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## **MAFIA: THE STATE AND THE CAPITALIST ECONOMY. COMPETITION OR CONVERGENCE?**

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Modern society engenders a new type of criminal communities: a systemic mafia model. The modern mafia relies on the resources of the state and the capitalist economy, reserving for itself the independent right to violence.

Peripheral economies and weak government institutions are fertile ground for the emergence and development of the mafia. It can fully rely on advanced management methods by combining horizontal and vertical patterns, but it inevitably drives the state into an even more peripheral position.

Democratization in and of itself does not guarantee the destruction of the mafia. Organized crime successfully uses both democratic and autocratic institutions for upholding its interests. A transition to democracy should be accompanied by the formation of efficient government institutions.

The mafia is essentially trying to merge with the state and use its power potentialities rather than fight against it.

The corporate sector is a major part of the modern mafia. An essential feature of the mafia is the transition from crime to a criminal business model.

The systemic character of the modern mafia considerably complicates the struggle against corruption and intimidation. Legislation must be adapted to these features of the mafia. Response of the law-enforcement system to individual offences is unlikely to upset the mafia's stability.

A dangerous future trend is the merging of the mafia with new radical movements (such as ISIS and others). Gray zones of global politics will complicate the efforts of the modern state to fight the mafia.

Since olden times crime has been a serious rival of the state. Any criminal challenges the law-enforcement system and, more importantly, the state's monopoly on violence. At one time gallows with criminals stood at the entrance to cities, symbolizing the state's ability "to supervise and punish," as Michel Foucault would put it. Not that long ago, the bullet-riddled bodies of Bonnie and Clyde were put on public display by the police. Sometimes criminals commit atrocities in a more striking and symbolic way. Assassinations of politicians, businessmen and prominent public figures allow criminals to show their power and their ability to use it as they see fit.

This symbolic struggle engendered in the public mentality a stereotype about the antagonism between the state and crime (especially organized crime). In simple terms, there are fearless policemen and dangerous bandits. The reality is more complicated than that.

Indeed, crime challenges the state's right to violence. However, the modern (or modern and postmodern) era has brought with it a number of novelties. Crime has upgraded itself, along with the development of serial production and disciplinary power.

Its organization and rationalization have improved substantially. Sometimes crime is even ahead of the state because of its ability to mix vertical and horizontal governance systems.

Even more important is the fact that organized crime, which has existed for centuries, has developed into a completely new phenomenon – a systemic mafia model. The mafia consistently penetrates the economy and government control while preserving its own instruments of violence. The modern mafia cannot exist without the state and the capitalist economy and it uses their resources in its own interests. Corruption and an alternative right to violence enable the mafia to use its resources while remaining an independent and powerful force.

Globalization has imparted one more interesting dimension to this model: the trans-border nature of violence and the opportunity to use the global expansion of capital, and, if need be, the resources of the state “on the spot.” In the future, we will likely see even more remarkable transformations associated with the convergence of the mafia and international extremist and radical groups.

The victory of the state over the mafia only partially depends on the efficiency of the police. It also depends on the condition of the state itself. A peripheral economy and weak government are fertile ground for mafia-type structures. Competition with the mafia boils down to stateness in all spheres. As a rule, the mafia uses the best technology of management and control.

The example of Italy is a brilliant illustration of this thesis. Our experience shows that the state, being the main goal of the mafia, offers the only serious opportunity of overcoming it.

Some people believed that the mafia could be abolished by meticulously working with society. The great Sicilian writer Gesualdo Bufalino used to say: “...the mafia will be defeated by an army of primary school teachers [...] relying exclusively on moralizing education and hence, knowledge.”

Judge Giovanni Falcone was a tough opponent of this view. He believed it was necessary to take action rather than preach morals. In his opinion law-enforcement bodies must fight crime here and now using all permitted legal instruments. This war affects everyone.

Any of these strategies is possible only in a well-organized state. If globalization is largely turning a modern state into an anachronism, so far, we do not see what can replace it in the struggle against the mafia.

