

Systemic Corruption: Weapons of the Twenty-First Century, Organized Crime and the Mafia



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Introduction

Corruptissima republic plurimae leges.

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The bribes system is habitual in the major infrastructure projects.

If you want to take part to it you must pay

(Enrico Maltauro [entrepreneur arrested for bribes a few months before Expo2015 in Milan] statement made during the interrogation.

Corruption is a “hidden and elusive practise as few others, commonly popular in many countries, not excluding those at a higher level of civilization, which adds to the heavy immorality of behaviour, the distortion of a good competitiveness: consequent effect and, at the same time, fertile ground and irreplaceable support instrument to the spread of organized crime, sometimes corruption contributes to seriously weaken and obstruct the same condition of modern democracies” Romano (2008).

First of all, it is necessary to adopt a relevant functional distinction between:

- X. Simple corruption – it is aimed at buying administrative decisions and promoting/providing an agreement between two actors.
- Y. Complex corruption – which corresponds to the political corruption, related to the “buying” of political decisions, and generally involves more than an actor from both sides (Romano, 2008).

From a criminological perspective, in a highly bureaucratized public administration system, the role of the bureaucrats is crucial. They can foster the embedding of units and/or groups of corrupted individuals, able to directly influence the slowdown

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and the acceleration of processes. Such processes can facilitate the mechanism of illicit offer – often considered “usual” – of money with the aim of supporting or, in some cases, even boycotting initiatives according to the benefits that the corrupter can obtain in his favour (e.g. denials, rejections, interdictions, etc.).

Throughout the years, the growth of illicit incomes obtained from several illegal activities has reached a remarkable consistence, and this – once again – makes inevitable their reinvestment in the circuit of the illegal economy. There is some evidence that underlines the convergence between collusion and corruption (Savona & Mezzanotte, 1998, p.28). The most dangerous form of economic crime is the convergence between organized crime and corruption. The connection between organized crime and corruption represents one of the main threats to the rule of law and community integrity. As a complex phenomenon, it is necessary to understand its root causes first and the way it affects the institutions and produces economic costs but, above all, social costs.

Such distorted “micro-worlds” are regulated by influences of different sorts, either economic or political, which provoke social poverty and inequality within the territory: Here only the criminals can count on a secure covering. The phenomenon acquires a transnational connotation and, sometimes, even transcontinental. Therefore, it is possible to point out the application of a precise operative model mainly founded on the triangulation of three economic crimes:

- A. Fraud
- B. Money laundering
- C. Corruption

In this sense, the “Clean Hand” (Antinori, 2012) (*Mani Pulite*) scandal has been the first concrete example of a “deluge” corruption of the Italian politic class – except for a few other rare cases – by means of private firms through the preliminary creation of *dark funds*. The money obtained in this way used to be recycled and reinvested. The interdependence among economic crimes is the tangible manifestations of the complex adaptive and systemic articulation of such crime: that we observe in contemporary entities always distinguish themselves more, thanks to the specialization and professionalization of their members.

Each corruption action, particularly if organized and systemic, influences the market’s mechanism by twisting the competition dynamics which regard all the actors involved and, contextually, by creating closed circuits and exclusive economic ecosystems that impede the competition refurbishment, aimed at undermining the entry of new actors, perhaps more efficiently. The organizational structure of the new economic crime is flexible and fragmented, while the small organized crime groups establish and disintegrate themselves quickly.

The model of the twenty-first century organized crime is characterized by a remarkable speed of movement, indicative of its ability of forestalling the opportunities offered by the legal economy of reference, deeply integrating with it (Bini, 1992). In short, second-generation criminal enterprises “use” their organizational structure and systemic power as their strong point. They provide

goods production and illegal services. They often manage activities within legal sectors of the economy and infiltrate in the financial and commercial circuits at a local, national and international level.

