

The State-Mafia Deal. An Analysis of the  
Strategies and Patterns of the Sicilian Mafia.  
1989-2006

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# Introduction

From 1994 onwards, coinciding with the advent of the Second Republic, Cosa Nostra changed her strategy. After the bloodshed of the previous biennium, she reduced violence to a minimum and put herself under the shadow of politics, maintaining this conduct despite continued repression by law enforcement agents. Such repression materialized in an unprecedented number of prosecutions and convictions that continued uninterrupted throughout the following years and culminated in 2006 with the capture of Bernardo Provenzano, indicated by the sources as the head of the criminal syndicate. The effectiveness of this antimafia action is evident in the documented rise in prosecutions for Mafia association (regulated by Article 416-*bis* of the penal code), which increased from 2060 on July 31, 1992, to 5307 on June 30, 2006.<sup>1</sup> Such a trend is also confirmed by the number of properties seized from the Mafia in Sicily (320 from 1982–1989; 338 from 1989–1996; and 2692 from 1996–2006), and the decrease in Mafia homicides (from 152 in 1992 to 14 in 2006;<sup>2</sup> even the homicide trend decreased progressively: 53 in 1993, 83 in 1994, 95 in 1995, 90 in 1996, 48 in 1997, 51 in 1998, 39 in 1999, 17 in 2000, 31 in 2001, 18 in 2002, 13 in 2003, 17 in 2004, 18 in 2005, and 14 in 2006).<sup>3</sup>

Concerning the period from 1994 onwards, the concept of a “submerged”<sup>4</sup> Mafia arose, or, to describe it in the words of Palermo's former Chief Prosecutor, Pietro Grasso, that of a

*Cosa nuova* (‘new thing’) which, rather than obstructing the institutions with violence, tends to influence them through her economic power and electoral influence, and by maintaining relationships with politicians, administrators, officials, professionals, businesspeople, and consultants: in other words, with an entire white-collar system of *mafiosi*. This submersion made it possible for the Mafia to continue consolidating both power and financial resources to invest in legal or illegal activities.<sup>5</sup>

It has been pointed out that what Grasso defined as “new” is nothing more than “the Mafia in her most traditional meaning,” namely, a criminal association that tends to “value agreements

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<sup>1</sup> Source: *Ministero di Grazia e Giustizia – Dipartimento dell'amministrazione penitenziaria*, [http://www.camera.it/\\_bicamerale/leg15/commbicantimafia/documentazionetematica/28/schedabase.asp](http://www.camera.it/_bicamerale/leg15/commbicantimafia/documentazionetematica/28/schedabase.asp), (accessed various dates, 2015–2016).

<sup>2</sup> Source: *Agenzia del Demanio data processing, 2006, ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *Commissione parlamentare antimafia, XIII Legislatura, Doc. XXIII, n. 57, Relazione conclusiva, 6 marzo 2001, p. 39.*

<sup>5</sup> Speech by the National Antimafia Prosecution Office held on occasion of the inauguration of the 2003 Judicial Year reported in *Segno*, 241, 2003, with the title “Cosa nuova e la giustizia che piace al governo,” (*Ibid.*, p. 11).

and weave negotiations rather than dispense violence, and favor mediation much more according to her long history and own essence.”<sup>6</sup> In short, something *old* rather than *new*, the return to old practices being exchanged as something “new” by those unable, or unwilling, to endow the change with a historical understanding. Thus, on the eve of the elections that inaugurated the Second Republic, right when the new political offer became clear as Silvio Berlusconi announced his decision to enter the political arena as leader of a coalition of parties, the Sicilian Mafia holtered her weapons and, in line with her best tradition, recommenced operating in the shadow.

This initial consideration gives us the opportunity to define the periodization of this research by dividing the period studied (1989-2006) into two blocks: the years between 1989 and 1993, when Cosa Nostra reacted with a wave of violence unprecedented in her history to the Maxi Trial, which in early 1992 saw her bosses sentenced to life in prison with the concrete expectation of having them serve justice for the first time in their history, and the years between 1994 and 2006, when the Mafia reduced violence to such an extent that the expression *pax mafiosa* (“Mafia peace”) became common parlance in public debate.<sup>7</sup> As can be perceived, the crucial nexus is the relationship between the two periods: could this return to the *old* be the consequence of a deal, a silent agreement with a considerable part of the world of politics, or was it simply due to the fact that Cosa Nostra’s bosses realized how counter-productive were the effects of such a wave of violence actually? Why, at a certain point and all of a sudden, was the bloodshed interrupted never to begin again? What changed – and, if so, how and why – in the Mafia and her relationship with politics between 1989 and 2006, and what remained the same? Was the extraordinary continuity of the Sicilian Mafia interrupted in this period as the firm – and in many respects successful – repression enacted by law enforcement agents against the godfathers of Cosa Nostra may suggest, or, conversely, was this continuity even reinforced? What are the connotations of the *mafioso* entering the third millennium, and how did he change – if he did – compared to his predecessor? What was the role of the *borghesia mafiosa* – the Mafia white-collar system of corrupt politicians, bureaucrats, businessmen, professionals and so on – in this return to a low-profile strategy?

The responses provided to this questioning by historiography have been partial, mainly

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<sup>6</sup> S. Lupo, *Che cos'è la mafia. Sciascia e Andreotti, l'antimafia e la politica*, Donzelli Editore, Rome, 2007, p. 90.

<sup>7</sup> The thesis of the emergency character of the fight against the Mafia in Italy has been put forward by U. Santino in his *Storia del movimento antimafia. Dalla lotta di classe all'impegno civile*, Editori Riuniti University Press, Rome, 2009. Concerning such topic see also S. Lupo, *Cos'è la mafia, op. cit.*, p. XI. Concerning the *pax mafiosa* in the years between 1994 and 2007, see S. Lupo, *ibid*, p. 81. The expression *pax mafiosa* was even used by the former Minister of the Interior in 1992, Vincenzo Scotti, in his book *Pax mafiosa o guerra? A venti anni dalle stragi di Palermo*, Eurolink, Rome, 2012.

due to the lack of research synthesizing the various documents available in order to historicize these instances in the context of an overall vision. Publications relative to the facts of this period, most of which have been of a journalistic approach, have focused on, or have been limited to, the years 1992 to 1993, often disregarding the following period.<sup>8</sup>

The choice of periodization, from the fall of the Berlin Wall to 2006 when Bernardo Provenzano, boss of of Cosa Nostra, was arrested after wandering around Corleone for 43 years while being a fugitive, has seemed the most appropriate to render the historical change intelligible and decipherable and the most suitable to our purpose of connecting the *before* and *after* in order to explain the former in the light of the latter.<sup>9</sup> The principal motive of this choice is that the end of the Cold War inaugurated, both in Italy and internationally, a new phase in history that the Mafia too had to confront.<sup>10</sup> In 1989, new scenarios opened with the affirmation of a new capitalism devoid of any counterweight while an unprecedented technological and media revolution began to change more and more people's lives in such a hectic and simultaneous way that it soon seemed to lead to "a loss of history as a process, as a universal paradigm of sense and interpretation, of historicity as a project and duration."<sup>11</sup> The world began to change much more rapidly, and this acceleration shook the Sicilian Mafia at the very moment in which she was living her most dramatic period, being condemned in court for the first time in her long history. Furthermore, this defeat came after an extended period in which a good part of Italian public opinion and national institutions had denied or minimized

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<sup>8</sup> The only publications by historians are N. Tranfaglia, *Mafia, politica, affari. 1943–2008*, Laterza, Rome-Bari, 2009, and N. Tranfaglia *Perchè la mafia ha vinto. Classi dirigenti e lotta alla mafia nell'Italia unita*, Utet, Turin, 2008.

<sup>9</sup> Although in choosing such periodization the necessities of a "transgressive periodization" were also considered. On such a concept see S. Guarracino, *Le età della storia. I concetti di Antico, Medievale, Moderno e Contemporaneo*, Bruno Mondadori, Milan, 2001, pp. 15-20. Concerning the problem of periodization from a more general point of view see the first three chapters of K. Pomian, *L'ordine del tempo*, ("Avvenimenti, "Ripetizionim Epoche"), P. Arlorio et al (trans) Einaudi, Turin, 1992. M. Bloch has sustained that the real time of historians should not be minced into "artificially homogeneous fragments" since it is "by its very own nature, a continuum, but also a continuous change: from the antithesis of such two concepts it derives the problems of historic research;" see E. Bloch, *Apologia della storia o mestiere di storico*, Einaudi, Turin, 1998, p. 24.

<sup>10</sup> Concerning what could be defined as the last phase in history see E. J. Hobsbawm, *Il secolo breve*, Rizzoli, Milan, 1995. See also C. Pavone, "Il Novecento, un secolo corto," in G. De Luna (edited by), *Insegnare gli ultimi 50 anni. Riflessioni su indentità e metodi della storia contemporanea*, La Nuova Italia, Scandicci, Florence, 1992, pp. 3-11; S. Pons, *Discutendo con Hobsbawm del secolo breve*, Carocci, Rome, 1998, pp. 41-56. A different interpretation can be found in C.S. Maier, "Secolo corto o epoca lunga? L'unità storica dell'età industriale e le trasformazioni della territorialità," in C. Pavone (ed), '900. *I tempi della storia*, Donzelli Editore, Rome, 1997, pp 29-56. Concerning the periodizations of the twentieth century see S. Guarracino, "Le periodizzazioni del Novecento," in *I viaggi di Erodoto*, 2000, No. 41-42, pp. 151-158; D. Harvey, *La crisi della modernità*, Il Saggiatore, Milan, 1993; J. Rifkin, *L'era dell'accesso. La rivoluzione della new economy*, A. Mondadori, Milan, 2000; V. Castronovo, *L'eredità del Novecento*, Einaudi, Turin, 2000; M. Revelli, *Oltre il Novecento*, Einaudi, Turin, 2001. Concerning the phases of international order and disorder of the twentieth century, see L. Bonanate, in F. Armao et al, *Le relazioni internazionali. Cinque secoli di storia: 1521–1989*, Bruno Mondadori, Milan, 1997, Chapter 5.

<sup>11</sup> A. Schiavone, *Storia e destino*, Einaudi, Turin, 2007, pp. 5-9.

the Mafia. It was, once again, the *Grand History* that outlined the path. Whereas in previous times the Mafia had always been able to successfully turn the breakthroughs of history to her advantage – to the extent that we would suggest here an interpretative model for her entire history, which we would name “*ecdysis*” after the biological process through which some reptiles slough off their outer skin when another one beneath has formed, enlarging their dimensions and increasing their voracity and dangerousness, to explain the Mafia’s extraordinary and ascending historical continuity – this time, because of the combined factors of the Maxi Trial and the end of the Cold War which had given her a political role in the name of anti-Communism, she seemed to perceive the danger of being overwhelmed by the changing times.

Such considerations introduce us to the core historiographical question of this study: did an *ecdysis* process happen even when in 1989 world history entered in a new era? Was there, once again, something comparable to what had happened with the transition from the feudal to the modern, administrative State, with the process of Italian national unification, the two World Wars and the Cold War, from which the Mafia had always emerged stronger? Or, on the contrary, did the previously outlined successes of the Italian state’s law enforcement agencies really represent an “encouraging turnaround”?<sup>12</sup> And, even though it cannot be denied that the Maxi Trial was a break in the history of the Sicilian Mafia since it inaugurated a period in which *mafioso* arrests and sentences were to continue uninterrupted for quite a few long years, do these undeniable successes represent a real discontinuity or was the Mafia able to change in such a way as to reduce their impact to the extent of absorbing even this discontinuity into the sensational, rising continuity of her history?

In a minimalist hypothesis, the return to submersion of Cosa Nostra was due to the fact that her bosses put all their chances on Berlusconi, with whom, according to judiciary sources, they had an ongoing relationship since, at least, 1974. In a more controversial hypothesis, this return to an old and more tried and tested pattern was the consequence of a silent pact made with the dying political forces of the First Republic in the days between the Capaci bombing, which on May 23, 1992 killed prosecutor Giovanni Falcone and some of the police agents of his armed escort, and Via D’Amelio bombing, which less than two months later killed his colleague Paolo Borsellino also together with policemen of his armed escort. In this second hypothesis, the governments that succeeded from 1992 onwards, in exchange for the end of the bloodshed, would have possibly committed themselves to satisfying Cosa Nostra’s

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<sup>12</sup> Such an interpretation was provided by Salvatore Lupo; see S. Lupo, G. Fiandaca, *La mafia non ha vinto. Il labirinto della trattativa*, Laterza, Rome-Bari, 2014, pp. 59-66.

requests listed in a document known as the *papello* compiled or dictated by Cosa Nostra's boss of bosses Totò Riina which would even specify down on paper the terms of the deal.

The first objective of this research is to reconstruct the factual framework that fueled (and justifies) allegations about the existence of the aforementioned pact, and demonstrate that the judicial policies implemented by the governments that alternated in power between 1994 and 2006 substantially met the Mafia's requests as well as the law proposals regarding or affecting antimafia legislation. The second objective is to demonstrate that because of the inconsistency of such judicial policies was the Mafia not only able to resist the law enforcement efforts, but also began a process of metamorphosis (the *ecdysis* we proposed earlier) that made it possible for her to start a process of adaptation to the changing times which allowed her to enter the new millennium weaker in her military dimension but stronger in her interpenetration with the realms of politics and business.<sup>13</sup>

As we have previously hinted, relative to the period studied the most relevant discontinuities – changes that broke significantly not only with the previous period but also with the entire history of the Mafia – are the Maxi Trial, which inaugurated an unprecedented series of *mafioso* arrests and convictions, and the flood of Mafia turncoats that began in late 1992.<sup>14</sup> It was mostly thanks to the revelations of these former *mafiosi* that, between 1993 and 1996, the season of the so-called “political trials” could be inaugurated (Mafia trials against politicians and not simply *mafiosi*). Some of these trials had as defendants some of the State's highest officials, the most important of them being the former seven-time Prime Minister Giulio Andreotti, indicted in 1993 on charges of collusion with the Mafia in the very midst of Cosa Nostra's terrorist campaign which, for the first time in history, took place primarily in Italian and not Sicilian territory. Between 1992 and 1993, it really seemed as though in Italy a political season characterized by a new ethic was beginning, and between 1993 and 1995 it became more and more evident that because of the hemorrhage caused by her turncoats Cosa Nostra could be defeated definitively. However, in 2009 former Palermo Chief Prosecutor, Gian Carlo Caselli, admitted that in the mid-1990s the Italian State had the historical chance to defeat the Mafia once and for all but it failed because – Caselli himself used this football metaphor – although it was given the potentially winning penalty at the 90<sup>th</sup> minute, for some

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<sup>13</sup> This expression was also used by the Palermo prosecutor Roberto Scaripinato; see *l'Unità*, 2/11/2006. An interpretation focusing on the repetition of *mafioso*-type political strategies can be found in G. C. Marino, *Storia della mafia*, *op. cit.*, pp. 31-6 and pp. 142-197; and N. Tranfaglia, *La Santissima Trinità. Mafia, Vaticano e Servizi Segreti all'assalto dell'Italia 1943-1947*, Bompiani, Milan, 2011.

<sup>14</sup> A comprehensive witness protection program was introduced in Italy with Decree Law No. 366 of 8/6/1992, later converted into Law No. 366 on 7/8/1992.

reason it refused to kick it and win the game.<sup>15</sup> In a similar way to Caselli, but from an opposite perspective, Mafia turncoat Tommaso Buscetta, in a book interview published shortly before his death in 2000, said that the Mafia, instead, had won because she had been able to make a new pact with politics.<sup>16</sup> Was it as Caselli and Buscetta put it, or rather did Buscetta's book simply inaugurate a “rhetoric of catastrophism” typical of “a good majority of journalists, politicians, and magistrates”?<sup>17</sup>

It is precisely in attempting to answer this question that the story of the “*trattativa*” (literally, “negotiation”) between State and Mafia plays a fundamental role. The court verdicts of the 1992 and 1993 bombings testify of dialogues between the ROS, the special body of Italian Carabinieri (military police) for the fight against organized crime, and the Cosa Nostra bosses. One such case has pitted those who have downplayed it to borderline contacts between police forces and *mafiosi* – common, understandable, and even justifiable and commendable in situations in which the long-term viability of the State institutions is at stake<sup>18</sup> – against those who have retained that such negotiations had dramatic effects and even played a constitutive role in the formation process of the Second Republic. The minimalist thesis denies the very existence of the deal: rather than a “pact,” it maintains that there could be, or there were, dialogues, perhaps even some sort of negotiation, between the Carabinieri and the Mafia, but nothing that would commit present and future governments to satisfy the requests “demanded” by Cosa Nostra with her bombings. Those who claim the existence of the pact accuse their critics of not recognizing a historical truth however ascertained or at least proven by quite a good amount of circumstantial evidence; those who deny it, in their turn, counter-accuse their critics of sustaining a conspiracy theory based on conjecture rather than facts and criticize the framework and the very appropriateness of the State-Mafia Trial,<sup>19</sup> maintaining

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<sup>15</sup> G.C. Caselli, *Le due guerre. Perché l'Italia ha sconfitto il terrosimo e non la mafia*, Melampo, Milan, 2009, p. 59.