In this article I’d like to describe these theses in detail on the basis of the Italian experience, emphasizing the systemic mafia-type model as a qualitatively new phenomenon of modern society.

## The emergence of the mafia. Lessons from the Italian experience

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The notion of the mafia is often associated with Italy. It is hardly necessary to prove that crime is a universal phenomenon that exists in the most diverse societies. Nonetheless, Italian crime (be it in Italy or countries with an Italian diaspora) today exemplifies a modern mafia-type structure, and not without reason. The conditions in which the mafia emerged in Italy are highly indicative. Historically, Italy was highly heterogenic in its development models. It is common knowledge that the North and South of Italy are very different from each other. The combination of two essentially different socio-economic systems within a single country makes it possible to reveal specific features that facilitate or impede the emergence and development of the mafia.

And so, the mafia emerged in Southern Italy in the early 19th century (in different regions criminal communities had different names, so the term “mafia” is generic). Lack of harmony in development and economic imbalances between the North and the South were one of the reasons behind the emergence of the mafia. The bourgeoisie was developing quickly in the fairly progressive Lombardo-Venetian Kingdom, whereas the Bourbon-ruled South was stuck in extreme economic conservatism based on support for customs duties. The issue emerged not solely out of the confrontation between the dynasties. In his study of civil society in the North and South of Italy Robert Putnam brilliantly illustrates the deeper historical roots of these differences.

In short, the differences between the North and the South can be described in terms of a peripheral economy. Landlords from the South invested their profits in the North rather than their own regions. This was understandable, as the financial system was better developed in the North. Its economy also produced more added value. The South, with its already low added value in agriculture, was being deprived of even this modest potential investment. Large land ownership prevented technical progress and made the economy inefficient. Political leaders of the first United Parliament and later on Antonio Gramsci wrote that the problems of the South were caused by the insufficient development of the urban and rural bourgeoisie as an intermediate class between land owners and peasants. Needless to say, this was only one of many problems.

A weak economy was being poorly run by an inefficient bureaucratic machine. Its corrupt practices were not the only problem. After all, corruption was inherent in more developed economies. However, in this case the political class inevitably cooperated with large land owners and reflected their interests, thereby perpetuating backwardness even more. Not infrequently these were patron-client relationships and the weakness of local government institutions was compensated for by the power of local informal organized communities. These communities resorted to power to achieve their interests, thereby replacing the state. In turn, the state actually coalesced with these communities by delegating to them sovereignty functions.

Naturally, this process was informal. The power of intimidation – the threat to use violence with the de facto connivance of the state – became the main feature of mafia-type communities. The power of intimidation is the first condition for the emergence of a simple mafia group. Without it we would be dealing with simple organized crime in the direct sense of the word. But in case of the mafia, instruments of violence were used not only for perpetrating crimes. They came to be used for acquiring and expanding control over the economy and later on the levers of government.

Interestingly, the historical changes linked with the destruction of feudalism in the South in the 19th century were entirely different than those in the North. In effect, feudalism began to acquire different features by channeling the development of simple crime into intricate structures that began to turn into mafia-type groups even before Italy's unification. Hence, the local bourgeoisie was developing in very close conjunction with the mafia. This historical period witnessed the emergence of a criminal pattern, a systemic mafia-type model based on the rapprochement of economic, political and criminal interests that grew stronger due to corruption. The profound effect of corruption on society impeded the harmonious development of the territories, on which the state was unable to exercise its full powers.

The Italian historical experience offers another interesting observation. The mafia can easily adapt to changes in a political regime. Democratic institutions do not at all guarantee a quick victory over the mafia. Moreover, the mafia can successfully use them to protect its positions and expand its influence. Representatives of the agrarian-and-trade union closely linked with local crime played a substantial role in Italy's First Parliament. Political institutions of the new type were good at preserving the status quo in the South, thereby further consolidating its criminal communities.