Importantly, the corruption of the state apparatus members experienced a propulsive push due to the increase of the regulatory production and the intensification of formal controls. The “paradox of the control”, as a pushing factor which generates the crystallization of the systemic corruption, fosters a particular dynamic which generates a perverse process: The more the State is engaged, by interfering and controlling, the more are the opportunities of corruption to intensify (Marotta, 2004, p. 181).

With respect to the social causes of corruption, it is worth considering the determiner factor of sociocultural sort, as well as the way intersubjective relationships might affect the levels of corruption (Karstedt, 2001). In particular, it is important to stress the existence of a negative correlation between the trust on our neighbour and the corruption – on one hand – and a positive correlation between the confidence tie among the entrepreneurial actors and the level of corruption perceived. Considering that, it is opportune to highlight the necessity of focusing on further independent variables of cultural sort, such as the relation between citizens and public authority (Di Nicola & Zanella, 2011).

From the economical point of view, a low level of competition between the firms would provoke resorting to corruption (Henderson, 1999), much better, and it is possible to affirm that such decreasing of competition corresponds with a general raise of corruption (Ades & Di Tella, 1995).

From the political and cultural point of view, the relation between the democratic level of a state and corruption has been largely examined, as well as the tie between such criminal conduct and freedom of expression Paldam (2002). The analysis demonstrated that the reforms of regulatory apparatus aimed at increasing the freedom of the press, combined with the compression of political and economical power influence on media and a containment of repressive actions, and cause a decrease of the perceived corruption (Brunetti & Weder, 2003).

The key sectors of the corruptive phenomenon are:

1. *Public tenders* – it is about big scandals that involve public tenders for the construction of highways, bridges, hospitals and schools. Such sector is considered one of the crucial indicators useful to understand how a political and economic system is affected by this criminal phenomenon.
2. *International cooperation* – this sector is largely contaminated by the virus of corruption. It is less subject to be controlled, since the activities are normally implemented out of the national territory.
3. *Privatization* – the process is related to the use of the territory and the issuing of state licences and concessions. It is the sector which manages controls in different areas, such as fiscal, customs, security, hygiene, public order and judiciary activity.

It seems clear how the traditional distinction between political corruption and administrative corruption is not sufficient to limit the multiform nature of the phenomenon, as both levels are often in close relationship. Among the environmental factors that foster organized corruption, we can point out the inefficient and unfair application of regulations, the flimsy action of the institution in charge of the supervision and control of economic sectors, the implementation of the prevention actions as well as the inadequate structuring of internal governance systems. It has not only negative consequences on the economic development of the poorest countries, but it also distorts the mechanism of the price establishment of financial assets, contaminating the financial markets.

Such economic necessity transformed the essence identity of the traditional organized crime in an affiliation form of entrepreneurial sort. The criminal ties between *mafia* groups and economic crime depend on several factors, first of all the growing of organized crime groups specialized in corruption that use legal entrepreneurial strategies to reach illicit purposes (Neri, (2014) Pp.17–19).

Organized crime often resorts to the white-collar criminals professionalism to maximize its profit, through the progressive infiltration in licit entrepreneurial activities.

These activities, in fact, produce not only a high rate of low-risk profitability, but they also keep the control in the territory, to hide the incomes from criminal business and to build – by means of a corruptive net – a respectable social position in the community for the criminal high profile members (Adamoli, Di Nicola, Savona, & Zoffi, 1998).

In this way, they can establish a real “*pseudo-mafia* company” which, by exploiting the professionalism of specialized technicians and white collars, adapts *mafia*’s methods to apparently licit activities, damaging the legal economy and the competitive market. Therefore, the business world and organized crime world are implementing strategies of entrepreneurial nature giving life to three different models of corruption. They are:

- A. Organized corruption is a reticular structure composed of individuals that can cover different roles, from administrative to politic ones, that – by means of corruption – merge the decisional level with the administrative level, above all within local administration, achieving a systemic capacity to corrupt. A relevant modus operandi, largely utilized in this context, is the use of dossier as a “silent tool” which strengthens criminal ties. The false accounting is considered a “sentinel-crime” of the most large and hidden corruption.
- B. Centralized corruption – The Italian Mani Pulite case brought to light how the hidden fundings destined to political parties were used to reinforce a sort of “umbrella” system of protection for the actors involved. We notice, thus, how a relational hierarchization system which involves politicians, administrators and companies emerges;
- C. De-centralized corruption is a progressive contamination of several public administration sectors that highlights the important role of the individuals “hub”. They have the capability to promote/transfer criminal interests to different fields, as they:

- Have direct contacts with politicians that can influence or directly lead the nominations, positions and funds allocation
- Are considered reliable on the basis of the previous known professional experience in the field of interest

Systemic Corruption

In the last few years, corruption – based on the traditional nexus corruptor/corrupt – has transformed itself in a triangular model because of the affirmation of the new role of the intermediary who actually fosters the intermediation between actors, with the aim of letting their own interests converge. The nature of the corruption deal evolved from a mere administrative service to a real system of influence. The most relevant level of corruption risk can be detected in local and regional institutions, where internal procedures/controls are definitely weaker. The most vulnerable sectors are (Com, 2014, p. 38):

- Urban development and construction
- Environment
- Public health
- Fiscal administration

Just in these sectors, it is possible to observe the triangulation “organized crime-company-politics”, which is more popular in public tenders, constructions, management and maintenance of waste.

The development of systemic corruption produces negative macro-impacts:

- Fostering the increase of public spending deriving from the raising of the services’ costs and of the bought goods. This causes an increasing of the debt level.
- Generating a decrease of the growth GDP rate, therefore, reducing fiscal revenues.
- Determining a “real tax” that contributes to reduce the level of investments.
- Highlighting single actors’ skills and expressing their reticular capability in order to acquire resources from public administrations.
- Undermining the entrepreneurial capability as economy thruster.
- Drawing the illicit political interest by redirecting the investments towards big works, as source of profit, influencing and transforming public spending as well as negatively transforming the infrastructures’ “geography”.
- Bureaucratizing of the administration processes importantly because of the necessity of a preventive control.

By virtue of these factors, it is evident how the fight against corruption provokes a decrease of public spending.

Considering the complex corruption business, three categories of actors can be identified:

- (a) *Corrupted* – the individual is a passive corruption actor. This category includes either the actors of all levels of the political hierarchy and the public administration officers, able to carry out a decisional power with a minimum level of discretionality. Such a category also includes subjects that are not public officers properly but that are in the position of managing a public service.
- (b) *Corruptor* – the individual is an active corruption actor. The corruptor role is based on the privileged access to certain markets – ruled by politics – through the so-called pork barrel politics and, in a capsized corruption form, the simple citizens that look for a way to illegally obtain (from appointed authorities) favours and privileges they are not entitled to receive. The reasons that motivate active corruption are always connected with the pursuit of a not proper privilege.
- (c) *Intermediator* – the individual covers functions and roles quite precise in the corruption market. This actor operates in order to foster exchanges, either on the corrupted individuals' side or on the corruptor end. During the operation, the corrupter makes sure his/her identity is not visible and manages all the possible risks and acts in order to allow illicit exchanges by connecting politicians and entrepreneurs, elaborating proposal and communicating information which make them plausible and negotiating, collecting and delivering the bribe to the final consignees. The intermediators might be professionals in the following sectors: real estate, public relations, communication or sponsorship. They can also be “close men” like secretaries and administrative assistants, and they are the evidence that exemplify how the “corruption market” reached a systemic level.

The instruments of systemic corruption develop in a real market, though illegal. It needs, thus, a financial system mainly characterized by not recorded funds, out of the balance, the so-called dark funds. Furthermore, among such tools we find means of payment employed in corrupted exchanges, like cash money, largely used as it can be hand-delivered leaving no trace, and, at a superior level, bank accounts in the so-called tax havens. Bank accounts abroad can be of different kinds such as:

1. A numbered and covered bank account, a sort of account not assigned to a juridical or natural person, but it is identifiable only through a recognition element which just the bank can decode.
2. A bank account through which collecting and funnelling the bribes occurs. It is assigned to a natural person, a trusted person for the authority – the real owner – for instance, a political party.
3. A foreign bank account assigned to a certain and convenient firm.

