuto (gamblers) and *tekiya* (peddlers) groups emerge Machi hikeshi (fire-fighters) becomes a legitimate popular organisation	Industrialisation signals the emergence of '*dai-oyabun*' (big boss) figures Yakuza groups act as self-defence groups for cities 1881: Toyama Mitsuru founds the Gen'yosha- the yakuza begin their relationship with the right	1918: rice protests- yakuza involved as alternative police force, sometimes as protest leaders 1919: foundation Dai Nihon Kokusuikai 1922: foundation Dai Nihon Seigidan Yakuza leaders elected to the House of Representatives	Fights with *sankokujin* (Chinese, Korean, Taiwanese) for hegemony in the black market 1960: Japan-US Security Treaty (Ampo) protests 1964: summit strategy and Tokyo Olympics 1970: second summit strategy 1975: third summit strategy 1984: start of Yama-ichi kōsō Involvement in the bubble of the 1980s	1990: economic bubble burts 1991: promulgation of the *Bōtaihō* 1992: *Bōtaihō* comes into effect 1995: Kobe earthquake and Aum Shinrikyō gas attack 1999: promulgation of Organised crime countermeasures law 2010: Fukuoka passes *Bōhaijōrei* 2011: *Bōhaijōrei* applied nationwide 2017: promulgation of *Kyōbōzai*	Declining membership Phenomenon of the *ridatsusha* (ex-yakuza) Continued mafia-isation

Appendix 5: Yakuza membership 2000-2017
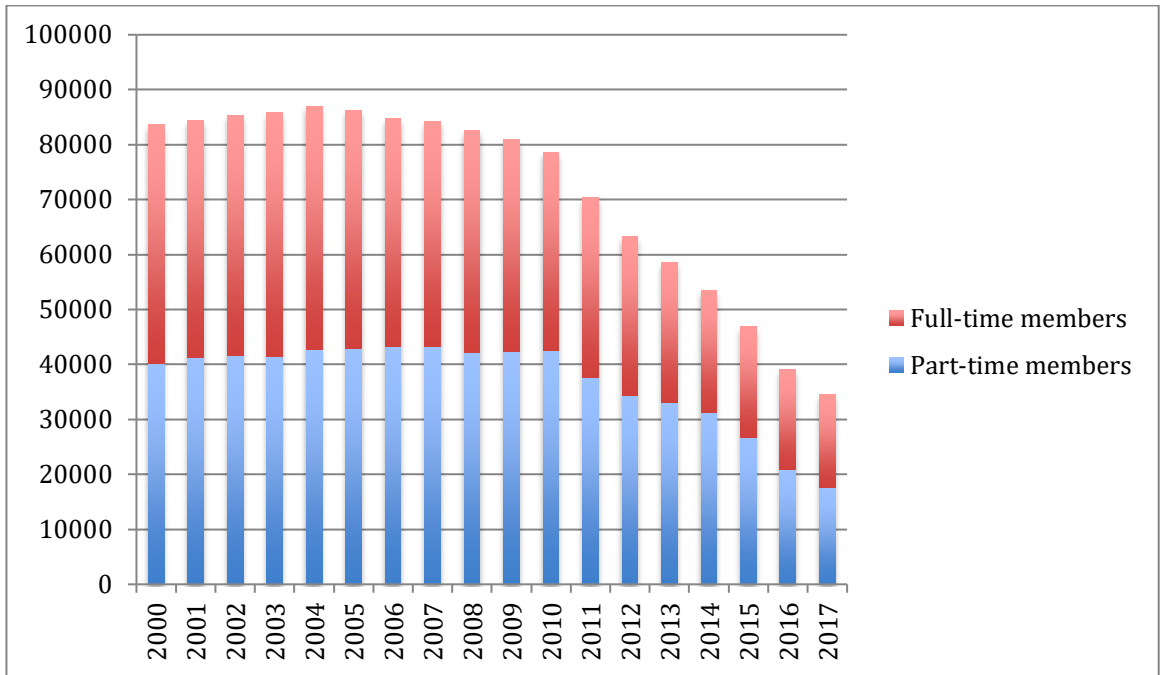
Appendix 6: Social capital estimates based on the analysis of *jichikai*, *chōnaikai* and *shōbō*

The *Jichikai* are 'voluntary associations of people from each community engaging in various activities for the development of their community and improvement of residents' welfare'. Some of the activities they engage in are environmental improvement, neighbourhood safety, cultural and recreational activities, social welfare activities, providing support to various associations (for the elderly and the children), and cooperating with municipal offices (Hamamatsu City, 2017). According to research by the Ministry of Internal Affairs and Communications (Sōmushō), the number of *Jichikai* amounts to over 110,000 (increased from the previous research conducted in 2003), the number of *Chōnaikai* is over 60,000 (a decrease from the 2003 level), and together with other associations (such as block associations), the total number is 296,770 (Sōmushō, 2008). However, recent years have seen a steady decrease (Sōmushō, 2017).