<sup>16</sup> S. Lodato, *La mafia ha vinto*, Mondadori, Milan, 1999, pp. 145 and following.

<sup>17</sup> This interpretation was provided by S. Lupo, in S. Lupo, G. Fiandaca, *La mafia non ha vinto, op. cit.*, pp. 65-66.

<sup>18</sup> The expression “borderline” was used in his 2011 book by the former ROS Carabinieri general Mario Mori to refer to certain investigative methods which require the adoption of intelligence-type strategies. See M. Mori, G. Fasanella, *Ad alto rischio. La vita e le operazioni dell'uomo che arrestato Totò Riina*, Mondadori, Milan, 2011, p. 33. Such a justification is welcomed in the interpretation provided by Lupo and Fiandaca; see S. Lupo, G. Fiandaca, *La mafia ha vinto, op. cit.*, p. 51 and p. 98.

<sup>19</sup> The so-called “State-Mafia Deal Trial,” is a criminal trial that began in 2013 whose first verdict was released in 2018 and whose appeal verdict has not been released yet. The Carabinieri officials Subranni, Moro and De Donno and the politicians Dell’Utri and Mannino were accused of the crime of “violence or threat against a body of the State,” an offense regulated by article 338 of the Italian penal code which substantially means conspiracy against the State. Other politicians and State officials were indicted for criminal charges varying from collusion with the Mafia, slander, and false testimony. Among them were former Minister of the Interior Nicola Mancino and the Head of the Department of Penitentiary Administration Adalberto Capriotti. See “In historic rule, court says Italian State negotiated with the Mafia,” Reuters, 20/4/2018, <https://uk.reuters.com/article/us-italy-mafia/in->

that such trial was based on charges that rather than judicial were historical-political. In this trial, according to the Palermo public prosecutors, besides some Mafia bosses (Riina, Provenzano, Antonino Cinà, Brusca and Bagarella), some State officials and politicians acted as links between Cosa Nostra and the State. These officials were the Head of the Carabinieri Military Police, Antonio Subranni, the Head of ROS (again, the special body of the Carabinieri in charge of the fight against organized crime) Mario Mori, and a ROS captain by the name of Giuseppe De Donno. The politicians accused of serving as links between Cosa Nostra and the highest levels of state power were Calogero Mannino, a former Christian Democracy MP (who, however, was acquitted of the criminal charges against him in the first instance of the trial), and Marcello Dell'Utri, the MP, senator, and Berlusconi's associate who started Forza Italia, the political party that won the first elections of the Second Republic in 1994 (Dell'Utri was condemned to 12 years in prison in the first instance of this trial on charges of conspiracy against the State; when the verdict was released in April 2018, Dell'Utri was serving a seven-year prison sentence after being condemned in 2014 for collusion with the Mafia). In short, according to Palermo prosecutors with the 1993-93 bombings Cosa Nostra was able to “extort” the State and force it to accept a new pact of “connivance,” since “the deal was not limited to individual tactical objectives, such as a truce in order to save some politicians who were on the Mafia’s black list, or the loosening of the 41-*bis*, or the other points listed in Riina's *papello*, but, much more ambitiously, had as its outcome a new pact of connivance between the Mafia and the State without which Cosa Nostra would have not been able to survive; such a ‘pact’ implied the research of new referents in the political system on one side, while assuring a long period of truce after the bloodshed of the previous years.”<sup>20</sup>

According to those who deny the *trattativa* in its political essence, Cosa Nostra returned to a low profile only when the boomerang effect of her most blatant violence had become evident to her bosses, perhaps also because the Mafia were reassured by the premises of the approaching political course that, as far as judicial policies were concerned, appeared to be quite promising for their interests as the most accredited candidate for the office of prime minister, Silvio Berlusconi, was by then already indicted in a number of corruption trials and thus had judiciary problems specular to theirs. The supporters of this thesis claim that the entire case of the *trattativa* is nothing more than a “giant bluff,” useful solely to “extremist” magistrates and journalists who have made their fortunes and “underserved careers” by

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[historic-ruling-court-says-italian-state-negotiated-with-mafia-idUSKBN1HR2JJ](#), accessed July 2018.

<sup>20</sup> *Ibid.*, p. 7.

“starting a trial without even one serious piece of evidence to support their hallucination.”<sup>21</sup> In their view, there is nothing that can support the idea of a “Grand Conspiracy,” an idea that does not find any verification in fact and is merely something that “makes one think of metaphysics.”<sup>22</sup> If a negotiation really occurred, this would have involved only the Mafia bosses on one side, Riina and Provenzano, and on the other a few Carabinieri officials who, as we have seen, may even have acted “meritoriously and courageously” in the context of such delicate investigations.<sup>23</sup> Under no circumstances could such dialogues have determined a “pact” with politics of which – they claim – there is not the slightest evidence. At most, there may have been some sort of infidelity on behalf of “some faction within the institutions,” but there is “no mystery to explain;” on the contrary, there is just a group of prosecutors who “want to judge the then-government;”<sup>24</sup> lastly, they claim that the supporters of the opposite thesis “should explain why the deal did not lead to any result,” since “none of the Mafia’s requests was satisfied.”<sup>25</sup>

In response to this arguments, it should be first and foremost said that the term “*trattativa*” cannot be reduced to a belittling “disproportionate journalistic terminology” or to the “hallucination” of “extremist” magistrates and journalists, as it appears in reports released by the DIA, the police body established in 1991 and specialized in the fight against the Mafia, in various judicial inquiries, in definitive trial verdicts, in Parliamentary Antimafia Commission reports, and in several converging – and by the judiciary considered reliable – revelations by Mafia turncoats. Hence, we are facing a term that emerges from a plurality of sources, which explains why a good amount of literary production regarding the *trattativa*, almost all taken with a journalistic approach, has surfaced in recent years. In addition, it is not true that none of the Mafia’s requests were satisfied (Chapter 5 and 6 will demonstrate how Italy’s governments met such requests). Similar considerations should be made in relation to the themes of the “Grand Conspiracy” and the “rhetoric of catastrophism.” Neither do these considerations seem to be the result of “extremist” magisterial or journalistic “hallucinations,” but as we shall see they emerge from various official sources and are supported by quite a

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<sup>21</sup> See Pino Arlacchi (PD): “Il processo sulla trattativa Stato-mafia è una bufala,” in *Panorama*, <https://www.panorama.it/news/politica/processo-stato-mafia-la-storia/arlacchi-trattativa-stato-mafia-processo/> (accessed July 2018).

<sup>22</sup> “La trattativa fra Stato e mafia? Una bufala,” in *ustation.it*, <http://www.ustation.it/step1/weblog/441.html> (accessed March 2017); *Panorama*, 19/2/2014. See also S. Lupo, G. Fiandaca, *La mafia non ha vinto*, *op. cit.*, p. 58, p. 89, and p. 155; and S. Lupo, Savatteri G., *Potere criminale: Intervista sulla storia della mafia*, Rome-Bari, 2010, p. 169.

<sup>23</sup> See S. Lupo, *Potere Criminale*, *op. cit.*, p. 169.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

considerable amount of circumstantial evidence. The argument of a “rhetoric of catastrophism” is one put forward by the famous Italian intellectual Umberto Eco, regained and adapted to the theme of the Mafia, and in particular to the facts under examination in this work, by one of the leading historians of our subject. However, rather than a “rhetoric of catastrophism,” the facts object of our analysis – with relatives of Mafia victims never ending call for real *Justice* be made by the Italian State after investigations and trials were proved to have been misdirected, polluted, and deflated whenever they were touching upon the highest complicities of Cosa Nostra with the political power – seem to be an out-and-out catastrophe.

Finally, what is worth pointing out is that this entire story of the *trattativa* has assumed different and in many respects opposite meanings depending on the historiographical approach used to explain it. Whereas for some historians the *trattativa* simply represents a recurrence of contacts between *mafiosi* and law enforcement agents which is as old as the Mafia itself,<sup>26</sup> for another historiography it is a sort of *political normal* whose origins can be traced back to at least Garibaldi's 1860 expedition which led to Italy's national unification as the landowner-Mafia alliance decided to support the unitary movement as this appeared to be the best way *to change everything in order to change nothing* and in this way maintain (and expand) their hegemony.<sup>27</sup> It then continued throughout the subsequent years and underwent another key passage with the transition from the Right to Left in 1876,<sup>28</sup> it carried through the Crispi and the Giolitti governments, which alternated in power between the end of the nineteenth and the beginning of the twentieth century until the First World War,<sup>29</sup> and continued even during the Fascist period, since Fascism attacked the Mafia but it also attacked her historical rival, Socialism, and was later to incorporate *mafioso* powers into the regime;<sup>30</sup> after the Second World War, this permanent *trattativa* with the State formed the bedrock of a long-time

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<sup>26</sup> Such an interpretation can be found in S. Lupo, *La mafia non ha vinto, op. cit.*, pp. 16-17 and *Che cos'è la mafia, op. cit.*, p. 21.

<sup>27</sup> The historian Giuseppe Carlo Marino has claimed that the existence of negotiations between the Mafia and Italy's governments has been a permanent feature of Italian history; see G.C. Marino, in *Storia della mafia, op. cit.*, pp. 31-36. A historian of a different approach, Paolo Pezzino, has also claimed that the political practice of making compromises with the Mafia has been a constant in Italian history from the point of national unification up to the present; see P. Pezzino, “Mafia, Stato e società nella Sicilia contemporanea: secoli XIX e XX,” in G. Fiandaca, S. Costantino (eds), *La mafia, le mafie. Tra vecchi e nuovi paradigmi*, Laterza, Rome-Bari, 1994, pp. 19-23.

<sup>28</sup> Such an interpretation can be found in F. Renda, *Storia della mafia*, Sigma Edizioni, Palermo, 1998, pp. 132 and following; G.C. Marino, *Storia della mafia, op. cit.*, pp. 64-69; S.F. Romano, *Storia della mafia*, Arnoldo Mondadori, Milan, 1966 (Romano writes of a “political legalization of the Mafia” after the Left's advent to power in 1876: *Ibid.*, p. 43). A historical account of the repressive action of prefect Malusardi can be found in S. Lupo, *Storia della mafia, op. cit.*, pp. 80-85.

<sup>29</sup> See G.C. Marino, *Storia della mafia, op. cit.*, pp. 70-86.

<sup>30</sup> See U. Santino, in *Storia del movimento antimafia, op. cit.*, pp. 162-164 and *Dalla mafia alle mafie, op. cit.*, p. 134; a similar interpretation can be found in G.C. Marino, *op. cit.*, pp 131-133. Concerning the Mafia under the Fascist regime see C. Duggan, *La mafia durante il fascismo*, Rubbettino, Soveria Mannelli, 1986.

relationship between the Mafia and Christian Democracy, which enlisted Mafia support as Mafia votes were useful in the fight against the ever-growing Communist Party of Italy, allowing Cosa Nostra quite a high degree of political protection.<sup>31</sup> According to this historiographical approach, there is nothing strange or new in a *trattativa* of political type that has been a permanent feature of Italian unitary history, except, perhaps, a trial that would define its criminal connotations and a document (Riina's *papello*) specifying, almost as a contract, the terms of the deal.

What should be also highlighted are the analogies between the processes of formation of the First and the Second Republic as far as the Mafia is concerned, which seem to have followed a similar scheme based on the sequence *separatism-terror-peace*. Given the premise that there is no intention here to reduce the history of the Mafia to a single, rigid, and incontestable scheme, what is worthy to underline is the repetition of a pattern in Mafia history for which, whenever there is political uncertainty and a new equilibrium of political power is to be formed, first separatist parties are formed, then Mafia terrorist violence follows (one in which victims are or can be random people and not specific targets as it is usually the case with Mafia violence), until a new political equilibrium, different in the form but the same in the substance when compared with the previous one, is reached. Ingredients of this pattern are also a “trophy” for the government to show off to the public in moments of emergency that imply a strong response to organized crime (in the late 1940s the bandit Salvatore Giuliano, in the early 1990s Totò Riina), the false leads in the investigations regarding the most important and violent facts in which political motivation and political instigators transpire, the disappearance – which could be defined as *system-preserving* – of those people and documents that could potentially compromise the highest levels of political power (in the late 1940s the bandits Giuliano, Pisciotta, Caiola and Ferreri, in the early 1990s, Borsellino and Mafia confidante Ilardo;<sup>32</sup> in the late 1940s Giuliano's memorandum, in the early 1990s

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<sup>31</sup> The quote is by Marino; see G.C. Marino, *Storia della mafia, op. cit.*, pp. 213-228, 249-280, and 383-421; a similar interpretation can be found in N. Tranfaglia, *Mafia, politica e affari, op. cit.*, pp. 103-143 and pp. 190-245; by Tranfaglia see also *Perchè la mafia ha vinto, op. cit.*, pp. 53-108; a convincing critical analysis of the rapport between the Mafia and the Sicilian leading classes can be found in U. Santino, *Storia del movimento antimafia, op. cit.*, pp. 271-275; see also S.F. Romano, *Storia della mafia*, Arnoldo Mondadori Editore, Milan, 1966, pp. 324 and following; and F. Renda, *Storia della mafia, op. cit.*, pp. 320 and following. The rapport between the Mafia and politics has been framed as one of exchange by Paolo Pezzino: see P. Pezzino, in G. Fiadanca, S. Costantino, *op. cit.*, p. 23. An interpretation of this rapport as an osmosis can be found in A. Galasso, *La mafia politica*, Baldini & Castoldi, Milan, 1993.

<sup>32</sup> It is worth mentioning here the story of bandit Rizzo di Saponara, who, in the second half of the sixteenth century, lost the protection of the Sicilian landowners and escaped to Tuscany, where he was arrested. While being deported back to Sicily he was poisoned along the way for fear that he could reveal his connections to some powerful Sicilian nobles, especially considering that an order by Charles V had established any aristocrat found protecting bandits would lose his feudal privileges and be arrested, and corrupted public officials would

Borsellino's agenda), the close relation between the Mafia and certain Masonic lodges linked to neo-Fascist groups, the shadow of the secret services,<sup>33</sup> and the sorrow and impotence of the victims' relatives who beg in vain a reticent and corrupt State to make a *justice* that never comes.<sup>34</sup> Quite interestingly, as it happened in the years between 1943 and 1947, even in 1992-1993 Mafia violence ceased, all of a sudden, on the eve of political elections, suggesting the continuity of a political nature of the Mafia-State pact.

The final consideration is about the structure of this study. The first two chapters are aimed at understanding the differences between the various historiographical, sociological, and culturalist approaches in the study of the Mafia and at justifying the methodological choices used in this research, which, in line to a historiography that attributes to the Mafia a role "very much appreciated by the political power,"<sup>35</sup> have brought to focus more on the Mafia's external dynamics rather than the internal ones. As for the remaining four chapters, the first two of them aim to reconstruct all the circumstantial evidence at the basis of the story of the State-Mafia deal, while Chapter 5 and 6 analyze *how* the Mafia changed while returning to her most traditional pattern of operating under the shadow of politics as well as the conditions that made such change possible.

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even be beheaded. An account of this story can be found in "L'ultimo brigante Varsalona, bandito e seduttore," in *la Repubblica*, Palermo edition, 19/8/2010.

<sup>33</sup> Concerning the constant presence of intelligence agency apparatuses, especially in relation to the violent facts of the early 1990s, see N. Tranfaglia, *Stragi, politica, affari*, published on his website [www.nicolatranfaglia.com](http://www.nicolatranfaglia.com) on 1/6/2010, see <http://www.nicolatranfaglia.com/blog/2010/06/01/stragi-politica-e-affari> (accessed 2/9/2015).

<sup>34</sup> It is worth mentioning here the commitment of Paolo Borsellino's brother, Salvatore, who spent the rest of his life denouncing the killing of his brother *by the State*, guilty, in his view, of opposing the "scoundrel deal.") See S. Borsellino, "Escluso dal processo sulla trattativa. I motivi di una sconfitta," in *Antimafia 2000*, 1/6/2013.

<sup>35</sup> G.C. Marino, *Storia della mafia*, Newton Compton, Rome, 1998, p. 16.

# Chapter 1

## 1.1 The definition continuum

At the beginning of the 1900s, noted Sicilian law expert and political scientist Gaetano Mosca held a few conferences on the Mafia in the northern Italian cities of Milan and Turin. These conferences were reasonably successful, and their contents were published in the economic journal *Il Giornale degli Economisti*.<sup>36</sup>

During the same period that Mosca was giving his speeches, the Mafia was in the spotlight of public debate due to the Notarbartolo case, in which both the victim and the accused were prominent personalities. It was the first time that the Mafia had emerged from Sicily (the trials were held in Milan, Bologna, and Florence) and shaken a public opinion that was for the most part still unaware of its very existence, especially in northern and central Italy.<sup>37</sup> A former mayor of Palermo and president of the Banco di Sicilia, one of the most important banks in the country and also the “crucial point of the Mafia’s economic interest,”<sup>38</sup> Notarbartolo had been killed in 1893 after the looming of a new general inquest on the situation of Italian banks. This followed on from the bankruptcy scandal of the Banca Romana, which had surfaced in January of that same year, and after rumors had spread of his potential return to serve as president of the Banco di Sicilia. Not long before, he had scourged the bank of corruption, at the price of a bitter fight against the Mafia “interested in perpetuating the administrative irregularities that he wanted to suppress and that were proving of great advantage to the Mafia clans.”<sup>39</sup> Notarbartolo had knowledge of all the bank’s financial intrigues, which he may have revealed in the case of a new inquiry. In all probability, such intrigues would have summoned one of

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<sup>36</sup> *Il Giornale degli Economisti*, S. II, a. XI, vol. XX, Egea Editore, Milan, 1900, pp. 236-262.

