

MODUS OPERANDI OF ORGANIZED CRIME. VIOLENCE, CORRUPTION AND MONEY LAUNDERING

Arben Cara, PhD

Lecturer in the Faculty of Political-Juridical Sciences,
“Aleksander Moisiu” University of Durres, Republic of Albania

Abstract

The most typical characteristics like the use of violence, corruption and money laundering shape the modus operandi of organized crime. The use of violence and intimidation against victims, against members of groups inside the same organization or against members of other organizations, has been defined as an ingredient of Mafioso behavior, which brings as result the ‘law of silence’, and it consists in the duty of associates to keep silent about the secret. The use of influence and corruption in politicians, the public administration, the criminal justice system and private sector representatives is seen as a tool of the organized crime (groups) that facilitates their operations. The long process of money laundering is composed of combine and cover activities in one side, and the use of facilitators on the other side. Showing the modus operandi of organized crime constitutes the main aim of the work.

Keywords: Mafia, organized crime, violence, modus operandi, corruption, money laundering

Introduction

Violence and intimidation as characteristics of organized crime in general and specifically for the organized crime of mafia style are an *integral part of these organized crime groups. The use of violence as a generalized ingredient of Mafioso behavior and intimidating capacity as the law of silence, constitutes the very meaning of this component.* Dealing with issues related to Political, Judicial, Police and Customs corruption having such an active subject like organized crime, the *corruption is a system and mediator between state and organized crime, and is seen as a tool of the organized crime (groups) that facilitates their operations.* In order to permit the investment of the capital accumulated from the illegal traditional activity, in other business, crime proceeds need to be laundered in a way they become

indistinguishable from legitimate money. All above mentioned in one side, the mixing descriptive-analyze methodology, combined with the right literature, books and papers published by scholars that take part in the debate on the other side, accomplish the main aim of the work.

I. Violence

The most typical characteristics like the use of violence, corruption and money laundering shape the modus operandi of organized crime.

- *Violence and the threat of violence are an integral part of the criminal group.*

In its 1986 report, the President's Commission on Organized Crime states, *Violence and the threat of violence* are an integral part of the criminal group. Both are used as means to control and protection against both members of the group who violate their commitment and those outside the group to protect it and maximize its power. Members are expected to commit, condone, or authorize violent acts²⁰⁹.

Also, *Violence* has been cited as one of the defining characteristics of organized crime. In a review of the definitions of Organized Crime provided by 17 different scholars and other writers, Albanese found that 12 had included "the use of force or threat" in the definition. In his textbook on organized crime, Abadinsky lists the "willingness to use violence" as a fundamental trait of organized crime. As such, violence is a "readily available and routinely accepted resource" for criminal organizations²¹⁰.

- *Violence and intimidation*

The article 416 bis of Italian Penal Code introduce: "The organization is of the mafia type when *its components use intimidation, subjection, and consequentially, silence (omerta)*, to commit directly or indirectly acquire the management or the control of the business, concessions, authorization public contracts and public services to obtain either unjust profits or advantages for themselves or others".

Violence and intimation against victims, against members of groups inside of the same organization or against members of the other organizations, and even against "the state servitors", are very characteristic of Mafia type organized crime²¹¹.

- *The use of violence a generalized ingredient of Mafioso behavior.*

²⁰⁹Stephen Schneider, « Violence, organized crime, and illicit drug markets: a Canadian case study », *Sociologia, Problemas e Práticas*, 71 | 2013, 125-143.

²¹⁰Ibidem, 125-143

²¹¹In Italy, intimidation and violence against state bodies are used by the Camorra, the Ndrangheta, the sacra Corona Unita and now less by the Cosa Nostra.

Toon van der Heijden explains that²¹²: “The use of violence is considered in terms of three directions in which it may be directed:

1-*Intra group violence* is directed at the members within the group in order to maintain disciplines and the submission of the members to the group or organization. “The *assassination* is the honorary tool for excellence that allows his author to candidate as a Mafioso and to manage the control of the resources and on the people”²¹³.

2-*Inter group violence* directed by a group at another group, typically, arising from territorial or cultural rivalry. “The specialized groups in the control of the territory are required to create a proper apparatus of the military type, who corresponds to the centralization of the command, therefore a strong and centralized organized structure, whose influence is defined by the confinements of the territory... They therefore have to build up a proper apparatus of physical coercion, and should possess the monopoly of the violence on to determined territory”²¹⁴.

3-*Extra group violence* is directed at the victims outside the criminal fraternity and is therefore typical of criminal activity directed at persons or property”.

The first can be considered as an inside violence and it serves: To punish defectors, discourage internal competitors for leading positions, or conversely to challenge the leaders.