The *modi operandi* useful to create a further availability extra-balance (Savona & Mezzanotte (1998), p. 55) are:

- (a) “Operations totally or partially non-existent” which engender false invoicing or over-invoicing
- (b) “Extremely onerous debentures” as contractual penalty for the simulated non-fulfilment

- (c) Mechanisms – tools which allow corrupted exchanges when, along with a firm, the fraud directly involves the bribe receiver as well

Systemic corruption can be categorized into:

- A. *Pseudo*-formalized – it develops within public administration, where the activities can be guaranteed by bribes. In this specific case, counteractions have to focus on:
- (a) Assurance of rights
 - (b) Qualitative and quantitative assessment of officers' performance
 - (c) Monitoring of external relations/interactions
- B. Informal – public employees represent the characters of an informal network of relations known only by its members that establish the functions, roles, exchange regulations, acquisition and redistribution of illicit revenues. In such cases, counteractions have to focus on:
- (a) Promoting of transparency and involvement of the citizens in public affairs
 - (b) Simplification of administrative procedures
 - (c) Resorting to certified standards of services
 - (d) Fostering competition in the offering of public services
 - (e) Patrimonial and sample controls on the officers' properties
- C. On demand – the actors that keep relations with public administration are aware of the existence of the *bribe market* that they support and spread in the territory, contaminating – above all from the ethic point of view – the sociocultural fabric.

Because of that, the weapons to fight corruption have to be very specific and efficient.

Countering Corruption

In order to deal with the widespread disseminated organized corruption, it is necessary to arrange strategic resources aimed at intervening by and invoking a response from the international community, through specific agreements and treaties of cooperation such as the UN Convention Against Corruption, which declares that goods not legally acquired by means of corruption must be given back to the States.

It is worth mentioning the essential complementarity between the regulations and actions on a preventive plan and the penal regulations that are specifically repressive.

The globalization and spread of corruption phenomenon is characterized by the pervasive and transnational capability to infiltrate the socio-economic and political fabric. In a middle and long term, it represents a real threat to democracy and rule of law.

Counter-corruption strategies adopted by the European Council act both at the national and intergovernmental levels, through three assets:

- Definition of juridical principles of soft law
- Monitoring of results/progresses of anti-corruption authorities of Member States
- Designing technical cooperation and assistance programmes

Several Member States have created a specific *central authority* aimed at preventing and countering corruption. The efficiency of such authority can be achieved with a:

- Guarantee of independence
- “Distance” from political interferences
- Availability of specific resources and skills
- Meritocratic recruitment/promotion of employees
- Multidisciplinary collaboration between the actors
- Rapid access to databases and info-sharing

The fight against corruption has to be based on systemic targets, not only those of an economical sort. The spread of a corruption culture within the society compromises the existence of a democratic system, particularly the harmonic development of the new generations and their future to live in a proper community that is one not controlled by organized criminal groups, corrupt business leaders and corrupt government officials.

From the political point of view, counteractions to prevent and control the phenomenon should be implemented through preliminary controls and guarantees of punishment to those involved in the corruption. It is opportune to say that when they operate exclusively to intensify the controls they generate, an increase of the administrative “deviousness” within the public administration and, as a result, the corruptive phenomenon grows, since such controls foster several critical factors such as:

- (a) Raising of illicit demand
- (b) Raising of the corruption costs
- (c) Multiplication of corrupted individuals

Self-money laundering, especially by means of cryptocurrencies, represents the evolution of the corruption which can be fought through undercover police actions aimed to verify the correct behaviour of a public officer.