Unfortunately, there is no record of the level of participation in *Chōnaikai* at the national level throughout the post-war II period, but there are some indications of these numbers at the local level. For instance, the 2003 bulletin records of Yokohama city produced a graph that showed the participation levels in *Chōnaikai* from 1981 to 2003: the number of participants steadily increased from 861,982 to 1,255,948, an upward trend that mirrored the increased number of households in the city during this same period (Yokohama-shi, 2003). However, the 2009 bulletin record by the Research Group on the New Concept of Community in Urban Areas – published by the Ministry of Internal Affairs and Communications (*Sōmushō*) – reported declining participation in the *Chōnaikai*. This decreased participation was especially prevalent amongst younger generations, single households, and newcomers. At the same time, one of the reasons why people do not participate in neighbourhood associations, is that they do not feel a sense of attachment to the neighbourhood in which they reside. Indeed, despite the examined cities having a participation rate that varied between 70% to 90%, it appears that an increasing number of Japanese people are starting to think that the *Chōnaikai* are no longer necessary (Sōmushō, 2009). This sentiment was also confirmed in a more recent survey conducted by Asahi Shinbun (19/10/2015): in response to the question, 'Are the neighbourhood councils/associations necessary or unnecessary?', just over half of the respondents reported that they did not care or felt that they were not necessary

anymore[34]. Even in this case, the tendency to consider these traditional forms of social aggregation as being useless, or even a hassle, was fairly evident.

Shōbō are an extremely ancient association that dates back as far as the Edo period. They participate in disaster prevention activities, as well as in emergency situations such as fires and earthquakes. While *Shōbō* used to be an incredibly common association in Japan, numbers have been steadily declining over the course of the post-war period. In 1955, around 2,000,000 people were in *Shōbō* groups, but the numbers drastically dropped over the course of the next ten years. Last year, the number of people involved in *Shōbō* activities was 843,661, a number which was consistent with the downward trend witnessed in the previous 15 years. However, it is important to note that the percentage of regular employees – as opposed to volunteers – has increased steadily and dramatically from 26.5% in 1965 to 73.5% in 2018 (Shōbōchō, 2018).

One further way to extract data on social capital and the attitudes of the population is by looking at the Cabinet Office (Naikakufu), which conducts national public opinion polls. The questions in the opinion polls change every year, and, hence, earlier surveys available from the Cabinet office do not have exactly the same questions as later years. For example, the 1968 survey featured several questions pertaining to the juxtaposition between society and the individual. In response to the affirmation, 'In order to conduct social life, it is necessary to always be ready to sacrifice oneself for the society/other people', 69.2% of respondents agreed with it[35], 22.7% did not agree, and 8.1% did not answer (Seiron Chōsa, 1968, Q4(4)). In response to the affirmation, 'Nowadays, I want to give priority to my own personal life, because there is no use in thinking about society', 63.8% agreed with it[36], 30.4% disagreed, and 5.8% did not answer (Seiron Chōsa, 1968, Q5(4)).

According to the last opinion poll conducted by the Cabinet Office, 46.5% of the respondents reported that there should be more attention paid to society, while 41.7% believed that the individual should be given more importance. 11% of the respondents were unable to choose between the two (Seiron Chōsa, 2018, 3). According to the same poll, the majority of the respondents (63.6%) reported that they would like to be more useful to society (Seiron Chōsa, 2018, 4). Amongst this group, 37.9% of them reported

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[34] 557 people voted 'necessary', 332 people 'if pressed to answer, necessary', 107 people 'neither necessary or unnecessary', 295 people 'if pressed to answer, unnecessary', 676 people 'unnecessary' (Asahi Shibun, 2015).
[35] 15.9% totally agreed, while 53.3% agreed to a certain extent (Naikakufu, 2012).
[36] 17.6% totally agreed, while 46.2% agreed to a certain extent (Naikakufu, 2012).