<sup>37</sup> Concerning this murder see S. Lupo, *Storia della mafia dalle origini ai giorni nostri*, Donzelli Editore, Rome, 1996, pp. 103–117; and G.C. Marino, *Storia della mafia, op. cit.*, pp. 81-84. Fundamental to understanding the quest for justice conducted by the family of the victim is the account of Notarbartolo’s son, Leopoldo: see L. Notarbartolo, *Memorie della vita di mio padre. Emanuele Notarbartolo di San Giovanni*, Tipografia Pistoiese, Pistoia, 1949 and L. Notarbartolo, *La città cannibal – Il memoriale Notarbartolo*, Novecento, Palermo, 1994. Historical accounts can be found in S. Lupo, *Storia della mafia, op. cit.*, pp. 103-117; G.C. Marino, *Storia della mafia, op. cit.*, pp. 81-84; R. Giuffrida, *Il Banco di Sicilia*, vol. 2, Fondazione Mormino, Palermo, 1973, pp. 115-163; E. Magri, *I ladri di Roma. 1893 scandalo della Banca Romana: politici, giornalisti, eroi del Risorgimento all’assalto del denaro pubblico*, A. Mondadori, Milan, 1993; and F. Renda, *Storia della mafia, op. cit.*, p. 110 and pp. 404-05; see also F. Arriva, *Il caso Notarbartolo*, La Cantinella, Catania, 1994.

<sup>38</sup> M. Ganci, N. Sorgi, *Antologia della mafia*, Il Punto, Palermo, 1964, p. 65.

<sup>39</sup> *Ibid.*

the political leaders of the country, Francesco Crispi, who was interested in turning the Banca Romana scandal to his own personal advantage by using it against his political rival Giolitti – at the time of the facts the head of the government, and thus politically responsible for the irregularities – in order to return to power.<sup>40</sup> The Notarbartolo case went on for another few years after Mosca's conferences and reached an epilogue in perfect Mafia style: the main defendant, an MP by the name of Raffaele Palizzolo, was eventually acquitted after having been initially convicted, following a second appeal trial re-staged due to one of the key witnesses having “forgotten” to put his hand on the Bible before stating his testimony at the first appeal, as was required by Italian criminal trials at the time. Palizzolo was acquitted also thanks to the pressure of a committee that had formed in Sicily on the initiative of one of the early scholars on the Mafia (Giuseppe Pitrè, whose interpretations will be presented in the following pages of this chapter). The name of the committee, which included many of Sicily's leading personalities (local and national politicians, knights, notaries, lawyers, landowners and intellectuals), was Pro-Sicilia. Pro-Sicilia came to the point of blackmailing the government to withdraw Sicily's support of it if Palizzolo was condemned, making a defendant to whom clues pointed heavily as being the instigator of the murder the *hero* of the “offended” Sicilian interests.<sup>41</sup>

Mosca felt that Italy lacked an adequate perception of the Mafia, and it was this that compelled him to organize his meetings: the question he proposed – “What is the Mafia?” – was in fact also the title of his conference. As we shall see in subsequent pages, Mosca attempted to provide answers: maintaining that the Mafia was a “spirit” that spanned more or less the entire country, though prevalent in Sicily, and that this spirit was characteristic not only of “low criminals” (described as “peabrain that everyone scoffs at”<sup>42</sup>), but also the much more dangerous “*mafioso* of the upper sphere.”<sup>43</sup> Mosca, who – it is worth underlining – was convinced of Palizzolo's innocence, thereby grasped some fundamental aspects of the Mafia: its trans-class characteristics and the relationship between criminals from the lower class and those from the “upper sphere,” two sides of the same coin, framed in such a way that the second acts as manipulator – and therefore the brain – of “half-wits who don't have any real criminal future, and that need, *mafioso* education, and fear make them blind instruments in the hands of the bosses.”<sup>44</sup> A century on we have yet to offer a uniform response to Mosca's

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<sup>40</sup> G.C. Marino, *Storia della mafia, op. cit.*, pp. 81-82.

<sup>41</sup> F. Renda, *Storia della mafia, op. cit.*, p. 16.

<sup>42</sup> See G. Mosca, *Che cosa è la mafia*, Laterza, Rome-Bari, 2002, p. 28.

<sup>43</sup> *Ibid.*, p. 5 and p. 19.

<sup>44</sup> *Ibid.*, p. 27.

question, despite an ongoing discourse on the subject that has generated such numerous publications that it has frankly become difficult to orient oneself.

From what we have briefly hinted at so far of the literature on the Mafia, we cannot escape its two main characteristics: its overabundance, and heterogeneity of approaches and results. However, it is difficult to find history books within this muddle of titles – that is, research conducted with traditional historiographical methods, which can be virtually counted on one hand.<sup>45</sup> One of the reasons for such a vast number of publications is in fact the steady growth of journalistic literature and, more recently, even the works of prosecutors involved in Mafia cases (in certain instances, this proliferation is explicable also by the necessity of such magistrates to make their voices heard in a moment in which they sensed that politics was slowing down their activities).<sup>46</sup>

In terms of the results obtained from research of a more scientific nature, it is generally possible to distinguish two principal lines of interpretation. The first one, which was prevalent until the 1970s, can be defined as “culturalist,” spearheaded firstly by the theories of Pitrè and subsequently by anthropologists such as Blok and Hess: according to these scholars the Mafia is a uniquely cultural phenomenon, and therefore ought to be interpreted and studied as such; the other approach, instead, can be defined as “organizational” and has been conceptualized by historians such as Pezzino and Lupo and scholars such as Centorrino, according to whom the Mafia is not only a form of “behavior” but primarily a secret criminal association endowed with an organizational structure that has been described since the 1960s by members who confessed and were subsequently taken to court and convicted. Sociologist Rocco Sciarrone has pointed out this continuum’s excessive polarizations, which – he believes – have impeded the process of uniting the criminal organization with its social roots.<sup>47</sup> All other interpretations can be located between these two extremes.

Considering the importance and success that such “culturalist” theories have had in the

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<sup>45</sup> See S. Lupo, *Storia della mafia, op. cit.*, p. 11, and G.C. Marino, *Storia della mafia, op. cit.*, p. 2.

<sup>46</sup> Given the sheer number of titles, only the most important journalistic works will be mentioned here; others may be mentioned in subsequent notes during the course of the paper: A. Stille, *Nella terra degli infedeli. Mafia e politica*, Garzanti, Milan, 2007; D. Lane, *In the Heart of the Mafia. A Journey Through the Italian South*, Profile Books, London, 2009; S. Lodato, *Trent’anni di Mafia. Storia di una guerra infinita*, BUR, Rizzoli, Milan, 2006. The most recent publications and the most important by antimafia magistrates that are worth citing are: G. C. Caselli, *Le due guerre. Perché l’Italia ha sconfitto il terrorismo e non la Mafia*, Melampo, Milan, 2010; A. Ingroia, *La giustizia e le bufale della politica. C’era una volta l’intercettazione. Lo strumento d’indagine, la sua applicazione per i reati di Mafia e i tentativi di affossamento*, Stampa alternativa/Nuovi equilibri, Viterbo, 2009; P. Grasso, *Soldi sporchi. Come le mafie riciclano miliardi e inquinano l’economia mondiale*, Dalai, Milan, 2011; F. La Licata, P. Grasso, *Pizzini, veleni e cicoria. La mafia prima e dopo Provenzano*, Feltrinelli, Milan, 2008; and R. Cantone, G. Di Feo, *I gattopardi*, Mondadori, Milan, 2010.

<sup>47</sup> Sciarrone supports this thesis in his *Mafie vecchie, mafie nuove. Radicamento ed espansione*, Donzelli Editore, Rome, 1998.

past – and, as we shall see, continue to have, albeit to a lesser extent than in the 1960s and 1970s – we cannot exempt their main points from this paper without failing to define one of the terms of our conceptual continuum. It is therefore necessary to present, however briefly, the main theses that these scholars have put forward, which will be our point of departure before proceeding to an examination of the historiography of the Mafia. Such historiography presents, or has for a long time presented, some of the chief limits at the root of the Italian historiographic tradition, such as its strong ideological imprint and its close-mindedness towards social history and those contributions drawn from the social sciences. In this first chapter, we will go over all the main cruxes upon which the debate on the Mafia has hinged: a definition of the Mafia (the object and field of study); different interpretations of the phenomenon; its periodization (in particular, the location of its origins in time from the beginning of the phenomenon, as well as its historical phases); the main lines of continuity and discontinuity that have characterized its evolution; an explanation of its system of relationships with political powers and institutions; its real or presumed political subjectivity; and finally, its social composition. Although giving priority to the contributions provided by historiography, we shall also examine the most important results produced by other types of research, in particular those provided by anthropologists and sociologists.

## 1.2 The “culturalist” approach: The Mafia as behavior

Until the years immediately following the Second World War, the most widespread idea of the Mafia – an idea that, as we have previously hinted, was destined for a new fortune between the 1960s and 1970s – was that attributed to the theories of Mosca and Pitrè, which reduced the Mafia to a way of being and feeling.<sup>48</sup> Mosca wrote in 1900, and his primary concept was that of the “spirit of the Mafia:”

The spirit of the Mafia can be described in few words: it consists of considering the action of turning to official justice, police, or to a magistrate for the reparation of a fault as an act of weakness or cowardice; it is the search for justice for some wrongs suffered without appealing to the authorities. It is generally acknowledged, even by those who act in accordance with the norm of the Mafia spirit, that one can accuse a man of crimes such as simple theft, fraud or avoiding debt repayments, whereby he has made use of his shrewdness and deceit and has not attempted to exercise violence or show more power or courage than his victim. This, however, rarely occurs, as the victim is usually blocked by a false sense of honor and personal dignity, because the crime has the characteristic of an open and impudent imposition, of an injustice, which the criminal specifically intends to revenge for an individual motive, through which he aims to impose his own superiority; he does not bother to maintain good relations because he does not fear enmity or rancor.<sup>49</sup>

According to Mosca, the Mafia therefore was not a criminal organization but a form of proud behavior that took revenge in the face of injustice, which allowed the *mafioso* to elude official justice by taking the law into his own hands. The “spirit of the Mafia” – that is, the Mafia according to Mosca – is not solely attributed to Sicily but also present in other parts of Italy:

The spirit of the Mafia, in fact, exists in a diminished form in central Italy and also very much reduced in the North.<sup>50</sup>

The most interesting aspect of Mosca’s theory, and one inviting deeper exploration, is that of the exploitation of *mafiosi* by people in high places for the sake of personal ambition, construed in such a way that the criminal-protector relationship is sought more often by those in power than by the *mafioso*:

This means that those rich and highly placed individuals who cultivate such relationships do not do so out of

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<sup>48</sup> G. Mosca, *Che cosa è la mafia*, op. cit.; and G. Pitrè, *La mafia e l’omertà*, Brancato, Palermo, 2002.

<sup>49</sup> *Ibid.*, pp. 5-6.

<sup>50</sup> *Ibid.*, p. 10.

necessity, as there is no need for them to prove themselves at every opportunity to the authorities, their friends and acquaintances from Palermo and other cities of the island less permeated by the Mafia, but rather for ambition, vanity, and the desire to excel in that special environment at the centers of the Mafia, to which they are perfectly adapted.<sup>51</sup>

Another fundamental anthropological contribution is that of Pitrè. According to Pitrè, who wrote at the cusp of the nineteenth and twentieth centuries,

The Mafia is neither a sect nor an association; it does not have regulations or statutes. A *mafioso* is not a thief or a scoundrel ... the Mafia is the consciousness of one's being, the exaggerated concept of individual force; the unique and sole arbiter of every contrast, of every conflict of interests and ideas, whence comes the impatience of superiority and, even worse, the arrogance of others. The *mafioso* wants to be respected and almost always gives respect. If offended, he does not appeal to official justice, he does not defer to the Law; were he to do this, he would prove his weakness and would offend the conspiracy of silence that deems *schifiusu* or *'nfami* [repugnant, infamous] he who, in order to obtain justice, appeals to the magistracy.<sup>52</sup>

Like Mosca, Pitrè rejected the possibility of the existence of a criminal organization and reduced the Mafia to a certain type of behavior. Such interpretations, however, run the risk of becoming a defense for the Mafia, in which the *mafioso* not only rebels against the superiority of others, but also against their arrogance; his behavior therefore may even appear somewhat romantic or heroic (these aspects have been the subject of conjecture in both fiction and film, as can be seen in the case of *The Godfather*; moreover, in addition to being completely misleading, this concept has since been highlighted as an exact reflection of how the Mafia has always deceptively portrayed itself).<sup>53</sup>

For many years these ideas were perceived as being the most credible explanation of the phenomenon, and gathered momentum in the late 1960s and 1970s in correspondence with a revival of socio-anthropological works on the subject. The most important contributions from this period were those of Hess, Blok, and the Schneider brothers, which were principally based upon published historiographical works or archive material.<sup>54</sup> Consequently, the models of Sicilian social history that circulated at the level of popular science were often drawn from

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<sup>51</sup> *Ibid.*, pp. 21-22.

<sup>52</sup> G. Pitrè, *La mafia e l'omertà*, *op. cit.*, p. 12.

<sup>53</sup> See the interview by Enzo Biagi of Corleonese boss Luciano Liggio, *Rai 3*, 20/3/1989; for a general framing of this topic see S. Lupo, *Storia della mafia*, *op. cit.*, pp. 19-21 and *The Two Mafias. A Transatlantic History, 1888-2008*, Palgrave Macmillan, New York, 2008, pp. 161-183.

<sup>54</sup> H. Hess, *Mafia, Zentrale Herrschaft und lokale Gegenmacht*, J.C.B. Mohr, Tübingen, 1970 (for Italian translation see: *Mafia*, Laterza, Bari, 1973); A. Blok, *The Mafia of a Sicilian Village 1860-1960, A Study of Violent Peasant Entrepreneurs*, Basil Blackwell, Oxford, 1974 (Italian edition: *La mafia di un villaggio siciliano, 1860-1960. Imprenditori, contadini, violenti*, Einaudi, Turin, 1986); see also J. and P. Schneider, *Culture and Political Economy in Western Sicily*, Academic Press Inc., New York, 1976.

these sources and were therefore not based upon results obtained by historians.

The characteristic that united such works was the refusal of the idea of the Mafia as a criminal organization and its interpretation as an exclusively cultural phenomenon. These theories made a decisive impact on the debate that developed in the 1970s and, although disproved by fact, continued to enjoy considerable credence even after the existence of a criminal organization was proven and its members taken to court and convicted. It is evident that a clear continuity exists between these interpretations and those of Pitrè and Mosca.<sup>55</sup>

The first to reopen an approach to reducing the Mafia to a sort of behavior was the German sociologist Henner Hess, who carved a path destined to be trod by various other sociologists.<sup>56</sup> His principal theory negated the existence of the Mafia as a criminal organization based on an initiation ritual. This was instead conceived as a form of behavior that was the consequence of a widespread culture and more or less common to all Sicilians, or at least a major part of them. The *mafioso*, whose behavior “is regarded as illegitimate by the codified law of the superimposed state but conforms with the subcultural norms” and who “enjoys legitimation by public morality,” maintains “a network of relationships, based upon reciprocal services, with the holders of formal and institutionalized (State) power, and in this manner ensures that his actions escape the sanctions threatened by the codified law.”<sup>57</sup> Given these premises, it is clear that the task of the scholar cannot be a study of the history of the Mafia, but simply an analysis of how the behavior of the rural middle class generated by the “gap between sociality and the State morale”<sup>58</sup> and based on mediation and clientelism has evolved in Sicilian society. Hess’s work, which is both a historical and socio-anthropological investigation based on archive sources such as trial transcripts and police reports, was published after a four-year sojourn in Sicily between 1962 and 1966.

Hess began his investigation from the origin of the term “Mafia,” which appears for the first time in an official document listing the heretics reconciled by a faith act in 1658 (the word was used as the nickname of a witch: “*Catarina la Licatisa nomata ancor Maffia*”<sup>59</sup>), to

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<sup>55</sup> Of these works those worth citing are: G. Alongi, *La maffia nei suoi fattori e nelle sue manifestazioni. Saggio sulle classi pericolose in Sicilia*, Bocca, Turin, 1886 (revised second edition entitled *La Mafia*, Palermo, 1904; the 1886 edition was republished by Sellerio of Palermo in 1977 with the title *La Maffia* and an introduction by Henner Hess); A. Cutrera, *La mafia e i mafiosi. Saggio di sociologia criminale*, Reber, Palermo, 1900, reprinted by Arnaldo Forni, Bologna, in 1984; concerning the social classes of the Mafia see: S.F. Merlino, *La Sicile in La società nouvelle*, 1890; *L'Italie telle qu'elle est*, Paris, 1890 (Italian translation: *Questa è l'Italia*, Co-operativa del libro popolare, Milan, 1953, p. 160, also referenced by S.F. Romano in *Storia della mafia, op. cit.*, pp. 191 and following).