The second and third can be considered as an outside violence²¹⁵. Finally, we are able to define that: *The ability to use violence whether direct or in a form of a credible threat is generalized ingredient of Mafioso behavior.*

- *Intimidating capacity - the law of silence.*

Intimidating capacity²¹⁶ to cause subjection and omerta (conspiracy of silence) can be defined as the ‘law of silence’, and it consists in the duty of associates to keep silent about the secret. “...We need to take account that the inside dynamisms of Cosa Nostra resemble to the political institutions with the difference that we *shoot* for reaffirming the respect of the rules.

²¹²Toon van der Heijden, “*Crimine organizzato di misurazione in Europa occidentale*”, Sorvegliando in Europa Centrale ed Orientale: Paragonando conoscenza di prima mano all’esperienza dall’ovest, università 1996 del C della polizia e degli studi di sicurezza, Slovenia, page 7

²¹³Arlacchi, Pino (1983), *La Mafia imprenditrice*, *Contemporanea* 2 ,p,22, Società editrice di mulino Bologna

²¹⁴Barbagli Marzio e Gatti Umberto(2002), *La criminalità in Italia*, Società editrice il mulino Bologna,p 24,26

²¹⁵Ibidem, page 7

²¹⁶The associative bond has such an intimidating capacity to cause subjection and omerta.

Mafia's code, in substance foresees the death penalty and the trial process is practically without appeal. The dialectics therefore has to be violent"²¹⁷

Corruption

The use of influence in politicians, the public administration, the criminal justice system and private sector representatives is seen as a tool of the organized crime (groups) that facilitates²¹⁸ their operations, but this is taking the form of corruption.

- *The corruption as a system and mediator between state and organized crime.*

The corruption is seen as mediator between state and organized crime. The definition of the corruption as a system, consists in the fact that it is a complex phenomenon including, the attacked sectors, the subjects that act and its methods, tools and mechanisms that are used.

The phenomenon of the corruption is complex and can be defined as a pyramid where in the highest part corresponds the *political corruption*²¹⁹ that buys political decisions and involves more than one subject from both the parts.

The political corruption has its beginning in the bond with the organized crime. The organized crime checks the votes and is represented as an organized mediator and beneficiary²²⁰. The method of corruption in reality represents an elevated accord among the organized crime that controls the territory (control the packets), through its wide family and the political party, sustained by the organized crime, who pretends to have the privileges of different types and forms.

In the lowest part is the *simple corruption*, that buys administrative decisions and it often follows the model of the accord between two subjects.

Judicial corruption. Criminal groups corrupt the judiciary by accessing magistrates via social, political, professional and family networks. Elite social networks allow criminals to enjoy direct contact with members of the judiciary. Professional networks also facilitate such contacts, where defense lawyers (often former prosecutors) intermediate between organized crime and the judiciary²²¹.

Police corruption. Police have the most direct exposure and frequent contacts with organized crime and, as such, organized crime most often targets them. The main reasons why organized crime uses corruption are to

²¹⁷Mafia,Politica,Affari,rapporto 1992,edizioni La Zisa, page 24-25

²¹⁸This constitutes the modus operandi of organized crime.

²¹⁹“Examining the links between organized crime and corruption”, Center for the Study and Democracy, 2010, page 38

²²⁰The case of Italian Organized Crime.

²²¹“Examining the links between organized crime and corruption”, Center for the Study and Democracy, 2010, p 16.

obtain information on investigations, operations, or competitors, and protection for continued illegal activities. Occasionally, corrupt officers become directly engaged in criminal activities, running drug distribution rings or prostitution rings²²².

Customs corruption. Corruption of customs officers mainly helps organized crime avoid detection of smuggled goods, avoid investigations (where customs possess investigatory powers) or facilitate the commitment of customs fraud (reduce import duties). It is particularly associated with the smuggling of excisable goods: particularly cigarettes, alcohol, oil and oil products²²³.

Subjects of corruption. In the corruption process and in its system, exactly in the exchange corruption, is very meaningful the presence of the subjects of corruption, that can be *passive subjects*, those people that could be corrupted, which can be separated according to the political and administrative corruption line. In the other side there are *active subjects*, those people that corrupt. This is an active corruption and practiced by subjects of different types.

The process of privatization - great sums of money. The process of privatization is characterized by common elements: 1-the great dimensions; 2 –the multiform of the affair fines. This process is a transaction of high-level because there are in game great sums of money, careers and standard of life of the people.

The corruption also infiltrates in the sector of the *concessions* and *licenses*. The typical character of this sector is the delegation of functions to low hierarchical level of the deciding power, regarding the applications.

The states submit three types of concessions and license behaviors:

- 1 - The using of goods of public ownership
- 2 - The carrying out of an activity (economic)
- 3 - The attainment of a status.