that they would like to take action in order to improve the general well-being of society (helping the elderly, providing lunches, nursing, etc.), 37.9% noted they would like to be more active in their neighbourhood association (helping with ceremonies and funerals, being a member of the neighbourhood assembly, activities for the prevention of crime and fire-fighting), while 31% posited that they would like to engage in activities to protect the environment (recycling, etc.). Alongside these answers, respondents were also willing to engage in disaster prevention activities (26.7%), and to help through their businesses (25.2%) (Seiron Chōsa, 2018, A). Japanese people continue to show a propensity for caring more about the community/nation (47%) than they do about individual profit (34%). While the number of respondents who chose community/nation profit over the individual kind has decreased in recent years , generally speaking, there has been a steady moderate increase over the last 20 years. Conversely, the percentage of respondents who chose individual profit over the nation/community's increased slightly from the previous survey, but has remained relatively stable over the last two decades (Seiron Chōsa, 1995, 2001, 2005, 2010, 2016, 2018). The sections of the population that display the most individualistic tendencies are men and women in their 20s, and men in their 30s and 50s (Seiron Chōsa, 2018).

Despite evidence suggesting that there is a n ongoing shift in Japanese society, it is important to note that social attitudes towards the state are easily influenced by specific occurrences in the economic and political sectors. Japan, despite the long economic recession, is still a high-trust society, especially at the local level. Hence, despite the aforesaid downward trajectory, the number of local associations remains high. Local community building is strengthened by '*machizukuri*' (city-building) projects. For instance, '*Shikumizukuri*' workshops (plan-building workshops) invite citizens to come together to solve both personal and communal problems, while '*hitozukuri*' (person-building) activities promote the development of personal skills that are of use to the community. The '*machizukuri kyōdō suishin rida nintei kōsu*' (Certification course for leaders that implement the collaborative community building) involves normal citizens learning how to be effective leaders for either *machizukuri* workshops or neighbourhood associations (Makinohara-shi, 2019). The promotion of collaboration, allied with the emphasis on civic engagement which is at the centre of these activities, constitute clear attempts at building a sense of community and curtailing the individualistic tendencies of modern Japanese society.

Appendix 7: Opinion polls on the yakuza and the police

7.1 According to the poll, 44.4% of the population thought that crime related to the yakuza had been increasing (21.8% 'same as previous years'; 17.1% 'decreasing'; 16.8% 'I don't know'; *Seiron Chōsa - Naikakufu*, 1964, Q17), 2.5% of the respondents declared that they had been in some way directly damaged by yakuza-related crime (ibid.: Q18), while 18.6% reported that they had either seen or heard about yakuza-related crime (ibid.: Q19). Just over a quarter of the respondents declared that they felt threatened by yakuza members if they met them (27.6%; ibid.; Q20). As for the police anti-yakuza activity, 22.8% of the respondents thought that police activities had become tougher and were sufficient to keep the yakuza under control (ibid.:Q21).

7.2 The yakuza were associated with fights and teasing (46.6%), as well as, albeit to a lesser extent, with gambling (10.5%), stallholders (5.4%) and drugs (4.7%) (*Seiron Chōsa - Naikakufu*, 1971, Q7). While 4.7% reported being harassed by the yakuza in the previous year, the majority (67.7%) of these respondents did not report the incident to the police (ibid.: Q8, SQ1), either because it was nothing serious (59.7%) or because it was too troublesome (14.9%). 7.5% did not report the harassment due to disliking the police (ibid.: SQ2). As for the perception of anti-yakuza activities, 7.5% of respondents thought that the police were repressing the yakuza, 42.1% thought, to some extet, that they were taking action, 41.3% thought that the police were not doing enough, while 9% did not know (ibid.:Q9). The reasons cited by those who reported not wanting to help the police to fight the yakuza (percentage unknown) varied: 44.3% deemed it to be bothersome, 41.7% were scared, and 12.5% simply disliked the police (ibid.: SQ). The next screening of popular opinion was the 1978 poll, according to which 9.1% of respondents thought that the police were cracking down on the yakuza, 29.7% agreed, to some extent, that the police were trying, while 47.7% lamented that they were not doing enough (13% did not know, *Seiron Chōsa*, 1978, Q15).