This historical experience is vital for modern transitional societies. Democratization itself does not lead to the mafia's eradication, especially in countries with a peripheral economy and weak government institutions. Naturally, this does not mean that autocracy should be preferred to democracy; the mafia can be fairly successful in an autocratic state as well. The point is that the replacement of a regime will not resolve the problem. Alongside developing democratic institutions it is necessary to have an efficient state that is capable of consistently and systematically fighting the mafia, which is turning into a potent system itself.

To sum up, we can draw two lessons from the Italian experience. The first is that a peripheral economy and a weak state engender rapid growth of criminal communities. Society's modernization leads to the growth and rationalization of crime, and its conversion into an effective system that simultaneously impedes the development of society and the economy. The second lesson is that the mafia can successfully exploit democratic institutions in the process of its development. Democratization, which is vital for political progress, cannot guarantee the mafia's elimination.

## What exactly is the mafia?

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Now let's take a look at how the mafia is interpreted by current Italian legislation. This is important because the wording of legislative norms reflects the nature of the phenomenon that these norms are designed to eradicate or at least control.

A criminal mafia-type community consists of numerous organized criminals within a structure. Importantly, the definition of organized crime has not yet become part of the international conceptual framework because of differences in the criminal legislations of various countries. However, the first step towards an interpretation of organized crime was made at the international level at the 55th UN General Assembly session in Palermo in December 2000. The UN Convention against Transnational Organized Crime reads: “‘Organized criminal group’ shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit...”

On the one hand, this definition is fairly vague but on the other it places an emphasis on the rational character of organized crime, which is important for understanding its character in general. Thus, we must differentiate between organized crime and so-called dispersed crime, which covers all offenses denounced by the authorities. The motives of crimes do not matter in this case. Sometimes dispersed crime is defined as criminal activities threatening only small groups of society, despite being aggressive and illegal. Meanwhile, organized crime is functionally designed to carry out more sophisticated criminal schemes, such as trafficking in drugs, weapons and people and related offenses that, in turn, acquire international and/or transnational character.

The Italian Penal Code defines mafia-type crime as criminal activities in a certain social context, which exert permanent pressure on a given territory and which are aimed at receiving substantial revenue to cover a large share of the overhead and at obtaining illegal profits by penetrating the economic and financial sphere, in particular, the administrative apparatus.

Article 416 of the Italian Penal Code defines organized crime as an association of “three or more persons” established “to commit numerous crimes...” It may consist of:

- *A founder, or initiator, who sets up a criminal association;*
- *A promoter, who facilitates its appearance;*
- *A boss, who runs the organization;*
- *A member or associate, who voluntarily joins the association on a permanent basis for committing crimes for the sake of a common goal.*

Article 416-bis of the Italian Penal Code gives a separate definition for a mafia-type organization and stipulates special punishment for its members. Its members take advantage of the intimidating power of their association. Participation in a mafia-type association is punishable as such, regardless of whether it achieves its criminal goal or not. If it does, the punishment becomes tougher. To repeat, Italian law holds people liable not only for carrying out crimes, but even for participation in a mafia-type organization.

A mafia-type association presents a much bigger threat to society than a simple criminal organization. In this case the mafia is viewed not so much as an antagonist of the state, but rather as a vehicle for using and aggravating its weaknesses by corrupting officials in the

economic and political spheres, officials who are prepared to make concessions for the sake of power and economic gain.

Paradoxically, the mafia vitally needs the state, and not only in Italy, because the state serves its goals. Thanks to corruption, the mafia penetrates decision-making centers for the sake of economic gain. This is the reason why Italian law considers the establishment of and participation in a mafia-type organization a crime that directly threatens public order, human society and its harmonious development along the lines of justice and free competition.

Organized crime would not be of the mafia type if it could not rely on the assistance of other forces that are outside of the control of the state. The convergence of numerous unlawful economic interests leads to the emergence of the systemic mafia-type model that is based on complicity in simple crimes of economic, business and financial liability and political dishonesty.

This aspect is also important because of the mafia's fusion with the state, which often makes it into the public eye. It is important to note the mafia's ability to fuse with a capitalist enterprise that is independent of the state in a market economy. It can do the same with the independent media.