<sup>56</sup> H. Hess, *Mafia, op. cit.*, in particular pp. 134 and following.

<sup>57</sup> *Ibid.*, p. 175.

<sup>58</sup> *Ibid.*, p. 44.

<sup>59</sup> H. Hess, *Mafia & Mafiosi. Origin, Power and Myth*, New York University Press, New York, 1998, p. 1.

its spread following the success of Rizzotto and Mosca's play *I mafiusi della Vicaria* in 1863. In his interpretation, the process of the *mafioso's* formation is framed within the conflict between State and popular morality, meaning the contrast between the negatively perceived norms of the bureaucratic State and those positively seen of Sicilian subculture. In such conflict the Mafia, through its apparent courtesy and sacrifice for the good of the entire community, intervenes and finds its legitimization as a socially criminal behavior, solving the aforementioned dualism in favor of the – real or alleged – Sicilian subculture. From a historical perspective, in Hess's interpretation the decadence of the feudal order was accompanied by the failure of the bureaucratic State to guarantee protection of Sicily's citizens and private property. As with other previous dominations that did not allow people to identify themselves with the holders of official power, even the Italian unification in 1861 was perceived by the people of Sicily as an invasion from a foreign country: a high amount of apathy – which transformed into widespread hatred against those acts made to establish the new national State, such as mandatory military conscription, the fiscal system, and so on – in fact united the Sicilian population against the new national government.<sup>60</sup>

After the phylogeny of Mafia power, Hess examines its ontogeny, that is the specific career of the *mafioso* that leads him to hold a dominant position in Sicilian society through informal structures outside of the legal institutions.<sup>61</sup> The use of violence, which is the instrument the *mafioso* uses in his rise to power and the way in which he defends it, as well as the constant acquittals of the *mafiosi*, crystalize Mafia values in society. Surrounded by an aura of prestige and with a public voice celebrating his fame, the *mafioso's* career is now made, as he appears the personification of the Man (“a *mafioso* is not the man who regards himself as one, but he who is regarded as one. It is the public that makes a *mafioso*”<sup>62</sup>). According to Hess, the *mafiosi* are not a particular “race” but simply men who behave in a certain way. The Mafia is not a secret organization or society, but a method. The *mafioso* first creates a clan for himself that exonerates him from direct recourse to violence (a step in the process of the legalization of the Mafia), and then a *party*, as he can rely on relations with those holding official power (a component of his structural legitimacy); the two aspects together form the *faction* of the *mafioso*, whereas kinship, *comparaggio* (the bond between two people who are not blood related, at the base of the brotherhood), and friendships take the role of a collective force. The relations among *mafiosi* are regulated by the sub-cultural norms

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<sup>60</sup> *Ibid.*, pp. 14-46.

<sup>61</sup> *Ibid.*, pp. 47-78.

<sup>62</sup> *Ibid.*, p. 56.

in force, which are not a right in themselves but conventions of a system guaranteed by the perspective of possible disapproval and part of the general expectations defined by the *omertà* (the Mafia's alleged code of honor that places importance on silence, non-cooperation with authorities, and non-interference in the illegal actions of others).<sup>63</sup> The *omertà* serves to maintain Mafia power, and such power is nourished by the use of terror, which spreads an atmosphere of fear and paralyzes any possible action against the Mafia. Finally, the *mafioso* plays the role of mediator between thieves and bandits on one side and those threatened or damaged on the other: amongst the kidnappings, seizures, livestock theft and threatening letters, as well as issues of civil rights, he becomes the adjudicator of the peace, whom neither of the parties can escape. Hess's conclusion, which in some ways recalls the position of Cesare Mori, the prefect sent to Sicily by Mussolini in the late 1920s to re-establish order and bring Sicily under the control of the State ("the fight should not simply be a police campaign in more or less grand style, but an insurrection of conscience, a revolt of spirits, and an action of the people," since "the *mafioso* fears education more than prison; the teacher more than the judge," because "a State is only truly strong when in the fight against crime it unites the fight against the social causes at the root of the criminality"<sup>64</sup>), is that *mafioso* behavior will cease when the State fully realizes its functions of protection, economic regulation, and repression of private violence. Historically, "the type must be seen against a very definite background – the collapse of the feudal order on the one hand and the failure of the bureaucratic state to enforce its monopoly of legitimate physical coercion on the other," at the origin of a situation in which "the role of the *mafioso* is that of a self-help institution:" in fact, "only at a time when the feudal order has lost its legitimacy and the modern State cannot (yet) enforce its own norms is it possible to speak of self-help – and only in this situation of a dual morality, one claimed by the State and the other the subcultural one."<sup>65</sup> In short, Hess's analysis, like several others that we will analyze in this chapter, even though based upon an anthropological approach, puts the greater responsibilities *outside* of the Mafia, i.e., on the State.<sup>66</sup>

We have already mentioned how theories of this type, which tend to present the Mafia as a mirror of traditional society – the product of a closed, isolated and poorly stratified community – end up playing into the hands of the *mafiosi*, who for this very reason have always presented themselves as conservative guardians of tradition.<sup>67</sup> It has also been pointed

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<sup>63</sup> *Ibid.*, pp. 79-160.

<sup>64</sup> C. Mori, *Con la mafia ai ferri corti*, Mondadori, Milan, 1932, p. 242.

<sup>65</sup> H. Hess, *Mafia & Mafiosi. Origin, Power and Myth*, *op cit.*, p. 175.

<sup>66</sup> *Ibid.*, pp. 161 and following.

<sup>67</sup> See S. Lupo, *Storia della mafia*, *op. cit.*, pp. 19-21.

out that such theses, whose main corollary was the extinction of the Mafia with the transition to modern and industrialized society, have since been disproved by fact: the Mafia, in fact, was able to exploit the opportunities on offer for its own development, to the extent of becoming a “disease of modernity.”<sup>68</sup>

Dutch anthropologist Anton Blok conducted his research with the method of participant observation by studying a small Sicilian community (Contessa Ermellina, later renamed Genuardo, in the province of Palermo). In a similar manner to Hess, Blok regards social mediation as the power base of the *mafiosi*, the product of interwoven social relations based exclusively on family bonds, clientelism, and personal relations not coordinated, but rather bound together by a type of subculture. The “*Mafia* is a form of unlicensed violence” and “the *mafiosi* make decisions that affect the community. Their realm is the public, and this distinguished them from those who have recourse to violence in other spheres such as, for example, the home.”<sup>69</sup> The *mafioso* “can be considered as a variety of the political middleman or power broker, since his *raison d’etre* is predicated upon his capacity to acquire and maintain control over the paths linking the local infrastructure of the village to the superstructure of the larger society.”<sup>70</sup>

Blok’s analysis too falls between a cultural-anthropological and a social-historical approach and is based on the rejection of the idea of the Mafia as a criminal organization and the interpretation of it as a network of relationships formed in the overlap between State and traditional society. In this scenario, the *mafiosi* are different from other intermediaries because “they exploit the gaps in communication between the peasant village and the larger society rather than closing or destroying them: they thrive upon these interstices and prevent others from making their own connections;” and because they “ensure and buttress their intermediate position through the systematic threat and practice of physical violence.”<sup>71</sup> The Mafia emerged in the early nineteenth century “when the Bourbon State tried to curb the power of the traditional landowning aristocracy”<sup>72</sup> in order to “provide the large estate owners with armed staff to confront both the impact of the State and the restive peasants:”<sup>73</sup> in short, its function was that of preventing the aristocracy from losing their privileges. With the advent of the Italian State in 1861, the Mafia took advantage of the fact that the new State was “unable to control and integrate peripheral areas,” which gave the opportunity to “middlemen or

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<sup>68</sup> *Ibid.* and S. Lupo, *Potere Criminale*, *op. cit.*, p. 175.

<sup>69</sup> A. Blok, *The Mafia of a Sicilian Village*, *op. cit.*, p. 6.

<sup>70</sup> *Ibid.*, p. 7.

<sup>71</sup> *Ibid.*, p. 8.

<sup>72</sup> *Ibid.*, p. 7.

<sup>73</sup> *Ibid.*, pp. 10-11.

brokers” who gained “power through their extraordinary access to information and to powerful individuals on the outside” to “bridge the gaps in communication” and “succeed in dominating the paths that link the village to the larger, encompassing society.”<sup>74</sup> Finally, these middlemen, who were usually *gabelloti* recruited from the peasantry who “took advantage of landlord absenteeism,” tended “to preserve local isolation by extending their control over new links that might grow with the gradual expansion of State institutions.”<sup>75</sup> It is now understandable how this interpretation’s framework remains practically the same as that of Hess: the Mafia is a product of traditional peasant society destined to exhaust itself with the arrival of modernity. “First there was the Mafia, today there is politics,” is in fact the conclusion with which the Dutch anthropologist explains the transformation of the Sicilian Mafia from the end of the Second World War.<sup>76</sup>

The Schneider brothers, who studied the community of Sambuca in Sicily (Villamaura), instead overturn Banfield’s theory<sup>77</sup> which based the underdevelopment of Italy’s South upon the ethos of amoral familism, attributing Sicily’s conditions to social inequality at the center of that which they define as “mediation capitalism.” Adopting similar positions to those of Hess and Blok, the Schneiders identified the characteristics of a Mafia subculture in the distrust of the State, the consequent self-made justice, clientelism and familism, while the concept of “honor” as a status ascribed from birth was placed alongside the honor of “winning” on the field that constitutes the social capital of the *mafioso*.<sup>78</sup> The two Dutch scholars later shifted the focus of their analysis from the context of a small community to a large city such as Palermo, and studied the cultural reasons at the base of the social consensus of the Mafia and why many Sicilians perceive the law as a traumatic event.<sup>79</sup> The revelations of Mafia turncoat Buscetta, however, revamped the culturalist approach with proof of the existence of a criminal organization, putting its primary assertion in crisis, at the same time

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<sup>74</sup> *Ibid.*, p. 25.

<sup>75</sup> *Ibid.*, p. 26 and p. 32.

<sup>76</sup> *Ibid.*, p. 213.

<sup>77</sup> See E.C. Banfield, *The Moral Basis of a Backward Society*, The Free Press, Glencoe, Ill, 1958 (Italian translation: *Una comunità del Mezzogiorno*, Il Mulino, Bologna, 1961, and the later edition: *Le basi morali di una società arretrata*, Il Mulino, Bologna, 1976).

<sup>78</sup> See J. and P. Schneider, *Culture and Political Economy in Western Sicily*, *op. cit.* Salvatore Lupo has responded critically to these positions writing: “Assuming that that which is expressed above is indeed a credible depiction of the anthropology of the South, it would be necessary to try distinguishing the phenomenon from its context by examining the way in which the Mafia organization usurps cultural codes, exploits them, modifies them, makes a collar of it for its own keeping;” see S. Lupo, *Storia della mafia*, *op. cit.*, p. 20.

<sup>79</sup> Such a thesis is maintained in J. and P. Schneider, *Reversible Destiny. Mafia, Antimafia, and the Struggle for Palermo*, University of California Press, Berkeley, Los Angeles, London, 2003. The existence of organizational structures previously denied by the two anthropologists is acknowledged in this later publication, demonstrating how certain theses of the 1960s and 1970s had to be considerably reviewed as conflicting with the evidence emerging from Mafia trials and accounts of Mafia witnesses.

opening the field to deeper and more cogent levels of analysis. Before presenting these theories, it is worth taking a brief look at the chief outcomes reached by sociology on the subject.

### **1.3 The Mafia as an enterprise and other interpretations provided by sociologists**

If, broadly speaking, anthropologists have for a long time tended to interpret the Mafia *solely* as a form of behavior, the sociologist approach has demonstrated the tendency to interpret it primarily as a criminal “enterprise.”<sup>80</sup> The approach of analyzing the Mafia – and, in general, criminal organizations – as an enterprise was born in the United States, where the debate saw two opposing arguments come face to face: the criminal organization as an “alien conspiracy,” that is, as a completely foreign force of which American society was victim; or as an “American way of life,” according to which interpretation the responsibility was assigned to certain degenerative diseases of American capitalism.<sup>81</sup>

The most influential sociological interpretation that developed over the course of the 1980s was that put forward by Pino Arlacchi, according to whom the Mafia enterprise sprung from the encounter between Mafia and entrepreneurship that occurred in the 1970s when a “traditional Mafia,” based upon competition for honor and power, was replaced by an “entrepreneurial Mafia” in which competition for wealth gave rise to a new type of *mafioso* similar to the entrepreneur-innovator theorized by Schumpeter.<sup>82</sup>

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<sup>80</sup> The most successful were those by Pino Arlacchi and Diego Gambetta which will be briefly analyzed in this section of this paper; other important contributions provided by sociologists or other scholars include R. Sciarrone, *Mafie vecchie, mafie nuove, op. cit.*; and U. Santino, *L'impresa mafiosa. Dall'Italia agli Stati Uniti*, F. Angeli, Milan, 1990. An overview of the interpretations of the Mafia provided by sociologists can be found in U. Santino, *Dalla mafia alle mafie: scienze sociali e crimine organizzato*, Rubbettino, Soveria Mannelli, 2006, pp.15-122.

<sup>81</sup> For the “alien conspiracy” theory see D. Cressey, *Theft of the Nation. The Structure and Operation of Organized Crime in America*, Harper & Row, New York, 1969; for the theory of the “American way of life” see D. Bell, “Crime as American Way of Life,” in *The Antioch Review*, no. 13, June 1953, reprinted in D. Bell, *The End of Ideology: On the Exhaustion of Political Ideas in the Fifties*, Harvard University Press, Cambridge, Mass., 1988, pp. 127-150. The criticism of the alien conspiracy theory provided by C. Dwight Smith, A. Block, W. Chambliss, F. Ianni and E. Reuss Ianni is analyzed in U. Santino, G. La Fiura, *L'impresa mafiosa. Dall'Italia agli Stati Uniti*, F. Angeli, Milan, 1990, pp. 36 and following, and pp. 546 and following.

<sup>82</sup> P. Arlacchi, *La mafia imprenditrice. L'etica mafiosa e lo spirito del capitalismo*, Il Mulino, Bologna, 1983, p. 109; see also P. Arlacchi, N. Dalla Chiesa, *La palude e la città. Si può sconfiggere la Mafia*, Mondadori, Milan, 1987, pp. 195-204.

Already by the mid-1970s, the traditionally parasitical face of the Mafia's actions in the economic field had lost its importance in favor of a qualitative leap towards an aggressive entrepreneurial presence, which operated in the direction of an expansion and not as an impediment to market forces.<sup>83</sup>

These new *mafiosi* managed their companies with violent methods and created economy by reconverting illegal capital on the legal market – a theory that its very author somehow overturned some years later when he defined the Mafia as “one of the most important obstacles to Italian economic development.”<sup>84</sup>

These theories are not without their critics, among which it is worth noting that made by historian Salvatore Lupo:

The clientelistic structure of the Mafia *cosca*, which is required to carry out a continual redistribution of funds among its ravenous members and which involves an endless fragmentation of corporate structures with a view to concealing their activities, hardly seems to resemble the rational and vertical structure of the capitalist corporation.<sup>85</sup>

Lupo also put up for discussion the conceptual opposition between the traditional and “modern” Mafia pointing out that in the past competition for honor was not in reality based upon “challenges and combat” as Arlacchi maintains, but rather upon betrayal; and that the subject of the Mafia as an organization is not tackled by Arlacchi, or is otherwise done so in a misleading and superficial manner.<sup>86</sup>

The sociologist Diego Gambetta has defined the Mafia as “an industry that produces, promotes and sells protection.”<sup>87</sup> The lack of “public” trust is, according to Gambetta, at the base of the origin of the phenomenon, which was born at the dissolution of feudal bonds and consequent control by the barons over the management of violence, thereby leaving space for new industries of private protection to spring up. The foundations for this particular type of industry were already present by the time Italy was unified in 1860–1861. Gambetta maintains that Spanish rule was responsible for introducing the public “skepticism” at the base of this

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<sup>83</sup> P. Arlacchi, *La mafia imprenditrice*, *op. cit.*, p. 125.

<sup>84</sup> P. Arlacchi, *I costi economici della grande criminalità*, in *Confesercenti. L'impresa mafiosa entra nel mercato*, F. Angeli, Milan, 1985, p. 29.

<sup>85</sup> See S. Lupo, *History of the Mafia*, Columbia University Press, New York, 2009.

<sup>86</sup> See S. Lupo, *Storia della mafia*, *op. cit.*, pp. 21-23 and p. 211. See also R. Catanzaro, “Mafia come impresa?” in Various Authors, *L'Italia estrema*, IV, Rome, 1992, pp. 37-43; and U. Santino, in *Dalla mafia alle mafie*, *op. cit.*, p. 17.