7.3 10.7% of the respondents completely trusted the police, 37.1% somewhat trusted the police, 3,7% had no confidence whatsoever in them, and 13.8% generally had no confidence in the police (34.1% could not say, 0.8% did not know) (*Chūō Chōsasha* [Central Research Service], 2018), which represents an increase from the 2012 survey, in which respondents trusted the police (4.6% completely trusted the police, 30.6%

somewhat trusted the police, 37% could not say, 19.4% had no confidence, 6.7% had absolutely no confidence) (*Chūō Chōsasha* [Central Research Service], 2012).

Appendix 8

Interviews:

20/05/2017: interview Miyazaki Manabu, journalist and author, Tokyo.

21/12/2017: interview ex-prisoner, now director of an NPO for the reintegration of ex-offenders, Tokyo.

22/01/2018: interview Mizoguchi Atsushi, journalist and author, Tokyo.

23/01/2018: interview ex-yakuza, Tokyo.

23/01/2018: interview ex-yakuza, Tokyo.

27/01/2018: interview kumichō, Tokyo.

01/02/2018: interview ex-yakuza, Tokyo.

07/02/2018: interview Koji Hijikata, director of documentary on the yakuza, Nagoya.

02/04/2018: interview Hirosue Noboru, Fukuoka.

02/04/2018: interview ex-yakuza, Fukuoka.

03/04/2018: interview ex-yakuza, Kitakyushu.

15/04/2018: interview Yamanouchi Yukio, ex-lawyer of the Yamaguchi-gumi, Tokyo.

16/04/2018: interview Suzuki Tomohiko, journalist, Tokyo.

Appendix 9: Summary yakuza vs other forms of crime

	Japan	Italy	Russia	China	Mexico
Hierarchy	Highly hierarchical structure, pyramidal with only one head at the top in some cases, pyramidal with a system of *primum inter pares* in others (less common). Each official may have their own group, whose officials, in turn, may also have their own group, and so on and so forth. Increasing use of external collaborators and increasing number of members who fake their dismissal from the group in order to avoid longer prison sentences.	Confederation of hierarchically organised groups, internal system of dispute resolution. Cosa Nostra attempting to re-establish the hierarchical structure of the confederation. 'Ndrangheta maintains strong familial bonds, but is able to spread their network internationally. Camorra comprises a number of clans with different assets and strategies (DIA, 2019)	Different structures: one boss with 6/7 counsellors; hierarchical but flexible; smaller groups with either rudimental or no structure (Varese 2001, 170, 174).	Presence of mafia-like gangs, as well as loose-knit and less influential criminal organisations, such as criminal gangs (some degree of structure) and crime groups (no structure) (Chin and Godson, 2006). Triad organisations became flatter, increased contact between groups, and increase in intra-gang conflicts (Kwok and Lo, 2013). Black mafia are similar to street gangs, while Red mafia refers to corrupted government networks (Wang, 2017).	National cartels, toll-taker cartels, regional cartels, and local mafias. Hierarchical organisations replaced by flatter, looser, and more flexible networks. The outsourcing of certain aspects of trafficking has become increasingly common (Beittel, 2015).
Protection services	Still able to provide protection services to the population.	Able to provide protection services to populations, entrepreneurs.	Providers of protection for population, shop owners (especially in	Protection is a key commodity that the red mafia produces and sells (including	Toll-taker cartels specialise in providing protection to other organisations in illegal

			places where corruption among officials is prevalent), bigger groups provide protection to smaller mafia groups. Some groups have managed to integrate within the market economy and provide protection rackets, enforce partnerships, and secure stock ownership (Volkov, 2014).	corrupt benefits obtained through abusing public office, Wang 2016) to local gangs, business, civilians (Wang 2013). Black mafia provider of protection in the underworld (Wang, 2017). Neither integrated vertically nor horizontally (Chin, 2014).	markets, such as conveying drug shipments through their controlled municipalities along the northern border (Beittel, 2015).
Revenues	Protection, fraud, drugs, gambling, night-time entertainment, financial ventures, construction sector, waste sector, nuclear sector, shops, restaurants	Protection, drugs, prostitution, extortion, financial ventures, construction sector, waste sector, tourism, agri-food industry, shops, restaurants, entrepreneurship, sport, gambling	Infiltration of industry and banking sector, drugs, nuclear material trafficking, corruption, extortion, prostitution, smuggling, human trafficking, gambling, money laundering, fraud, murder, robbery (Williams, 2014).	Homicides, looting, extortion and kidnappings, and manipulation of legal markets	Drugs, recent expansion into other illegal activities, such as extortion, kidnapping, and oil theft (Beittel, 2015).
Governance	Locally still able to exercise governance. However, this has	Governance remains a central aspect of Italian mafia-type	The provision of protection services to legal businesses	Red Mafia (via corrupting government officials)	Criminal organisations pose a multi-faceted