Money laundering

The road versus this process: *The combination of two or more traditional activities.* The organized crime groups combine two or more different activities. They typically combine drug trafficking with illegal

²²² Ibidem, page 15

²²³“Customs officers consider corruption related to drugs as risky, and it is rare, while VAT fraud schemes are likelier to involve customs officers. The *detected* levels of customs corruption in EU-10E and Greece are markedly different from the rest of the EU. There are numerous explanations for this difference. Eastern land border crossings are under the most pressure, particularly from cigarette traffickers, but also from smugglers of counterfeit or other consumer goods from outside the EU”. “Examining the links between organized crime and corruption”, Center for the Study and Democracy, 2010, page 15

immigration. In this case the people and the drugs are transported from the same group in the same route.

But in the same time these two traditional activities could be combined with the trafficking in human beings, and this way of combining two or more illegal activities was introduced mostly from the Albanian organized groups that had been operating among the sea route.

Covering illegal traditional activities. A good example is the trafficking of girls for the purpose of “exercising the prostitution” which can be hidden using a cover activity like babysitter, models, hairdressers, or dancers in the club nights, but in reality the girls are transported for the purpose of prostitution (to the girls in this case are procured the legal documents or forged documents).

Money laundering. In order to permit the investment of the capital accumulated from illegal traditional activity, in other businesses, crime proceeds need to be laundered in a way they become indistinguishable from legitimate money²²⁴. The process of money laundering is described using a three-stage model:

Placement - The ways in which direct proceeds from crime are channeled into the financial systems, typically in the form of cash payments.

Layering - The circulation of found through a succession of financial transactions to erase any connection of the placed capital to its criminal origin, typically through money transfers or cheques.

Integration - The investment of originally criminal proceeds into legal and economic flows, typically into real estate, business capital, valuable objects.

Laundering methods include the acquisition of property and assets, the use of legitimate and quasi legitimate businesses with a higher turnover of cash (including restaurants, night clubs, car sales and repair companies), bureau de exchange etc.

The use of professional facilitators. An organized crime group within its activity is helped from *professional facilitators*. The role of facilitators consists in the fact that they conduct to a certain complex or difficult elements of criminal enterprises. They are professionals²²⁵ with specific skills, legal or financial experts such as lawyers and accountants.

How professional facilitators work...? Generally professional facilitators use specialist knowledge and expertise to exploit legal loopholes, find opportunities for criminals, or help criminals retain and legitimise proceeds of crime. In an era of an increasingly competitive business market,

²²⁴European Union Organized Crime Report, October 2005, page 17.

²²⁵They are called also the ‘*White Collars*’, and are the very specialist on recycling and reinvestments of the dirty money.

legitimate companies and individuals may switch to unethical practices to survive. Providing services to criminal groups may be an attractive source of income. Criminal networks are skilled in identifying these weaknesses²²⁶.

The type of work undertaken by facilitators varies and examples include:

- laundering money by working around regulations and controls in the regulated financial sector, or by buying or selling high-end luxury goods
- manipulating import processes at borders
- transporting and storing illicit goods
- assisting with technical components in manufacturing illicit drugs
- reaching and communicating with intended victims of fraud
- providing access to communication facilities such as phone, fax or email so criminal groups can communicate with each other using the facilitator's business as a 'shield'
- helping criminals avoid detection when laundering money by adding legitimacy to financial transactions
- providing clandestine accommodation for human trafficking victims
- using computer technology to help steal identities.

Conclusion

The use of violence and intimidation against victims, against members of groups inside of the same organization or against members of the other organizations, has been defined as an ingredient of Mafioso behavior, which brings as result the 'law of silence', and it consists in the duty of associates to keep silent about the secret. The inside and outside violence serves: To punish defectors, discourage internal competitors for leading positions, or conversely to challenge the leaders and to build up a proper apparatus of physical coercion, in order to possess the monopoly of the violence on to a determined territory.

The use of influence and corruption in politicians, the public administration, the criminal justice system, and private sector representatives is seen as a tool of organized crime (groups) that facilitates their operation.

The corruption is seen as mediator between state and organized crime. The definition of the corruption as a system, consists in the fact that it is a complex phenomenon including, the attacked sectors, the subjects that act and its methods, tools and mechanisms that are used.

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²²⁶“Professional facilitators of crime” Publication from Australian crime Commission 2013

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The long process of money laundering. In order to permit the investment of the capital accumulated from the illegal traditional activity, in other business, crime proceeds need to be laundered in a way they become indistinguishable from legitimate money.

The process of the money laundering is described using a three-stage model: *Placement, Layering* and *Integration*.

An organized crime group within its activity uses professional facilitators. The role of facilitators consists in the fact that they conduct to a certain complex or difficult elements of criminal enterprises. They are professionals with specific skills, legal or financial experts such as lawyers and accountants.

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