<sup>87</sup> D. Gambetta, *La mafia siciliana*, *op. cit.*, p. VII. Somewhat inspired by Gambetta's approach are the more recent studies by Federico Varese which investigate the expansion of the Mafia in the global market: see F. Varese, *The Russian Mafia. Private Protection in a New Market Economy*, Oxford University Press, Oxford, 2001; *Organized Crime*, Routledge, London & New York, 2010; and *Mafias on the Move. How Organized Crime Conquers New Territories*, Princeton University Press, Princeton, New Jersey, 2011.

particular type of industry to Italy's South, highlighting the fact that an endemic violence is present today in other former Spanish colonies, such as the Philippines.<sup>88</sup> However, it has been noted that the "endemic violence" of which Gambetta speaks is not the same thing as the Mafia and that Spanish rule had no such lingering effects in other areas of its empire such as the Netherlands, Lombardy or Spain itself.<sup>89</sup> According to Gambetta, the Mafia offers a real service; its special "protection" would make it much more convenient to negotiate with than fight; rather than being a centralized organization, it is a group of distinct enterprises operating in the seat of protection under the same brand and selling the same service. The task of the commission is "laying down the rules of recruitment, reputation, proprietary rights, and stabilizing the legitimacy of the utilization of the Mafia 'brand.'"<sup>90</sup> The Mafia would therefore be no different from other industries operating in the realm of private protection and the only one to hold this type of "license;" the primary market for its service would be in unstable transactions in which faith is fragile or absent; finally, the need for protection would characterize not only legal industries but also illegal ones:

Illicit holdings are vulnerable to legal seizure as well as to theft; proprietary rights cannot be founded upon written documents and are generally defined in uncertain terms ... Theft, fraud, bankruptcy, insolvency, distrust and controversy... are much more common in the illegal market than the legal; consequently, there is not only a greater demand for protection, but this is also particularly difficult to guarantee. There is no need to say that a fatal attraction drives the Mafia towards such markets.<sup>91</sup>

The main critics of this theory refer above all to the protection/extortion framework. It has been noted that, for the most part, the cases of protection and extortion overlap. As Salvatore Lupo wrote,

The *Mafia d'ordine* (order-keeping Mafia) always presupposes a disorder that needs to be organized and kept firmly under control, whether during post-Risorgimento Sicily or during the more recent process of criminal escalation. It is therefore, to a considerable degree, the Mafia itself that helps to create the widespread sense of insecurity on which it battens and which it exploits. Thus, it is reasonable to say that its sole function is a self-determined one, given that ordinary criminals constitute the base from which the *cosche* (Mafia families) recruit their members. Frequently, the threat is amplified, or even created *ex novo*, in order to ensure that the insurance

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<sup>88</sup> Cited by S. Lupo in *Storia della mafia, op. cit.*, p. 44; Gambetta supports this thesis in both *La Mafia, op. cit.*, and "La protezione mafiosa," in *Polis*, Il Mulino, Bologna, August 1994, pp. 302-303.

<sup>89</sup> S. Lupo, *Storia della mafia, op. cit.*, p. 44 (cited in footnote). Lupo also underlines that Sicily was not a colony "but one of the reigns of the Aragonese, which at the end of the XV century came under the Castile dynasty maintaining its status, orders, and its influence upon imperial policies" (*Ibid.*).

<sup>90</sup> D. Gambetta, *La mafia siciliana, op. cit.*, pp. 344 and following.

<sup>91</sup> D. Gambetta, *La mafia siciliana, op. cit.*, p. 319.

policy is purchased.<sup>92</sup>

Umberto Santino criticized Gambetta for exchanging real extortion with the offer of protection. According to Santino, the advantages of Mafia “protection” derive from the fact the *mafiosi* “hold a certain power as they are part of the bloc of power,” and therefore the Mafia could in many cases represent an access channel to that bloc of power.<sup>93</sup>

Alongside the works of Arlacchi and Gambetta, those of Italian and foreign social scientists such as Catanzaro, Sciarrone, Chubb, Ferrarotti and others also warrant mentioning.<sup>94</sup> One work that stands out for originality is that of Colajanni. His analysis merges a discreditation of the policies of Italian governments spanning national unification to the moment in which he wrote (the very early years of the twentieth century) with some interesting sociological aspects. The Mafia is not a criminal organization, but the spirit of the Mafia could give rise to clans, brotherhoods or social delinquency. The most significant sociological implications refer to the role played by politics and institutions (“the government”) in relation to society (“the citizens”) and the interaction between politics and society in the regeneration and reinforcement of the Mafia, in dual associative and cultural forms:

To fight and destroy the king of the Mafia is necessary; it is essential that the Italian government ceases to be the *king of the Mafia!*<sup>95</sup>

According to Catanzaro, two criteria define a Mafia enterprise: the type of activity produced by the business (illegal), and the methods used in terms of economic competition (violent or with the threat of violence). Sciarrone instead highlights the excessive polarization in the culturalist/organizational continuum, which may have negatively influenced the interpretation of the phenomenon due to its failure to pair the concept of a criminal organization together

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<sup>92</sup> S. Lupo, *Storia della mafia, op. cit.*, p. 24.

<sup>93</sup> See U. Santino, *Dalla mafia alle mafie, op. cit.*, p. 37 and p. 43; and *La mafia interpretata: dilemmi, stereotipi, paradigmi*, Rubbettino, Soveria Mannelli, 1995, pp. 64-5. A similar criticism can be found in M. Marmo, “Le ragioni della mafia: due recenti letture,” in *Quaderni storici*, no. 88, Il Mulino, Bologna, April 1995, pp. 195-211; and R. Catanzaro, “Recenti studi sulla Mafia,” in *Polis*, Il Mulino, Bologna, 1993, p. 2.

<sup>94</sup> F. Ferrarotti, *Rapporto sulla Mafia: da costume locale a problema dello sviluppo nazionale*, Liguori, Naples, 1978; Chubb’s essay *Patronage, Power and Poverty in Southern Italy. A Tale of Two Cities*, (Cambridge University Press, Cambridge, 1982) examines the system of patronage in the two most important southern Italian cities, Palermo and Naples. It is also worth mentioning the works by E.G. Parini, *Mafia, politica e società civile. Due casi in Calabria*, Rubbettino, Soveria Mannelli, 1999; E. Fantò, *L’impresa a partecipazione mafiosa. Economia legale ed economia criminale*, Edizioni Dedalo, Bari, 1999; and F. Armao, *Il sistema Mafia. Dall’economia-mondo al dominio locale*, Bollati Boringhieri, Turin, 2000.

<sup>95</sup> N. Colajanni, *Nel regno della Mafia. La Sicilia dai Borboni ai Sabaudi*, Ila Palma, Palermo, 1971, p. 110.

with social roots.<sup>96</sup> In his analysis, the Mafia is a

(...) *multidimensional* phenomenon ... a *network of criminal organizations* whose activity is directed at those who belong to it for the attainment of *gain, security and reputation* ... a phenomenon of local society, embedded in a precise territorial context where it reproduces itself and from where it essentially spreads across the employment of social capital available in the network of relationships of single *mafiosi* and from where their ability to informally build, manage and mobilize networks and resources related to different environments and institutions is derived ... Its configuration could be associated, in the first place, with a particular form of an *industry of private protection* ... a secret society whose particular form of organization comprises two dimensions combined in variable ways in time and space; that of *organization of territory control*, from which it derives its power and political effect, and that of an *organization of illicit traffic*, which is characterized as an enterprise that straddles both illegal and legal markets.<sup>97</sup>

The idea of an industry of private protection – the limits of which have been already highlighted – is now paired with the recognition of the existence of a secret organization. The most interesting aspect of Sciarrone’s theory, which as we will see becomes particularly useful for the purposes of this research, is that of *mafiosi* social capital (according to Sciarrone, the strength of the Mafia lies in its external relations – that is, its social capital – and therefore, in order to defeat it, it is necessary to cut down such system of relationships by striking at its “mechanism of reproduction”).<sup>98</sup>

The positions that we have analyzed in this section in some ways reflect the main legislative interpretations of the Mafia and criminal organizations that have developed in Italy and the United States. The Organized Crime Control Act, introduced in the US in 1970, in fact established that Mafia enterprises are those obtained with illegal or partly illegal foundations and those used in an illegal manner, while the Italian legislation introduced in 1982, and based upon the American model, also considers as *mafiose* those enterprises managed or controlled by *mafiosi*, those whose activities consist of laundering, and those that use violent methods to affirm themselves in the market.<sup>99</sup>

A recent report published by Confesercenti (one of the leading Italian business organizations and a point of reference for all companies operating in the country) may seem to support this theory of the Mafia as an enterprise: according to the report, in 2007 the “Mafia

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<sup>96</sup> See R. Catanzaro, *Il delitto come impresa. Storia sociale della Mafia*, Liviana, Padova, 1989, pp. 250 and following.

<sup>97</sup> *Ibid.*, pp. 22 and following. (Italics are in the original text).

<sup>98</sup> *Ibid.*, p. 298. See also R. Sciarrone, *Alleanze nell'ombra. Mafie ed economie locali in Sicilia e nel Mezzogiorno*, Donzelli Editore, Rome, 2010.

<sup>99</sup> Pub. L. 91-452, 84 Stat. 922 Oct. 15, 1970, and Art. 416-*bis* of the Italian penal code. For an exhaustive critical analysis of these laws, see U. Santino, *Dalla mafia alle mafie, op. cit.*, pp. 20-21.

S.p.a.” – an expression that indicates the estimated turnover of the four main Mafia gangs operating in Italy, namely the Sicilian, Calabrian and Pugliese mafias, and the Camorra of Naples – would be the leading company in the country in terms of revenue with an estimated profit of €90 billion per year.<sup>100</sup>

The success of the cultural interpretations and those offered by the sociologists – a success not always commensurate with the scientific outcomes reached – to a certain extent explains the difficulty encountered by historians in making their voices heard, particularly in relation to their primary problem: how to historicize the phenomenon by demonstrating continuity and disruption from its all-too-neglected origins.

## 1.4 Mafia and politics: Pantaleone

The subject of the relations between Mafia and politics is the primary subject of Michele Pantaleone’s analysis. A writer, journalist and politician raised from youth in Villalba in the center of Sicily where the most important presence was that of noted *mafioso* Don Calogero Vizzini, Pantaleone focused on the rural context of the Mafia in his work entitled *Mafia and Politics*.<sup>101</sup> In its evolution from the feudal to the modern state, the Mafia was always more consistently characterized as complicit with political power, predominantly exchanging votes in return for protection and impunity. It is important to keep in mind the period in which Pantaleone wrote; it was a few years after the Second World War and, after a short interlude during which the Separatist option remained the *mafioso* favorite, beginning with the 1948 elections a bond developed between criminal groups and new political parties, in particular the Christian Democracy. The Mafia was evolving, both in terms of its economic activities and methods of violence. *Mafiosi* began to move away from traditional activities related to agriculture and sulfur industries in order to align themselves with new ones such as construction and drug trafficking. This consequently moved the center of the Mafia economy towards the cities, particularly Palermo. In addition to the geographical shift, old methods of violence – almost exclusively based on the *lupara*, the Sicilian two-barreled gun symbol of *mafioso* power for so many years – were replaced with new ones inspired by American-style gangsters. This was also the period in which, after a decade of silence, Cosa Nostra was again

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<sup>100</sup> See “La Mafia? E’ la prima azienda italiana. Per Sos impresa 90 mld di utili l’anno,” in *la Repubblica*, 22/10/2007. For a criticism of such expression see S. Lupo, Savatteri G., *Potere criminale, op. cit.*, pp. 8-9.

<sup>101</sup> M. Pantaleone, *Mafia e politica*, Einaudi, Turin, 1976.

in the headlines due to an internal war fought between 1962 and 1963 and interrupted by a bomb explosion in Ciaculli, a suburb of Palermo, which killed seven police officers and provoked a reaction from the State that led to the establishment of the first Parliamentary Antimafia Commission of the Italian Republic.<sup>102</sup>

Pantaleone identifies the Mafia's origins with feudalism and grand estates:

The Mafia was born in the area typical of feudalism, at the heart of the island. This area, even to this day, can be identified: it consists of the inland of the provinces of Palermo, Trapani, and Agrigento, and is bound towards the east by the borders of the provinces of Caltanissetta and Enna ... And because it was characterized in common with consecutive dominations – that of considering the island as a colony – and sought out as a single focus of the massive exploitation of ground resources, it happened that the various civilization stopped, we would like to say 'cloistered' themselves in the big towns along the coast, and neglected the inland, regarded as an enormous barn, upon which they rapidly descended to plunder the harvest. Already at the time of the Phoenicians, and then under the Greeks, Carthaginians and Romans, the lands were divided into grand estates and assigned to the occupiers or esteemed locals, who pledged a tithes in kind and provided for the requirements of cultivation exclusively through the use of slave labor, bound or imported from other parts ... who were compelled to remain at the bottom for the entire year.<sup>103</sup>

If establishing the “how” and “where” of the birth of the Mafia is feasible, it is much more difficult to establish the “when:”

(...) we cannot however indicate a date ... rather it is possible, much more usefully, to follow the development of the phenomenon, composed of a continual adaptation to economic-social situations mainly resulting in the complete maintenance of its own function, which has always been that of using violence for the conservation of the interests of the landlords.<sup>104</sup>

The origins of the Mafia could therefore be explained through the interaction between the “total deficiency of public power” and the consequent “absolute domination held by private lords” who used guardians and watchmen to defend their feudal privileges:

The guardians and watchmen were always chosen from among those individuals whose criminal and bloody past guaranteed that they were up to the task. These people, organized into bodies of private guards, were gradually delegated, virtually, all of the unlimited power of their master, and it is easy to see how they exercised it.<sup>105</sup>

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<sup>102</sup> From a judicial perspective, the response of the State led to two trials that both ended in 1969. One was held in Bari, the other in Catanzaro, in which, substantially, *mafiosi* were all acquitted due to lack of evidence. See S. Lupo, *History of the Mafia, op. cit.*, pp. 229-230.

<sup>103</sup> *Ibid.*, pp. 7-8.

<sup>104</sup> *Ibid.*, p. 10.

<sup>105</sup> *Ibid.*

Between the end of the nineteenth century and the beginning of the twentieth, with the gradual transformation of the ruling class from ancient nobles to middle-class landowners, an additional evolution began that delivered to the Mafia “a veritable industry of violence.”<sup>106</sup> An examination of this includes the brilliant insight into the trans-class character of the Mafia by Leopoldo Franchetti (to whom we owe the definition of “thugs of the middle class”<sup>107</sup>), which relied on a middle class ready to exploit the additional possibility of swindles and corruption favored by the institutions and bureaucracy of the new Kingdom of Italy. The concept of the *borghesia mafiosa* – the Mafia middle class of bureaucrats, politicians, professionals and businessmen – was introduced by Umberto Santino and will be examined in subsequent pages.

The relationship between Mafia and politics is essentially framed by Pantaleone as a dynamic of exchange: the tenant was also a purveyor of votes who consented to

(...) control the town councils of the surrounding area, and above all become the vote-collector for the candidate of ‘his’ constituency ... The *mafioso* therefore gets close to his ‘political friends in high places,’ with the most skillful and active of politicians in the government majority, for whom he procures votes and connections in the ‘constituency.’<sup>108</sup>

An evolution of the radius of Mafia actions coincided with the consolidation of the new institutions of the Kingdom of Italy and spread forth beyond Sicilian confines. Immediately after the Second World War, the Mafia's rapport with politics entered a new phase of development following the autonomy granted to Sicily and the consequent beginning of new forms of corruption and clientelism that grew from *mafioso* support given to the electoral list of the Christian Democracy party from the 1948 elections onwards.<sup>109</sup> Although in a different historical context, the Christian Democracy, as the ruling class that had preceded it, used the Mafia in view of the retention and reinforcement of its power (specifically, by making an alliance with the Church and right-wing conservative forces). Pantaleone also puts attention onto politically motivated murder, rare before Fascism but frequently used after the war as a common means of fighting opponents (in the decade between 1945 and 1955, this type of

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<sup>106</sup> *Ibid.*

<sup>107</sup> L. Franchetti, *Condizioni politiche e amministrative della Sicilia*, Donzelli Editore, Rome, 2011, pp. 101-103.

<sup>108</sup> M. Pantaleone, *Mafia e politica*, *op. cit.*, p. 17.

<sup>109</sup> Pantaleone detects a few exceptions to this general pattern, such as the fact that, on occasion of the 1952 elections, a few *mafiosi* supported liberal or monarchist candidates (*op. cit.*, p. 205). Quite important also seems the fact that Pantaleone, politically committed to the Communist Party, acknowledges that initially some politicians and executives of the Christian Democracy tried, unsuccessfully, to resist Mafia penetration (*op. cit.*, p. 200).

murder remained substantially unpunished):<sup>110</sup>

The fact that a series of left-wing unionist are progressively backed by politicians even from the ranks of the Christian Democracy, and most importantly, the fact that assassination has become a means to stop political rivals, should alarm all parties and above all the government, because that which the Mafia does today against left-wing parties and its opponents inside the Christian Democracy, tomorrow it will certainly try to do against any other party or group.<sup>111</sup>

Pantaleone was among the very first to re-propose the theme of the Mafia to public opinion at a point (the 1950s) during which the press was silent about it, and also the first to realize the importance of the subject of this type of attitude of the media towards organized crime, defined by Pantaleone as a political *omertà*, also fundamental to understanding more recent developments. In the 1950s and early 1960s, the press was still the basic medium of conveying information to the public, and it was known that the *mafiosi* feared it more than the law (although the limits of the ways the media reported on the Mafia are quite well identified by Pantaleone):

The daily papers compete to describe the methods used by the Mafia for its crimes and murders, the vivid and colorful aspects, without giving a hint of the links between the Mafia and political power, giving instead significance to denial and to the objections that turn up on behalf of the parliamentary majority and the government every time some newspaper or politician from the opposition gives a sign. This negative aspect of the press in terms of setting moral standards ... explains a political *omertà* that supports and justifies the Mafia as well as the silence – often exchanged for *omertà* – of the victims.<sup>112</sup>

Ultimately, Pantaleone's interpretation, albeit of a journalistic approach, is one of many that, resting its attention on the relations between certain criminals and politicians, contextualizes the Mafia in the range of power blocs with which it has historically interacted and puts the emphasis on how economic and political forces use *mafiosi* in order to conserve their "privileges and prerogatives."<sup>113</sup>

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<sup>110</sup> M. Pantaleone, *Mafia e politica*, op. cit., pp. 207-211.