reduced in recent years.	associations, especially in their territory of origins; when they emigrate, they tend to use 'functional diversification' (Campana, 2011). Camorra, most notably, expanded into both the Lazio region and Rome (DIA, 2019).	provides them with the opportunity to maintain governance over their territory; however, recently, the increased role of the state, allied with a decrease in private protection services, has diminished their governance (Volkov, 2014).	has developed into an alternative system of governance, capable of controlling, favouring, and settling disputes for OCGs. Criminal justice, law enforcement, politicians and OCGs form a nexus based on the exchange of favours (Wang, 2013). Presence of 'underground police organisation' (Black mafia) (Wang, 2017).	organised criminal challenge to governance in Mexico (Beittel, 2015).
Infiltration of state institutions/legal markets	Infiltration through legal actors (e.g. construction companies). Infiltration into elections via local candidates, which enables them to achieve short-term monetary goals.	Deep infiltration into political and economic institutions, which allows them to access political elites and obtain public contracts and subcontracts. The number of council dissolutions indicate that mafia groups remain incredibly active in Southern Italy (DIA, 2019).	Through controlling large enterprises, the Russian mafia has access to major sectors of the Russian economy. Their entrenchment in political/economic systems has allowed Russian OCGs to manipulate the judicial system and exploit weaknesses in	Red mafia is composed of governmental officials and provides protection services to Black mafia (Wang, 2013).	Corruption is widely used to advance their operations and achieve acquiescence. Corruption of public officials and municipal, state, and federal police is extensive (Beittel, 2015).

			regulations (Willingham, 2010). Organised crime and state: mutually reinforcing ensemble (Stephenson, 2017)		
Values and ceremonialism	Ceremonies have been maintained (i.e. affiliation ceremonies, demukai, nokai). However, these celebrations are now done more soberly and with restricted access. Religious (Shinto) connotations within all ceremonies. They are interested in providing aid relief, participating in special occasions and organising ceremonies and festivals for the local population.	Rites of affiliation establish a ritualistic kinship between new members and the group. The bond is indissoluble, and upon joining the mafia group all aspects of the member's life become subordinated to that of the group. Internal morality is opposed to both official morality and state laws. Ideology also has strong religious connotations (Paoli, 2003).	The *vory-v-zakone* (thieves-in-law) have enjoyed a reputation as Robin Hood-esque figures, who live by a distinct code of honour, pursue a life of monastic purity, and are characterised by initiation rites (Varese, 1996).	Persistence of initiation ceremonies (overlapping with traditional Chinese or Taoist rituals), which have been simplified or amended to avoid attention. OC and secret societies adhere to a strict code of loyalty.	Some groups, such as La Familia Michoacana, adopt a strict set of (religious) values. They make donations of food and medical care, along with providing schools and other social services for poor rural communities, in order to project a Robin Hood-esque image (Beittel, 2015).
Secrecy	High-visibility, even though it has reduced slightly over the last decade	Mafia-type associations need secrecy, both at an ethical and an	Since the 1990s, criminal groups have sought to present an acceptable public	Long-standing presence of secret societies, including the Triads and the	Mexican drug cartels operate in the open to recruit new members and communicate