A systemic mafia-type model operates in a kind of gray area, in which the interests of the mafia, bureaucracy, businesspeople and other players converge.

The mafia's link with the capitalist economy has one more important feature. Mafia-type organized crime is evolving from committing offences to elaborating specific criminal business models aimed at gaining profit. The mafia is acquiring corporate glamor being represented by professional financiers, lawyers and other corporate intellectuals.

American expert Edwin H. Sutherland defined criminological factors in a series of professional crimes by introducing the notion of "white collar."<sup>1</sup> Naturally, he was referring not to simple office workers but to criminal accomplices who were using corporate management instruments for illegal financial activities for the benefit of individuals and criminal economic organizations by multiplying the turnover of illegal funds.

Corporate crime was developing with the advance of capitalism and globalization of international currency and financial relations. There emerged a new form of essentially economic crimes.<sup>2</sup> Enterprises committed them to increase their profits while individuals embezzled corporate funds for personal gain. The problem was that, having struck root in the capitalist system, the mafia started biting off a part of the added value. This reduced the efficiency of the mafia-infested economic enterprises, which, in turn, impeded general development, undermining living standards and aggravating inequality. The globalization of crime is internationalizing the issue of inequality. Center-peripheral relations again help track the effect of the mafia on the economic development. Global crime is well capable of using the instruments of the center to control the periphery, further aggravating global inequality.

<sup>1</sup> Edwin H. Sutherland. *Principles of Criminology*, Chicago, 1939.

<sup>2</sup> This refers to the classification of crimes by their actors – specialists or companies and their strictly economic activities, such as false reporting; use of illegal funds by a bank; bribing of bank employees for the sake of loans; violations of recycling rules by an enterprise for a direct economic gain, etc.



## A few words about corruption

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Corruption is the main element in the development of mafia-type organized crime, which leads to a host of negative effects on society in general and helps stabilize organized crime. At present mafia-type associations resort to corruption in many ways, including the following:

Penetration and control of economic activities, monopoly management of entire commercial sectors;

- *Issuing concessions and administrative permits by the state;*
- *Acquisition of contracts and utility agreements and state orders;*
- *Illegal change of the political rights of citizens, which prevents free voting during elections and promotes candidates from mafia-type organizations, thereby regulating the membership and activities of national government bodies;*
- *Speculative re-investment of illegally obtained funds into financial and other commercial activities, as well as real estate and other assets.*

The Italian experience in investigating crimes shows that mafia penetrates administrative and production facilities by altering government and corporate management. With this aim in view the mafia concludes illegal agreements with agents of politicians, chief executive officers, government officials and authorized representatives of socially significant organizations. Using these contacts, the mafia establishes permanent relations with supervisors of “sensitive” activities, such as the issue of permits and licenses, and the granting of urban development and other contracts.

Alongside typical instruments of corruption such as bribing, voting manipulation or intimidation, the mafia resorts to more sophisticated means of spreading corruption, which appear legal only on the surface. This includes dumping and manipulation of markets by exerting illegal pressure on government officials and corporate employees.

It is fairly difficult to assess the level of corruption because this is usually done on the basis of everyday life experience rather than on official data that can be objectively assessed and analyzed. Moreover, corruption includes a host of more or less illegal actions that are not under the sanctions of an authorized legal base. However, it is possible to determine a subjective level of corruption. This approach is used by Transparency International, which publishes the Corruption Perceptions Index every year.

Bribing and intimidation are the strong points of the mafia. When a common criminal engages in blackmail or bribery, the victim can consider the possibility of going to the authorities. In the case of a mafia-type organization this mechanism fails to work, because the victim of intimidation knows that the threat will always be there because the criminal structure will continue to exist. In simple terms, the police may arrest a man guilty of bribery or blackmail, but a mafia-type organization will instantly replace him and the consequences for the person who “turned him in” may be grave.