<sup>111</sup> *Ibid*, p. 213.

<sup>112</sup> *Ibid*, p. 236.

<sup>113</sup> *Ibid*, p. 242.

## 1.5 The Mafia as judicial order

In the interpretation of Sicilian jurist Santi Romano, the Mafia is one of many orders that organized groups give themselves and that, according to the circumstances, can be declared illicit due to being in conflict with that of the State, or otherwise adjusted in accordance with the State so as not to remain detrimental to it. Romano notes a particular analogy between the sovereignty of the Mafia and that of the State: fiscal withdrawal, legitimacy founded upon consent and repression, monopoly over the use of violence, maintenance of social order, procurement of security and protection, and power to issue sentences and carry them out:

It is noted that, under the threat of State law and in the shadow of State order, associations often live whose organization, it could be said, is somewhat similar in miniature to that of the State: they have legislative and executive authority; tribunals that resolve controversy and deal out punishment; agents that relentlessly implement punishment; and elaborate and precise statutes like those of State law. They however carry out their own orders, like the State and legitimate institutions.<sup>114</sup>

Approximately a decade later, the magistrate Falcone followed the same line of thought, defining the Mafia as “a society, an organization, in its own way juridical.”<sup>115</sup> Both Pezzino and Gambetta have made objections to this type of approach, offering up for discussion the independence and the extraneousness of the Mafia in relation to the Italian State from the moment of its formation.<sup>116</sup>

Finally, the interpretation of the Mafia as a judicial order at the same time in antithesis and superimposed over those of the State relates back to the theme of the lack of State justice upon which Sicilian writer Leonardo Sciascia insisted.<sup>117</sup> Sciascia centered his analysis around the concept of a State understood as “Power” that crushes a State understood as “Justice:” unable to guarantee true justice to its citizens, the Italian State is (sarcastically) considered as the very first victim of the Mafia in a framework in which Sicily is the best metaphor for understanding the system of power that developed in Italy from national unification in 1860-1. As we see, this type of analysis shifts the attention onto *another* form of power: the State.

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<sup>114</sup> S. Romano, *L'ordinamento giuridico*, Sansoni, Florence, 1945, p. 101.

<sup>115</sup> G. Falcone, M. Padovani, *Cose di Cosa nostra*, Rizzoli, Milan, 1991, p. 37.

<sup>116</sup> See P. Pezzino, *Una certa reciprocità di favori*, *op. cit.*, and D. Gambetta, *La mafia siciliana: un'industria della protezione privata*, Einaudi, Turin, 1992.

<sup>117</sup> Amongst Sciascia's literary production see *Il giorno della civetta*, Einaudi, Turin, 1968; *La corda pazzo*, Einaudi, Turin, 1970; *Il contesto*, Einaudi, Turin, 1971; *La Sicilia come metafora*, Mondadori, Milan, 1989.

## 1.6 The “complexity” of the Mafia

The interpretation of the Mafia as judicial order brings us back to what Umberto Santino wrote on the political subjectivity of Mafia. Such subjectivity is made explicit in two ways:

1. Being a criminal association, the Mafia is a power and political group in the sense defined by Weber since it presents the fundamental characters of such groups: a) a set of orders; b) a territorial dimension; c) physical coercion; d) an administrative apparatus able to guarantee the observation of the norm and put physical coercion into action.
2. As a criminal association, together with the social bloc of which it is part, the Mafia constitutes a greater system of power and is a source of political production in a complex sense, as it determines – or contributes to the determining of – decisions and choices regarding the management of power and the distribution of resources.<sup>118</sup>

It is possible to configure a particular type of criminal territorial dominion effective at the point in which its functions succeed in substituting those of the State. Santino distinguishes between *stereotypes* (ideas not supported by any scientific ground) and *paradigms* (hypotheses verified through research). There are two main paradigms: the “judicial,” which considers the Mafia as criminal organization with distinctive traits; and the “socio-economical,” which considers it as an enterprise.<sup>119</sup> Santino's analysis revolves around that which he defines as the “paradigm of complexity,” introduced precisely in order to analyze the phenomenon in its various facets. He thus reconciles the criminal organization with the system of relations within which it operates – considering the Mafia as industry, institution, organization and behavior at the same time – as well as the results reached by researchers of different approaches since isolating even one of these approaches would block our ability to grasp the “complexity” of the Mafia.<sup>120</sup>

According to Santino, Mafia culture, if on the one hand is founded upon contempt of the State, on the other attempts to colonize it in order to achieve a share of power and extort protection from it. The Mafia aspires to constant contact with politicians, State bureaucrats and government officials, putting itself in a position of substantial conflict only when the State is represented by officials who effectively fight it, and who, as a consequence, must even fight against a system of corruption and (seemingly often deliberate) inefficiency that delegitimizes,

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<sup>118</sup> U. Santino, *Dalla mafia alle mafie*, op. cit., p. 276.

<sup>119</sup> *Ibid.*, p. 243-244.

<sup>120</sup> *Ibid.*, p. 245.

discredits, and, in certain cases, is the precursor of their assassination. In order to become part of the power system, the Mafia needs its middle class, a concept that we have seen introduced by Franchetti in 1876<sup>121</sup> and which was confirmed by the Antimafia Commission instituted in 1963. Lawyers, notaries, accountants, doctors, engineers, journalists, university professors, deans, principals, managers, officials, industrialists, merchants, magistrates, and even theater directors and poets in relations with the Mafia form the social bloc of the *borghesia mafiosa*.<sup>122</sup>

The crime typology of “collusion with Mafia associations” in law was introduced by Falcone to confer criminal responsibility upon this type of relationship, whereas the concept of the *borghesia mafiosa* is developed by Umberto Santino to denote

1. The role of private violence and illegality in the processes of accumulation and formation of relationships of domination and subordination;
2. The relationship system within which groups of organized crime move, and without which they couldn't operate or maintain the role that they have had and continue to have.<sup>123</sup>

In the past few years such a concept has been brought up again by magistrates at the coalface of such conflicts, such as Roberto Scarpinato and Piero Grasso.<sup>124</sup>

A Mafia that enters the political arena – with homicides or bloodshed that constitute an intervention in the political framework, contributing to the formation of institutional representation and the control or influence over the institutions – would, according to Santino, be set beside politics that produce Mafia.<sup>125</sup>

The concept of the *borghesia mafiosa* is one that not all scholars are in agreement with, and it has been criticized for example by Paolo Pezzino for enlarging the field of study too greatly:

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An excessive enlargement of the concept of Mafia, to the extent of including entire social classes within it, seems

<sup>121</sup> L. Franchetti, *Condizioni politiche e amministrative della Sicilia*, op. cit., pp. 101-103.

<sup>122</sup> Commissione Parlamentare Antimafia, *Relazione di minoranza*, (rapporteurs Pio La Torre and others), VI Legislatura, doc. XXII, n. 2, Camera dei deputati, Roma, 1976.

<sup>123</sup> U. Santino, *Dalla mafia alle mafie*, op. cit., p. 248; see also U. Santino, *Borghesia mafiosa. Materiali per un percorso di analisi*, Centro Impastato, Palermo, 1994.

<sup>124</sup> See the introductory report by Roberto Scarpinato to the convention of Magistratura Democratica *Mafia e potere*, which took place in Palermo on February 18 and 19, 2005, whose transcripts have been published in the volume L. Pepino, M. Nebiolo (eds), *Mafia e potere*, Edizioni Gruppo Abele, Turin, 2006; see also the conclusions of the report by the Antimafia National Chief Prosecutor Piero Grasso presented in January 2006 and reported by the newspaper *la Repubblica*, 13/1/2006, p.17.

<sup>125</sup> See U. Santino, *Dalla mafia alle mafie*, op. cit., pp. 278-279. In his *La mafia politica*, (Baldini & Castoldi, Milan, 1993), lawyer, politician, and university professor Alfredo Galasso supports the thesis that the Mafia and politics dissolve into each other, and has claimed the existence of a certain way of doing politics that “generates” Mafia.

to me to be without foundation: if the concept of Mafia that also includes the *borghesia mafiosa* is valid, then nothing remains but hope in a future, though for now undefined, general social and political change that expels the *borghesia mafiosa* from the halls of power. If, vice versa, the Mafia is solely Cosa Nostra, that is the military organization of men who take an oath of fealty in order to be admitted, then the whole repressive apparatus will have to be strengthened, even with new tools of financial investigation, in the attempt to strike one of the two poles, undoubtedly the weaker, of that *factum sceleris* between Mafia and legitimate powers that *have* permission at the beginning to assert themselves.<sup>126</sup>

Santino has responded to these criticisms by pointing out that:

To say, therefore, that in order to remain well-grounded it is necessary to speak only and uniquely of Cosa Nostra and that speaking instead of a *borghesia mafiosa* would mean rejecting any opposing hypothesis indefinitely seems to me a way of simplifying a clear and complex phenomenon, reducing it to false concreteness. Moreover, such a position implies submitting the work of social scientists to that of magistrates.<sup>127</sup>

His self-defense seems perfectly understandable, as we can agree that,

(...) the analysis that utilizes the concept of *borghesia mafiosa* does not exclude the criminal dimension, but tries to insert the criminal association – without however diluting it – within its complex framework of social relationships. This is, at the very end, precisely that which the critics of this approach expel through the door but allow to re-enter through the window.<sup>128</sup>

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<sup>126</sup> G. Pezzino, *I Grandi Vecchi*, in *l'Unità*, 30/1/1995.

<sup>127</sup> U. Santino, *Dalla mafia alle mafie*, *op. cit.*, p. 256.

<sup>128</sup> *Ibid.*, p. 254.

## 1.7 Towards the historicization of the Mafia: The issues of origin and periodization

According to historian Antonino Criscione, the historiographical debate does not seem to have always satisfied the various demands for knowledge that arose around the themes of relations between the Mafia and political racketeering, and of those between the Mafia, social classes, and the cultural system.<sup>129</sup> In general, the debate has sparked two approaches, within which all the others can somehow find their place and whose main difference is the very definition of the Mafia itself. The first approach, which answers to historians such as Salvatore Lupo and Gian Paolo Pezzino, considers the Mafia as a criminal organization that, depending upon different moments and contexts, can intertwine, to a greater or a lesser extent, with politics; the second approach, instead, mainly put forward by Giuseppe Carlo Marino and Nicola Tranfaglia, considers the relationship of the Mafia with politics as organic: rather than organized crime, the Mafia is a power system that generates the criminal organization and has reproduced itself throughout the centuries up until the present day. The only element that seems to reconcile these two families is the refusal of purely “culturalist” interpretations of the Mafia.

The first historical studies were conducted between the end of the 1950s and the beginning of the 1960s, corresponding with a moment in which the Mafia returned to center stage in the newspapers following an internal war so blatant that, as we know, it had the effect of forcing the Italian parliament to establish its Antimafia Commission in 1963. After a subsequent static phase during which the majority of research was undertaken by foreign scholars and predominantly characterized as socio-anthropological in nature, a new generation of historians resumed research from the beginning of the 1980s. This too was a period that coincided with the re-emergence of violence,<sup>130</sup> and we can therefore identify a pattern in which the literature on the subject tends to swell as it focuses on the increase in violence that

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<sup>129</sup> Such criticism can be found in A. Criscione, “Mafia: Percorsi di conoscenza. Da presunto residuo feudale a effetto perverso della modernizzazione” in *La Balena Bianca*, Year IV, No. 7, La Balena Bianca, Milan, July 1993, <https://www.peacelink.it/sociale/a/26955.html> (accessed 15/7/2015).

<sup>130</sup> Mafia violence between the late 1970s and early 1980s was both internal and external, i.e., directed towards other *mafiosi* as well as people outside the organization including politicians, judges, prosecutors, and journalists. The cause of the internal violence was the so-called “Second Mafia War,” which rather than a “war” was a “coup” within Cosa Nostra by the Corleone group (see Lupo, *Storia della mafia*, *op. cit.*, pp. 237-256). Concerning the external violence see, amongst the many titles available, A. Stille, *Nella terra degli infedeli*, Garzanti, Milan, 2007; and S. Lodato, *Trent'anni di Mafia*, *op. cit.*

brings the Mafia to national attention as it becomes a problem of public order – in other words, an “emergency.”<sup>131</sup> This research notably enriched the production of historiographical material,<sup>132</sup> the most important works published in the 1980s being those of Lupo, Renda and Marino, whose reconstructions embraced the phenomenon in terms of its entire evolution as opposed to other works published in the same period that instead focused on specific moments.<sup>133</sup> Another fundamental aspect to note is that Mafia literature from the 1950s and 1960s was characterized by its basis upon limited sources drawn from the late nineteenth and early twentieth centuries, while the works that followed from the 1980s were orientated towards a renewal of existing standards and directions of research.

Recent historiographical debate has therefore seen a growing incentive to redefine the terms of the problem. A broader approach to the historical analysis of the *Mezzogiorno d'Italia* (Italy's South) would no longer understand the “Southern Question”<sup>134</sup> in terms of the development required, but rather as the history of the various ways in which this underdevelopment has manifested at different local areas. A new historiographical approach has consequently focused the majority of attention on both published and unpublished sources, accumulated over more than a century (and particularly during moments of Mafia “emergency”), providing a more consistent comparison with those methodologies, themes,

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<sup>131</sup> The Schneiders offer a documentation of the character of the antimafia emergency in their *Reversible Destiny*, *op. cit.*, pp. 160-192.

<sup>132</sup> A review of historical studies can be found in U. Santino, *Dalla mafia alle mafie*, *op. cit.*, pp. 113-166; and in R. Spampinato, *Per una Storia della mafia. Interpretazioni e questioni controverse*, in M. Aymard, G. Giarrizzo, *La Sicilia*. vol. 5, Einaudi, Turin, 1997, pp. 881-902. The essays on the Mafia, or with reference to it, collected in the aforementioned volume are: A. Recupero, *La Sicilia all'opposizione*; S. Lupo, *L'utopia totalitaria del fascismo (1918–42)*; R. Mangiameli, *La regione in guerra 1943–50*; P. Pezzino, *Stato violenza società. Nascita e sviluppo del paradigma mafioso*. Dedicated to the Mafia is edition 7-8 of *Meridiana*, (September–December 1989) with essays by S. Lupo, R. Mangiameli, G. Raffaele and P. Pezzino. A. Crisantino offers a technical summary in his *Capire la Mafia*, La Luna, Palermo, 1995.

<sup>133</sup> See S. Lupo, *Storia della mafia*, *op. cit.*; F. Renda, *Storia della mafia*, *op. cit.*; G.C. Marino, *Storia della mafia*, *op. cit.*; see also the more recent work by J. Dickie, *Cosa Nostra, A History of the Sicilian Mafia*, Hodder & Stoughton, London, 2004. The following works should also be mentioned: O. Barrese, G. D'Agostino, *La guerra dei sette anni. Dossier sul bandito Giuliano*, Rubbettino, Soveria Mannelli, 1997; U. Santino, *La democrazia bloccata. La strage di Portella della Ginestra e l'emarginazione delle sinistre*, Rubbettino, Soveria Mannelli, 1997; G. Casarrubea, *Portella della Ginestra, Microstoria di una strage di Stato*, F. Angeli, Milan, 1997; “*Fra' Diavolo*” e il governo nero. “*Doppio Stato*” e stragi nella Sicilia del dopoguerra, F. Angeli, Milan, 1998; *Salvatore Giuliano. Morte di un capobanda e dei suoi luogotenenti*, F. Angeli, Milan, 2001; *Storia segreta della Sicilia. Dallo sbarco alleato a Portella della Ginestra*, Bompiani, Milan, 2005; Various Authors, *Portella della Ginestra 50 anni dopo (1947–1997)*, conference proceedings, edited by Pietro Manali (Sciascia, Calatanisetta–Rome, 1999) with two volumes of documents: 1999, 2001; A. La Bella, R. Mearolo, *Portella della Ginestra. La strage che ha cambiato l'Italia*, Teti, Milan, 2003; V. Vasile, *Salvatore Giuliano bandito a stelle e a strisce*, Baldini Castoldi Dalai, Milan 2004. On the 1940s see: N. Tranfaglia, *Come nasce la Repubblica*, *op. cit.*; N. Tranfaglia, *Mafia politica, affari. 1943–2008*, Laterza, Rome-Bari, 2008.