In this particular dimension, counteractions against corruption should be based on the following strategies:

- (a) Reduction of the resources at disposition of the “guardians” that, acting as system guarantors, spread scepticism and distrust within the illicit circuit
- (b) Introduction of the detective tool of the undercover agent
- (c) Implementation of the controls/sanctions against the illegal political funding
- (d) Countering of organized criminal infiltration
- (e) Strengthening of control/sanctions against the false accounting
- (f) Dismantling of the corruptors’ reputations and their nets

- (g) Fostering/encouraging the exfiltration important for protection of justice informers (justice collaborators)
- (h) Turnover for the positions of those who are most subjected to corruption influences
- (i) Protection of freedom of the press, aimed at guaranteeing its independence from the system

Counter-corruption instruments and actions can be categorized into four types:

- Definition and assessment of the system integrity
- Targeting specific aims and actions
- System monitoring
- Law enforcement instrument

As for countering of individual corruption in public administration, it is important to stress how necessary it is to break the trust link between corrupters and those they corrupt and acting to reinforce controls and sanctions. However, in the case of systemic corruption, the scenario is more complex and difficult.

Corruption in the European Union and Italy

The phenomenon of corruption affects all the European Union (EU) Member States and has effects on good governance, good management of public money and the market competitiveness by implicitly altering the markets, affecting the perception and the trust links of the citizens with their democratic institutions.

In June 2011, a European Union Commission adopted a communication on the fight against corruption in the EU area, by issuing a document called *Report* aiming at monitoring and assessing the endeavours in preventing and countering the phenomenon.

In alignment with the international juridical instruments, it defines corruption, in a broader sense, as any form of “abuse of power aimed at obtaining a private profit”. The *Report* focuses on specific acts of corruption and the measures adopted by Member States to prevent, counter and punish them with a greater efficacy. The result of such actions inevitably depends on the socio-economic pattern, the institutional architecture and the systemic criminal pervasiveness.

The first Report was published in February 2014. The Commission provided the Council and the European Parliament with an analysis of corruption and the preventing and countering measures.

In the last few years, the European citizens and their governments have suffered an important financial crisis that submitted them to further pressure. In order to face the current economic challenges in Europe and the rest of the world, it is necessary to ensure – to a greater extent – guarantees of integrity and transparency of the public spending. The citizens expect that EU performs an important task by helping

Member States to safeguard the legal economy from organized crime, financial and fiscal frauds, money laundering and corruption (Com, 2014, p. 38).

According to the estimates appraised by institutions and specialized organs, such as the International Chamber of Commerce, the United Nations Global Compact and the World Economic Forum, corruption seems to cost about 120 billion euros per year to the EU economy and nearly the same to the EU annual balance.

The 2020 EU strategy aims at fostering a smart, sustainable and inclusive economy in order to help States to achieve high levels of occupation, productivity and social cohesion. In an always more globalized economic dimension, it seems evident how the control of corruption represents the primary strategy to foster EU competitiveness.

The low trust of citizens in institutions negatively affects the economy and makes more expensive and less efficient commercial transactions. Therefore, we can affirm that corruption produces negative effects of a double nature:

- A. *Economic corruption* produces negative effects on investments and represents a barrier for competition, causing inefficiency in the economic system and resource allocation, and undermines the efficacy of public spending.
- B. Social and ethical corruption results in inurement and conditioning of the collective, familiar and individual dimension of illicit personal profit, with the resulting destruction of the vision of community in favour of an “atomized cannibalism”.

By analysing the system, we notice how the greater damages affect small enterprises not because they are more subjected to corruption but, instead, as they are not able to afford the costs (Monteduro et al. (2013), p.43). Furthermore, the small and medium enterprises seem to be more vulnerable to corruption (UNIDO-UNODC, 2012) due to the following key factors:

- A. Structure and organization of the work – the greater internal formality makes the corruptive phenomenon mainly tolerable.
- B. Tactical perspective – corruption, by conducting the individual to obtain an advantage in a short term, “diverts” him from the strategic vision, as well as from the perception of being an actor of the system instead of an atomized subject.
- C. Lack of financial resources – in the case of a contaminated environment, this condition considerably undermines (in a certain way) the capability of “disengagement” of the entrepreneur from the bribe system.