		operational level, to survive. Secrecy is so integral at the operational level of mafia associations that it is also extended to those around the *Mafiosi* (omertà). However, levels of secrecy differ: while for the 'Ndrangheta secrecy is necessary when dealing with law enforcement, but discretionary otherwise, Cosa Nostra operates a policy of absolute secrecy (Paoli, 2003).	façade, while dissimulating their internal resources and operations. Some groups have established charitable foundations, presented their bosses as legitimate businessmen, all the while providing violent means for engaging in (illegal) enterprises with state officials (Stephenson, 2017).	Shanghai Green Gang. Black mafia are like others street gangs and behave similarly to mafia-type associations. Presence of corrupt networks functioning as 'underground societies' or 'secret clubs', working along secret channels and connecting businessmen, politicians, OC. Secrecy remains a central feature for Black and Red mafia, and Triads (Wang, 2017).	messages to be broadcast by the media, thus suggesting that there is a tacit agreement between cartels and the population based on the embeddedness of the former (Diaz-Cayeros et el., 2011).
Overt violence	The yakuza have traditionally refrained from using overt violence, especially against civilians. Even with the turmoil caused by the split within the Yamaguchi-gumi,	Consociational model: *mafiosi*, politicians, and entrepreneurs maintain a cooperative attitude that mainly contains the violence to the underworld (with exceptions to this being	State power networks and illicit networks coexist and compete with one other in activities, in which violent enforcement overlaps with material accumulation. Violent services are sought	Although mafia groups depend on the use of threats and violence, Red mafia produce and sell protection by abusing power.	Highly competitive behaviour amongst members of OC, politicians, and entrepreneurs that results in increased levels of violence. The neoliberal policies introduced in the mid-

| | violence levels remain low. | threats/attacks on civilians who refuse to be subdued by the mafia, etc). | out by government structures (Stephenson, 2017). | | 1980s, combined with the economic downturn, have led to an increase in violent crimes despite the democratisation process (Armao, 2015). |

Glossary

Bakuto: Gambler. This term is used to indicate one of the groups out of which the modern yakuza originated.

Bōryokudan: Literally means violent groups. It has been and continues to be used by the Japanese police and the media to refer to the yakuza.

Bōsōzoku: teenage motorcycle and hot-rod gangs. While these groups used to be a recruiting source for the yakuza, they have fell out of fashion in recent years.

Burakumin: people from the hamlet/village. This group of outcasts has its origins in the feudal era: its constituents had jobs connected with impurity (such as executioners, butchers, tanners). The fact that they are perpetually discriminated against makes them ideal candidates for recruitment by the yakuza.

Enjō kōsai: literally means 'mutual beneficial relationship', but the term is used to denote underage prostitution.

Hangure: disorganised crime, that is, all criminal networks that are not codified as yakuza groups.

Giri – ninjō: Giri is the sense of duty, while ninjo is compassion or empathy. These two values are often in conflict with one another, which is why they constitute a popular theme in Japanese literature, as well as being one of the favourite tropes in yakuza mythology.

Gumi (kumi) / Ikka / Kai / Rengō: Suffixes denoting an association, a group, or a gang, which are commonly used by the yakuza. For instance: Yamaguchi-gumi, Himonya-ikka, Sumiyoshi-kai, Fukushima-rengō.

Gurentai: armed hooligans. A specific type of yakuza that emerged in the post-war context.

Kakuseizai: methamphetamine, the most used drug in Japan.

Kumichō: boss of a kumi.

Kobun: henchman, follower. Literally means 'child role', and is used in relation to 'oyabun' to denote the familial relationships on which the yakuza structure is based.

Mikajimeryō: protection money.

Mizu Shōbai: literally means 'water business' or 'water trade'. Used to refer to the night-time entertainment businesses (bars, hostess bars, cabaret, etc.).

Oyabun: boss, head. Literally means 'parent figure' and is the counterpart to *kobun*.

Pachinko: Japanese magnetic pinball. A common form of entertainment in Japan, similar to Western slot machines. Gambling is illegal in Japan, but pachinko parlours circumvent these regulations by using steel balls as the bet and the prize. The balls can be exchanged for money in a nearby stand, which officially is unrelated to the pachinko parlour.

Ridatsusha: generally, it refers to a person who left a group, but is specifically used to describe ex-yakuza.

Sankokujin: literally means 'people of the three countries'. This term refers to the Koreans, Chinese, and Taiwanese that were brought into Japan as wartime labour.

Sakazuki: Ceremony that traditionally mark the initiation of members or the creation of ties amongst yakuza. The elaborate ritual is performed by a master of ceremonies and involves a sakazuki (a small sake cup).

Tekiya: peddlers and street stall vendors. One of the groups out of which the yakuza originated.

Wakagashira: second in command.

Yubitsume: ritual of cutting off one's fingertip (starting from the pinkie) as an apology for making a mistake in the eyes of one's superior.