<sup>134</sup> On this topic, for an anthropological approach, see: J. Schneider, *Italy's Southern Question: Orientalism in One Country*, Bloomsbury Academic, London, 1998. For a historical-political approach see A. Gramsci, *The Southern Question*, Guernica, Toronto–Buffalo, 2005.

and study and research results drawn from the social sciences.<sup>135</sup>

### 1.7.1 The origins

Studies on the origins are complicated by the scarcity of sources and the one-sided nature of those available: the Mafia has never issued membership cards or kept any register; in short, at least until recently, nothing written that could facilitate the work of historians. The results produced by research until now can nevertheless be used to understand some essential aspects of this criminal phenomenon, the substance of which is still manifest today, though in different forms.

The most important works on the origins are those of Benedetto Croce, Ernesto Pontieri and, more recently, Orazio Cancila, Giovanni Tessitore, Umberto Santino and Piero Bevilacqua.<sup>136</sup> Croce demonstrated the different effects provoked by Spanish domination in Italy, and in particular between Sicily and the rest of Italy's South. After 1647, the viceroy of Naples managed to terminate the relationships between the outlaws and barons, and the eighteenth century in Naples was a century without brigands. However, such relations remained in Sicily as well as in other parts of the kingdom. Croce also highlighted that while the Inquisition was an ecclesiastical tribunal presided over by a central authority throughout the rest of the Italian peninsula, in Sicily it became an instrument of power in the hands of the powerful.<sup>137</sup>

Pontieri focused upon the administration of justice in Sicily during the Spanish domination, in which the institutionalization of the biennial office of magistrates in the High Court and consistory, particularly during the reign of Philip II, and their effects provided fertile ground for the phenomenon. According to such a system, at the end of office the magistrates took on the role of lawyer for at least a year – a profession that made them financially dependent upon the aristocracy, which was the class most capable of providing

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<sup>135</sup> The historiographical tradition that presented the issue of the South as lacking in development was born at the end of the nineteenth century, within the context of the crisis of conservative liberalism, by the work of scholars and historians such as Franchetti, Sonnino, Villari and Fortunato, and was carried out in the early decades of the twentieth century by scholars of a different approach such as Salvemini, Sturzo, Gramsci and Dorso. The approach that, instead, focused attention and analysis upon the real conditions and processes of the slow and difficult transformation in the South was brought forward by scholars such as Barone, Cafagna, Donzelli, Bevilacqua, Placanica, Aymard, Giarrizzo, Masella and Salvemini.

<sup>136</sup> P. Bevilacqua, *La mafia e la Spagna*, in *Meridiana*, no. 13, Viella, Rome, 1992.

<sup>137</sup> B. Croce, *Storia del Regno di Napoli*, Laterza, Bari, 1966, p. 132 and p. 106.

them, and the tribunals in general, with work:

(...) as for the magistrates, it was clear – and no one was outraged – that they were subservient to the barons, whose proximity was worth more to them than the high regard in which they may have been held by the viceroy: and they justified it with the argument that the viceroys would pass, while the barons would have always been close to them and were ready to defend their privileges no matter what. To appease the barons, however, the magistrates weren't scrupulous in complying with all circumstances, or even in adapting themselves to the law, in such a way that in every trial in which the protagonist was an ordinary and powerful citizen the latter was compelled to demand to be tried by a judge different from the one he considered 'suspect'; within the sheaves of paper at the Palermo State Archives, there are numerous instances of this kind.<sup>138</sup>

Cancila's work instead was chiefly based on the study of ten letters sent to Charles V by Antonio Montalto, fiscal lawyer of the tribune of the Royal High Court. These letters are perhaps the most important documents in examining the public order and administration of justice in sixteenth-century Sicily. Cancila identifies the origin of the Mafia in the activities of the political-criminal circuit that developed in Sicily around the time of the Holy Inquisition, an argument that is not without its critics.<sup>139</sup> His principal objects of study were the various let and sub-let systems of land and the administration of justice in the feudal system; in particular, he observes how the tenant, while renting land, also obtained civil and criminal justice previously administered by the estate owner, and maintains that this contributed to the explanation for Mafia impunity. Moreover, such a system ceded the excise duty and monopoly to the barons under a sub-contract, and it is therefore possible to assert that already during the period of Spanish domination there was a "control of tenders" still today typical of the Mafia.<sup>140</sup>

Tessitore unites the historical perspective with a technical-legal view, identifying the formation of a clientelistic mentality that he describes as "pre-Mafia" in the shortcomings of official justice and deterioration of bureaucracy, also due to the role played by the Holy Office. The administration of justice and the corruption of the institutions are considered fundamental in the formation of the Mafia.<sup>141</sup>

Umberto Santino has spoken of the "pre-Mafia phenomena" in reference to those aspects typical of the Mafia already in existence before the centralization of power by the modern administrative State and its claim on the monopoly of violence. These phenomena

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<sup>138</sup> E. Pontieri, *Il tramonto del baronaggio siciliano*, Sansoni, Florence, 1943, p. 37.

<sup>139</sup> The most interesting is that by G. C. Marino, *Storia della mafia, op. cit.*, p. 20.

<sup>140</sup> O. Cancila, *Così andavano le cose nel secolo sedicesimo*, Sellerio, Palermo, 1984, pp. 174 and following.

<sup>141</sup> G. Tessitore, *Il nome e la cosa, quando la mafia ancora non si chiamava Mafia*, F. Angeli, Milan, 2007, pp. 41-56.

include those outlaws serving the aristocracy to whom impunity was assured when they revealed themselves as useful to those in power; the crimes of the clergy; the asymmetries of a judicial system spread through different courts (ecclesiastical, State, and feudal); the privatization of public function; and the consequent criminalization of the law.<sup>142</sup> To determine the passage from the pre-Mafia phenomena – documentable in the preceding centuries from at least the modern age – to the Mafia, would entail the movement from the feudal order to the administrative, with the subsequent centralization of administration and claim upon the monopoly of violence.<sup>143</sup>

In more recent times, English scholar John Dickie has published a work on the origin of three main criminal groups that sprung from southern Italy and developed throughout the peninsula: the Sicilian Mafia, the Neapolitan Camorra and the Calabrian 'Ndrangheta.<sup>144</sup> According to Dickie, whose interpretations are similar to those of Salvatore Lupo, the Sicilian Mafia, like the Camorra (the difference between the two being the greater political roots of the first), emerged as a consequence of the unification of Italy: after a period of incubation, its beginning coincided with the centralization of State functions, during which the Sicilian “rebels” were too politically divided to order themselves.<sup>145</sup> However, Dickie seems to underestimate the instrumental character of the revolutions and uprisings that took place in Sicily during the nineteenth century and beforehand. According to another historiographical perspective that we will shortly examine, these uprisings were instrumental in maintaining the power of the Sicilian leading classes and conformed with the tendency of the Sicilian aristocracy to represent itself in opposition to the State in order to safeguard its own privileges.<sup>146</sup> In this regard, we should also mention the contribution of British Marxist historian Eric Hobsbawm, who has framed the theory that the Mafia’s origins can be traced back to certain archaic forms of rebellion typical to southern Italian society whose common characteristics would indeed be those of opposition and not acting, conservatively, in defense of land properties (an aspect rendered even more peculiar by the historian’s Marxist background).<sup>147</sup>

Broadly speaking, as will become more evident in the following pages, it appears that the historians who apply a more extensive meaning to the Mafia and portray it as an organic

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<sup>142</sup> U. Santino, *La cosa e il nome. Materiali per lo studio dei fenomeni premafiosi*, Rubbettino, Soveria Mannelli, 2000.

<sup>143</sup> *Ibid.*

<sup>144</sup> J. Dickie, *Blood Brotherhoods. The rise of the Italian Mafias*, Hodder & Stoughton, London, 2011.

<sup>145</sup> *Ibid.*, in particular pp. 85-87.

<sup>146</sup> See G. C. Marino, *Storia della mafia, op. cit.*, pp. 18–30.

<sup>147</sup> See *Primitive Rebels. Studies in Archaic Forms of Social Movement in the 19<sup>th</sup> and 20<sup>th</sup> Centuries*, University of Manchester at The University Press, Manchester, 1959

part of a power system tend to position the origins in the modern age, or at least before the unification of Italy; those who, instead, restrict the interpretation and favor a study of the Mafia as simply a criminal organization, tend to position the Mafia's origins in the contemporary age (during the process of the formation of the unified Italian State, or immediately preceding or following it). American criminologist Edwin H. Sutherland has fanned the flames of the first approach, drawing attention to the crimes committed by those belonging to the leading classes and seeking to overcome the stereotype – constantly fuelled by the media and taken on by some scholars – of criminals drawn from the inferior classes. Although Sutherland's analysis refers to the United States, it may also prove useful to the research and analysis conducted in this work by shifting the center of attention to the crimes committed by incumbents of power.<sup>148</sup>

### 1.7.2 The first attempts to historicize the Mafia: Romano and Renda

Salvatore Francesco Romano made the first attempt to develop a true and proper historical reconstruction of the Mafia. Romano published his *History of the Mafia*<sup>149</sup> in 1963, precisely when Cosa Nostra was making itself known again after a decade's silence through the events of its internal war of 1962–1963.<sup>150</sup> Romano interprets the Mafia as linked to political power established with the advent of the unified Italian State. He identified its incubation and development phase in the period immediately following the birth of the State, considering the bandits in the service of lords active in the Sicilian feudal system as the antecedents of *mafioso* criminal groups.<sup>151</sup> The origins coincide with the rapid and progressive transference of units of power from the landed aristocracy to a newly emerging middle class of landowners in processes of historical change that slowly developed from the disintegration of the feudal system in 1812. An element of fracture occurred following the Second World War with the

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<sup>148</sup> See E.H. Sutherland, *White-Collar Crime*, Yale University Press, New Haven–London, 1983 (Italian translation: *Il Crimine dei colletti bianchi*, Giuffrè, Milan, 1987), in particular pp. 49 and following, and p. 187.

<sup>149</sup> S. F. Romano, *Storia della mafia*, *op. cit.*

<sup>150</sup> Which, therefore, follows our previously identified pattern of Mafia literature being produced in moments of Mafia emergency. For a historical re-enactment of the 1962–3 so-called “First Mafia War” see S. Lupo, *Storia della mafia*, *op. cit.*, pp. 229–230.

<sup>151</sup> On the origins of the Mafia see O. Cancila, *Così andavano le cose nel sedicesimo secolo*, Sellerio, Palermo, 1984; G. Fiume, *Le bande armate in Sicilia (1819–1849). Violenza e organizzazione del potere*, Facoltà di lettere, Palermo 1984; U. Santino, *La cosa e il nome*, *op. cit.* A. Crisantino, *Della segreta e operosa associazione. Una setta all'origine della Mafia*, Sellerio, Palermo, 2000; F. Renda, *Storia della Sicilia dal 1860 al 1970*, Sellerio, Palermo, 1987 (see in particular pp. 197–207 of the first volume, and the first chapter of the third volume).

end of the phase of the agrarian Mafia and its replacement by a new gangster-style criminal organization developed along the lines of the American model of organized crime.

The most interesting aspect of Romano's interpretation is the role of the Mafia inside the political sphere. Thanks to the extension of political and administrative suffrage and the conquest of local authorities owing alliances at the national government level, from the 1950s onwards the Mafia progressively legitimized and legalized its power:

The Mafia is in contemporary society a particular group of power used by political, economic and social forces that want to maintain their authority or intend to achieve it, even with extralegal means; [a] group of power that tends to confuse itself, and at times identify, with some of these forces and with certain groups of them.<sup>152</sup>

With a certain forward thinking for his time, Romano intuited that the dimension of the phenomenon was not merely regional but destined to spread throughout Italy:

No longer restricted solely to Sicily, Mafia groups now extend throughout the whole of Italy: not so much for the extreme violence exhibited by a certain gangster-style Mafia, which by now operates openly no longer solely in Palermo or Naples, as much as for the fact of having become, through a constantly expanding system of relations and connections, not an exceptional pathological phenomenon of the rule of law, but rather the organic, parasitic, infrastructural form of expansion of the leading classes.<sup>153</sup>

Romano's theory was the first attempt to historicize the Mafia, going beyond the culturalist approach to open the road to completely diverse sources and methods.

The historian Francesco Renda also acknowledged that the relationship with politics conferred upon the Mafia its connotation, underscored by a necessary danger, of confusing the history of the Mafia with the general history of Sicily.<sup>154</sup> Renda accepts the theory of the Mafia as an illegal industry of private protection even if, regarding the positions of this type seen previously, the objective is larger in scope and includes relationships of tolerance and collusion with society as a whole – and in particular those with the ruling classes – as identifying marks of the phenomenon. More than a “protective” Mafia, such a relationship in fact denotes a “protected” Mafia. The origins should be sought in correspondence with the *Risorgimento*, the process that led to the unification of Italy, following a long period of incubation. The seizure and consequent division of Jesuit assets that followed their expulsion in 1768, and the suppression of the archbishopric of Monreale in 1775 and the consequent

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<sup>152</sup> S. F. Romano, *Storia della mafia, op. cit.*, p. 330.

<sup>153</sup> *Ibid.*, p. 330 and following.

<sup>154</sup> F. Renda, *Storia della mafia, op. cit.*, p. 318.

marketing of its assets, determined the “ambiguous mediations and protections, both financial and of mutual exchange of means, goods, and services” at the base of *mafioso* power, while the peasant revolts of 1820 and 1860 induced the Sicilian leading classes to make larger use of the Mafia in order to maintain their own interests.<sup>155</sup>

It is difficult not to agree with the conclusion that the Mafia’s interest in political power is of a “parasitic” type, as politics is considered useful by the Mafia as far as it is understood as a bureaucratic “machine” to exploit and not as plan.<sup>156</sup> It would be desirable, however, to suggest an interpretation linked to the subject of the Mafia’s territorial lordship and its system of relations and speak of a parasitic, Mafia-type approach to politics that is established every time the State surrenders a share of its sovereignty in favor of criminal organizations.

### 1.7.3 “Dangerous Classes” and “Integral Historicism”

A recent, original contribution to the study of the origins of the Mafia is that provided by Francesco Benigno, who suggests an approach based on an “integral historicism,” that is, one based on the use of the conception of crime most widespread during the 19<sup>th</sup> century. Such conception – which began in England and mostly in France in the period between the Restoration and the Paris Commune and found its first theorization in Honorè-Antoine Frègier’s book *Des classes dangereuses de la population dans les grandes villes, et des moyens de les rendre meilleures* published in 1840 – looked at criminals as members of “dangerous classes.”<sup>157</sup> This approach allows to avoid the danger of looking at 19<sup>th</sup>-century organized crime through the lens of the forms in which it took shape in the following century and to put it back into the context of both canons of interpretation now completely disappeared, and of an historical-political dimension characterized by widespread practices of using crime for the purposes of political struggle.

Regarding the former of the two aspects, i.e. the way of looking at organized crime in the 19<sup>th</sup> century, between the 1820s and the 1870s, in a context in which the popular culture spread by media such as literature and theatre shaped the collective imagination on crime in both its meanings of common criminality and more articulated forms of organized criminality,

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<sup>155</sup> *Ibid.*, pp. 37-90.

<sup>156</sup> See S. Lupo, *Storia della mafia, op. cit.*, p. 270.

<sup>157</sup> See F. Benigno, *La mala setta. Alle origini di mafia e camorra 1859-1878*, Einaudi, Turin, 2015, pp. XVII-XVIII.

crime and its perception seem to be indissolubly bounded, “a sort of fantastic screen on which are projected the social fears and the cultural anxieties of an entire society.”<sup>158</sup> Using the model of “dangerous classes,” however, is an operation that must be accomplished abandoning Louis Chevalier’s belief that “literature, and more generally the French novelist of the first half of the 19<sup>th</sup> century, can fill the frustrating gap between quantitative information and the knowledge on life, attitudes, and culture of those popular groups that, using an expression that recalls Gramsci, Chevalier defines as subordinate classes,” as presented by the French author in his 1958 book on the dangerous classes in the France of the 19<sup>th</sup> century.<sup>159</sup> It is, instead, necessary to identify what specific danger the “dangerous classes” were the bearers of, which, rather than whatever sort of imaginable attack on private property such as theft or a possible action aimed at the rise to power of the workers’ movement, consists of the “fear of a possible plebeian onset.”<sup>160</sup> Concerning the latter of the two aspects, i.e. the contextualization of criminality in its different forms within the political framework of the 19<sup>th</sup> century, Benigno identifies a sort of “French model” soon adopted under the Alps by the Bourbons first and by the Italian kingdom after national unification, in which

Besides spying and undercovering systems, as well as those aimed at provoking political rivals, it appeared fundamental the manipulative action carried out by the police apparatuses towards a public opinion which, it was believed, had to be carefully kept under strict control and surveilled even by monitoring personal correspondence. To such an activity were, in France, committed the infamous *cabinet noir* and the *ballons d’essai*.<sup>161</sup>

One such model reached its climax coinciding with the years immediately following the Paris Commune, which was a “catalyst” even for “the discourse and the practices that had as their object phenomena such the *Mafia* and the *Camorra*,” that is, the way in which Italy began to look at organized crime.<sup>162</sup> Benigno highlights how the first prefects sent to the southern Italian regions by the newly born Italian State had as their principal task that of gathering public consensus towards the government run by the coalition of the *Historical Right* and of favoring the establishment and the acceptance of the new institutions. In order to reach such goals, these prefects used, and so did those officials under them and by them encouraged,

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<sup>158</sup> *Ibid.*, p. VIII e p. X.