Relying on this mechanism, it is possible to bribe anyone regardless of class or social status. The mafia bribes a person it needs for reaching a goal of one of its components or the

organization as a whole. There are two separate levels here, that are not contrary to each other. Corruption is a phenomenon the structural elements of which are represented in all forms of power and by the suggestion of reciprocal actions within one's area of responsibility. Bribery by the mafia is more common than anything else. Its consequences are pernicious, because a document adopted as a result of bribery consolidates and, at critical times, restores a mafia-type organization. Serious as it is corruption becomes even worse when it is not limited to one transaction but becomes a structural part of the state that is unable to exercise fully its functions of national sovereignty.

The study of the Italian mafia reveals its ability to utilize the drawbacks of government structures in its interests without ever launching an open confrontation. On the contrary, the mafia wants the state to perform some of its functions and exploits it to achieve its own goals. Corruption destroys the state as cancer does a human body.

The bottom line is that corruption is the core instrument for the coalescence of the mafia, government agencies and private corporations. It is fairly easy to combat corruption at the grassroots level (although this requires consistency and political will). Corruption at the top is much harder. Once again globalization does not play into the hand of the state. The formal freedom of capital may well facilitate the convergence of government authorities with international criminal communities. In this context it is necessary to enhance the performance of relevant international organizations and domestic law-enforcement bodies.

## Some conclusions

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The Italian experience in fighting organized crime and the mafia reveals a systemic model with three main players. They constitute the essence of the mafia regardless of its geographical location. Politics, the corporate sector and crime pool their efforts for the common goal of obtaining power, generating stability. In other words, they are able to adapt to the state's actions against them. With time this ability allows them to survive. Corruption is the glue that holds them together and makes them stronger. Only by reducing corruption at the grassroots level, and especially at the top, is it possible to curb the threat posed by the mafia.

Since the 1970s Italy has used a special instrument of countering crime: the Penal Code imposes the same punishment on all groups of three or more people involved in some type of criminal activity. This was decisive for undermining the stability of a criminal organization that makes life difficult for the police. Relying on the Italian experience, the United States adopted the Racketeer Influenced and Corrupt Organizations Act, which is useful in the struggle against a mafia-type organization, especially its bribing ability. However, the majority of countries still prefer to deal with crime on a case-by-case basis, without taking into account the systemic factor. Meanwhile, this factor is a key to the mafia's success and should be the prime target for law-enforcement bodies.

The bad situation is made worse by the recent consolidation of the alliance between organized crime and Islamic radicalism, aimed at achieving common strategic and tactical interests in the economy and access to power. This is illustrated by the evolution of the Islamic State (ISIS) in Iraq, Syria and Libya.

We must pay attention to this new threat, alongside many other factors, such as the spread of transnational drug trafficking networks, growing migration caused by the disparity in social development in many regions, the mounting new Islamic radicalism based on a network rather than a single organization, and finally, the levelling of the notion of a national state that often had to vacate some space for crime that emerged on its territory with the support of local mafia-type associations that cannot satisfy their basic requirements in a weak state. Speaking about the change in the nature of the state and the mafia's role in this process we can hardly hope to find a universal solution. States vastly differ from one another in the level of development, political organization and social structure. They belong to different types and form clusters that have their own mechanisms.

Thus, the cluster of advanced countries is facing the task of countering corruption at the top and at the corporate level, as well as developing instruments of fighting transnational crime by enhancing the role of international organizations. The cluster of semi-peripheral states should counter the mafia's negative influence on the economy, especially the conservation of backwardness. The cluster of peripheral states should focus on developing government institutions as such. Otherwise they will be swallowed by the mafia, its convergence with the state will become irreversible and the economy will go down the drain.

Chaotization of the global world order and the appearance of numerous gray zones in world politics (such as ISIS and the like) are creating new opportunities for international crime. The number of places in the world that the arm of the law cannot reach, simply for lack of sovereign rule over them, is increasing, and this is a common threat.

Yesterday and today, the mafia has been viewed as a rival to the state. But tomorrow it may well turn into a factor of the world order. This is hardly in the interests of the state as a political institution.

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