Thus, it seems clear how the corruptive phenomenon represents a relevant cost for the medium/large enterprises, because of their need to face the inefficiency of the bureaucratic system, along with the costs resulting by the lack of trust and reputation related to the demand.

In 2010, the Centre for the Study of Democracy considered Italy (Centre for the Study of a Democracy, 2010) as one of the most relevant cases useful to understand the interconnection between organized crime and corruption. In fact, the spread of

corruption across the economy, society and politics can be considered as a magnet that attracts organized crime and *mafia* groups.

In 2011, the GRECO report described Italy as a scenario characterized by deeply rooted corruption in public administration and civil society, as well as the private sector.

The use of bribes seems to be a common practice employed to obtain licences, permissions, public contracts and grants and personal profits in academic contests and soccer. For this reason, corruption in Italy can be defined “pervasive and systemic”, due to its ability to negatively affect the whole social-economic fabric and politics (Grego, 2011).

In addition, corruption represents a serious threat to the trust tie between the State and citizens. Therefore, with respect to the perception of the phenomenon in question, Eurobarometer 2013 reports the 97% of Italians – compared to the European average equal to 76% – who participated in the survey considered corruption a rampant phenomenon.

Contextually, 42% of Italians – compared to the European average of 26% – affirmed to suffer corruption every day. Furthermore, 88% of Italian participants in the survey considered illegal recommendation and/or corruption the easier way to access public services.

For this reason, the 27 maggio 2015 n. 69 law was promoted. It indicates the dispositions related to crimes against public administration, *mafia* and false accounting.

Summary

The twenty-first century organized crime converts itself from a passive subject to an active subject, breaking the ethnic and cultural ties which characterized the traditional Mafia (Savona, 2016). Nowadays, the “mafioso” has to be recognized as a real “entrepreneur” that operates unlawfully, inserting itself in the market by using economic strategies. This new criminological approach is due to the change of internal conditions, as well as the dynamics of relationships which occur within organized crime that has generated, in turn, a change of the criminal systems initially closed and circumscribed and eventually articulated and interdependent.

For this reason, the evolution of the criminal complex phenomenon has to be considered an issue related not only to security and control – *stricto sensu* – but also to the economy and much better related to political and economic power. The criminal phenomena, based on corruption, can be considered a physiologic tie between power, criminal organizations and white-collar criminality, so that it is possible to identify a “culture of corruption” which, by now, characterizes the business management of all countries (Marotta, 2004, p. 181).

We recognize the infiltration of the *mafia* in political, administrative, economic and financial systems managed through direct and indirect engagement of

professionals, politicians, business men and white-collar individuals, though not necessarily affiliated with the organization. Therefore, we deduce that without using the violence of the traditional *mafia*, they share knowledges and favours with the aim of generating frauds, recycling activities (money laundering), corruption and environmental crimes (Neri (2014), pp. 20–21).

Discussion Questions

1. Define “systemic corruption”: How does organized crime go about infiltrating the economic system?
2. How does second-generation Mafia activity differ from the activities that characterized the traditional Mafia?
3. What is meant by the “triangular model” of corruption?
4. How does organized crime operate within “legal” sectors of the economy?
5. Why has money laundering in the political-administrative structure of civil society increased so much in recent years?
6. Discuss the role of the “intermediary” in the operation of corrupt activities.
7. What systematic conditions in the economy and politics have contributed to corruption in Italy?
8. Give examples of the types of criminal enterprises in which the Mafia engages at local, national and international levels.
9. Differentiate between “simple corruption” and “complex corruption”.
10. Based on the information presented in this chapter, do you think it is possible to control and reduce the amount of organized criminal activity in Italy?

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