<sup>159</sup> *Ibid.*, p. XII; See also L. Chevalier, *Classi lavoratrici e classi pericolose. Parigi nella rivoluzione industriale*, Laterza, Bari, 1976.

<sup>160</sup> *Ibid.*, p. XIII.

<sup>161</sup> *Ibid.* p. XVI.

<sup>162</sup> *Ibid.*, p. XVIII-XIX.

criminals as a sort of *intelligence* system against rivals seen as potentially subversive. These rivals can be identified, from time to time, in those still supporting the old Bourbon regime, clericals, *garibaldini*, and republicans. Towards them, it became common practice to use the same methods previously used by the Bourbons against those seen as threat to the regime, which were the same methods used against criminals: the *ammonizione* (an official warning) and exile. Another common practice was to enlist criminals in the various police bodies in order to better ensure law and order as well as favor their infiltration in rival circles.<sup>163</sup> On the base of this approach, which seems entirely acceptable, Mafia and Camorra can be studied together, since, for at least 20 years after national unification, their ‘political’ function was identical, or, at least, similar.

## 1.8 The Mafia as “method” and *gattopardismo*

Before delving further, an understanding of the concept of “godfatherhood” (*padrinato*) from a historical-anthropological interpretation could be useful to this work in comprehending the duration of the relationship between criminals and politics throughout Sicily’s history. Historian Giuseppe Carlo Marino wrote:

That eminent and ‘respected’ character that one would have said was the godfather was none other than one of the abovementioned trustees or mediators or, better still, the appointed holder of ‘social government’ functions bestowed upon him, for a particular well-defined area, by the entire community of the *signori della roba* [a Sicilian expression describing the emphasis put by such lords on possessing property to the detriment of the rest of the population]. He thus ascended to a social function that he performed in a similar way to an aristocrat of crime; a type of ‘baron’ of criminals. From this the title of ‘don’ was appointed to his Christian name ... However, in any case, to win a coveted position in a clan or even become the head was not enough. Above all, investiture from the *top* was also necessary. This was the only way in which the eminent became completely ‘godfatherly.’ And the mediator of the *signori della roba*, having acquired government titles and functions, began to enjoy a particular type of charisma, beyond description for anybody who wasn’t Sicilian, which was much more intense and fascinating than that corresponding to the strength of a normal Mafia boss. He emanated the odor of dark demons of grand estates, of aristocratic salons strangely mixed with the sweat of toil, adventure and ribaldry; a smell acrid with power and arrogance, both noble and rustic, which for a great deal of Sicilians was the smell.<sup>164</sup>

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<sup>163</sup> *Ibid.*, p. XIX.

<sup>164</sup> G.C. Marino, *I Padrini*, Newton Compton, Rome, 2006, p. 17. A different approach can be found in S. Lupo, *The Two Mafias*, *op. cit.*, pp. 166-167.

From the anthropological point of view, the Mafia in general, and the godfather in particular, “was formed like an element ‘alert’ of the population who had learned the lesson of power well;” his position as boss was “much more acknowledged and unchallenged the greater and more socially rooted the area was in which client interests ... merged, conformed and intertwined.”<sup>165</sup>

Marino interprets the Mafia as a “social phenomenon inseparable from politics,” pairing its background and development with the “tenacious systems of power that have characterized Sicily” to come to the conclusion that “somehow, the history of Sicily’s politics is, in itself, the history of the Mafia.”<sup>166</sup> He identifies the most important aspects of such a system of power which favored the cooptation of organized crime within itself with the scaffolding of the hierarchical pyramid – from plebs to princes – right from the feudal system and in the “particular historical defeat of a ‘State’ sovereignty belonging, almost without interruption for nine centuries, to foreign rulers.”<sup>167</sup> The weakness of State power corresponded with

(...) the tendency of the political class, and in general the local ruling classes, to represent their function in substantial conflict with the State, although continually attempting to exploit it in support of so-called ‘Sicilian interests.’<sup>168</sup>

This is seen as part of a general framework of a systematic avoidance of the State (or institutions, before the modern State affirmed itself) and a system of power that “functioned for centuries like a gigantic machine of oppression upon the popular classes.”<sup>169</sup> In this scenario, Mafia power would have reproduced itself throughout the centuries on the one hand like a mechanism for the maintenance and/or reinforcement of the power of the ruling classes; on the other as a functional tool that, through violence and illegality, gave the opportunity of jumping social strata to those excluded from the management of official powers. In order to perpetuate such a system:

There are various types of antagonists in existence to oppose. Firstly, all the currents and exponents of the authentic social, progressive and democratic forces. Then, the various legal subjects that prove to be decidedly impervious to corruption, wherever they are positioned. Amongst these, the policeman, the ‘pig,’ if incorruptible, even before becoming a real enemy, is one of the most despised opponents. For at least two reasons: because he

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<sup>165</sup> *Ibid.*, pp. 22-23.

<sup>166</sup> G.C. Marino, *Storia della mafia, op. cit.*, pp. 21-22.

<sup>167</sup> *Ibid.*

<sup>168</sup> *Ibid.*

<sup>169</sup> *Ibid.*

is part of the official Law and because, in general, he comes from the poor or at least popular classes. He is, therefore, seen as a servant, similar to those considered infamous such as traitors and spies. Instead, the owners of great wealth and those at the top of the social ladder are considered worthy of respect, if not deserving of admiration. The *mafioso* has always sensed their corruptibility, probable lack of scruples and cynicism; in fact, although they may occasionally be opponents to confront or bribe from time to time, they represent however that condition of strength and social prestige to which the *mafioso*, rising from below, aspires to elevate himself to.<sup>170</sup>

Marino sees the Mafia not just as a criminal organization, but rather as a system of power of a *gattopardesco* type – a term based on the novel *Il Gattopardo* (*The Leopard*) by noted Sicilian author Tomasi di Lampedusa and derived from its now famous phrase “everything changes because nothing changes”<sup>171</sup> – in which the *gattopardo* is metaphor of the hegemony reproduced for centuries by the Sicilian (and subsequently Italian) leading classes.<sup>172</sup> According to his analysis, the Mafia would have always drawn upon its own strength in its extremely useful service offered to politics, with which historically it hasn’t merely enjoyed a rapport based on the simple exchange, but rather an “organic relation.”<sup>173</sup>

Amongst the historians who locate the origins of the Mafia in the modern age and tend to frame the phenomenon in the range of the blocs of power with which it has historically interacted is Nicola Tranfaglia. Tranfaglia has spoken of a “method” common to various criminal organizations developed in Italy based on the use of “private violence in all of its expressions ... as a means of enrichment and social mobility.”<sup>174</sup> He has put forward the thesis that such social and political relations were already present under Spanish rule (1504–1707):

Certainly, the Mafia as ‘thing,’ that is, as a mentality, as an individual behavior and also as a criminal association aimed at the practice of organized violence, was not born in the context of the construction of the national State in Sicily. It existed before 1860, and the events were already well noted.<sup>175</sup>

Tranfaglia examines the administration of justice that characterized the Spanish model. This was based on a “partial and factious” public administration that, being a feud of different parties, was unable to comply with uniform and general rules that were instead “weighed against enemies and not observed for friends.”<sup>176</sup> This thesis has provoked criticisms, the most vocal of which has been that of Piero Bevilacqua. Bevilacqua objected that a Mafia presence

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<sup>170</sup> *Ibid.*

<sup>171</sup> Tomasi di Lampedusa G., *Il gattopardo*, Feltrinelli, Milan, 1958.

<sup>172</sup> See G.C. Marino, *Globalmafia*, Bompiani, Milan, 2011, pp. 19-26.

<sup>173</sup> G. C. Marino, *Storia della mafia, op. cit.*, pp. 1 and 16.

<sup>174</sup> N. Tranfaglia, *La mafia come metodo nell'Italia contemporanea*, Laterza, Rome-Bari, 1991, p. 13.

<sup>175</sup> *Ibid.*, p. 7.

<sup>176</sup> *Ibid.*, p. 23.

comparable to that of western Sicily had not been registered until recent times in Italian territories also under Spanish rule, such as Lombardy or other regions in the South. Moreover, he notes how the Mafia is something very different from “extra-institutional” violence such as that practiced by crooks or the *braveria* – a word describing the criminals serving the lords in feudal societies, who became institutionalized into the police forces – typical of societies of the *ancien régime*.<sup>177</sup> However, the scholar Orazio Cancila has presented an articulate defense of Tranfaglia, supporting Bevilacqua’s argument when it contested historical references to the ‘Ndrangheta and the Camorra, though nevertheless considering the Sicilian case incomparable to the other two regions:

In Sicily, the Spanish government didn’t always – due to numerous and ample privileges enjoyed by the Kingdom of Sicily – manage to impose the same standards that instead applied to Naples or Milan. Spanish rule, it is noted, was not uniform across all the Crown states; each one was legally independent from the other and was ruled by a complex of its own laws, with a government, institutions and currency that the King of Spain was compelled to respect.<sup>178</sup>

Cancila also notes that the centralization policies practiced firstly by Ferdinand the Catholic and subsequently by Philip II, which tended to remove part of the power from the local ruling class, had to be abandoned by their successors due to the worsening of the financial crisis, with the effect of increasing the negotiation power of the Sicilian aristocracy while simultaneously blocking the effort to create a modern central power:

Even in the modern age, Sicily’s borders were bound by the conditions of the center and manipulation of the norm, transforming its isolation and eccentricity by virtue of a major bargaining force at the heart of the system. The Sicilian-Spanish rapport was therefore very different from that of the Neapolitan-Spanish ... The same Spanish rule was enforced in this way, causing different effects in the one or the other kingdoms, precisely because the conditions in which they were under were different.<sup>179</sup>

In reference to the administration of justice, an aspect of which we have seen critically considered by Tranfaglia, Cancila refers to a study conducted by the historian Pontieri<sup>180</sup> which underlined how the anti-feudal aspects of the Sicilian magistracy reform introduced in 1569 by Philip II were partially thwarted by the institutionalization of the biennial office of

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<sup>177</sup> P. Bevilacqua, *La mafia e la Spagna*, in *Meridiana*, no. 13, Viella, Rome, 1992, pp. 105-127. For Tranfaglia’s response to this criticism see *Il Mezzogiorno e le sue “mafie:” una risposta*, in *Meridiana*, no. 15, Viella, Rome, 1992, pp. 269-277.

<sup>178</sup> U. Santino, *Il nome e la cosa*, *op. cit.*, p. 13.

<sup>179</sup> *Ibid.*, p. 14 and p. 17.

<sup>180</sup> E. Pontieri, *Il tramonto del baronaggio siciliano*, *op. cit.*, p. 40.

magistrates of the High Court and consistory,

(...) which at the expiry of the public administration office took on (at least for a year) the office of lawyer, that is a profession that rendered them dependent on the fees of the aristocracy, the class that more than any other generated work for the tribunal and to the lawyers. Since the magistrates were recruited from amongst the lawyers [and paid by the plaintiff] it also happened that now and then they had to judge disputes in which they had previously supported the reasoning of either the defense or the accused.<sup>181</sup>

The Spanish Inquisition further facilitated the collusion between institutions and criminal groups, wielding power in Sicily more so than in other parts of Italy:

In Sicily the situation was different: the Holy Inquisition itself was compelled to admit having protected nobles guilty of homicide, justifying this with the superior interests of the State, other than obviously religious reasons. It is the justification always given by the Italian secret service, the police and even those political forces when, in more recent times, their collusion with criminals has been discovered.<sup>182</sup>

The approach just examined gives a broader meaning to the significance of “Mafia,” which as we have seen would indicate not just organized criminality but also “the influence of lobbies, secret associations, deviant State bureaucracy ... a rapport between politics, industrial and financial groups, and crime; widespread illegality or corruption; a malpractice created from favoritism, clientelism, electoral frauds, unable to apply law in an impartial manner.”<sup>183</sup> It could be reasonably argued that the political power’s practice of using the Mafia in conservative functions created a “political (anti)culture” that considers as normal the rapport with a certain type of crime, as the exploitation of criminal groups has always been aimed at the maintenance and expansion of the hegemony of the classes in power. According to this approach, the modern past projects itself onto the contemporary one across the line of continuity more typical of the Sicilian model of evolution: the “everything changes because nothing changes” of Lampedusa’s *Il Gattopardo*. We will see in subsequent pages how this historiography is contrasted with another that trains the lens upon the events of a criminal organization.

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<sup>181</sup> U. Santino, *Il nome e la cosa*, *op. cit.*, p. 15.

<sup>182</sup> *Ibid.*, pp. 18-19.

<sup>183</sup> S. Lupo in *Storia della mafia*, *op. cit.*, p. 12.

## 1.9 The Mafia as a unitary historical phenomenon

An original contribution is that provided by Enzo Cicone, who has not concentrated his analysis on a single criminal group as all other historians have done<sup>184</sup>, but has considered the major Italian criminal organizations as a unitary block that has characterized Italian history for at least two centuries, manifesting itself in different forms depending on the historic junctures. The different mafias are considered not as a problem of a purely criminal nature, but as a phenomenon that has a social and political dimension, one that affects not just the areas or the regions where these criminal groups originated but Italy's democracy as a whole. The mafias' political dimension derives from the fact that they "infiltrate, influence, and compromise political parties, elect their representatives, or in some case even their affiliates, to the various elected assemblies, from local town councils to the national parliament, and are able to do so because they can rely on a certain consensus and are plugged into the social contexts in which they operate."<sup>185</sup>

A considerable importance is attributed to the origins of the phenomenon, which must be searched for in the first decades of the 19<sup>th</sup> century, when, while all European countries were able to effectively contrast crime, Italy, and the Kingdom of the Two Sicilies in particular, were characterized by an opposite trend for which criminal groups solidified themselves taking organizational forms that were destined to last until the present day, favored by the end of feudalism and "the consequent release of economic and social forces, including those of a criminal nature."<sup>186</sup> The subversion of feudalism, in fact, started a process of land privatization and favored the development of a new middle class that "usurped" the State demesne as well as the lands that used to be property of the Church. Such phenomenon took place not just in Sicily but also in Calabria, where the local middle class, with the only partial exception of the province of Reggio Calabria, was never able to become an entrepreneurial force and transform its possession into modern capitalistic firms. Within this process, the private use of a violence now not anymore disorganized and aimed at defending feudal privileges but organized and with a bourgeoisie dimension, became an opportunity of social mobility for the lower and middle classes. The result was the formation of a criminal elite destined to last for decades, adapting itself to the various historic junctures, taking different

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<sup>184</sup> At least it was so until 2008, when Cicone published his work *Storia Criminale. La resistibile ascesa di mafia, 'ndrangheta e camorra dall'Ottocento ai giorni nostri*, Rubbettino, Soveria Mannelli, 2008.

<sup>185</sup> *Ibid.*, p. 15.

<sup>186</sup> *Ibid.*, p. 31.

organizational forms depending on the region or the area in which operated.<sup>187</sup>

Of particular interest is the analysis of the two principal cultural currents that after Italy's unification have justified, denied, and thus favored the development of the mafias: the *Sicilianism* and Lombroso's theories. The former had the effect of minimizing the Mafia, reducing it to an aspect of Sicilian folklore or mentality; the latter has attributed the birth of this criminal phenomenon to a supposed congenital inferiority of southern Italian people, thus nullifying the importance of any analysis of a historico-political and socio-economic type.<sup>188</sup>

One crucial moment in the evolution of the Mafia is identified in the period of Fascist repression, which failed because of its cultural and social premises: the former, by recognizing the existence of a "good Mafia", left a door open to those Mafiosi willing to collaborate with the regime; the latter are attributable to the attitude of the government towards the landowners, who were all left immune from prosecution in spite of their complicities with criminals.<sup>189</sup> After the Second World War, the experience of Separatism, and the Portella della Ginestra massacre (seen as the rupture of a continuity since, from that moment on, "the flow of Italian history was dramatically interrupted with further bloodsheds at any delicate moment of political transition"<sup>190</sup>), Mafia history had an important quantum leap forward during the 1950s, when the relationships between the criminal groups of the different southern Italian regions intensified considerably and the mafias began to expand both within their regions, progressively moving their activities from the countryside to the cities, and towards northern Italy and abroad.<sup>191</sup> The considerable expansion of Italy's public expenditure that characterized this period and the omitting attitude of Italy's governments towards organized crime favored the expansion of the mafias.<sup>192</sup> A further important quantum leap forward took place in the 1970s due to an escalation of the proximity between Mafia groups and certain Masonic lodges, in particular Licio Gelli's P2.<sup>193</sup> Such links are also crucial in interpreting the bombings and the killings of the 1992–93 biennium, which constitute the last moment of the only significant exception in Mafia history, that of the Corleonese-run Cosa Nostra's frontal on the Italian State, which ended coinciding with the advent to power of Silvio Berlusconi in 1994 that inaugurated the return to a low profile strategy of the Mafia.<sup>194</sup>

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<sup>187</sup> *Ibid.*, pp. 25-43. On the different organizational forms see pp. 113-132.

<sup>188</sup> *Ibid.*, pp. 13-14 e 89-95.

<sup>189</sup> *Ibid.*, pp. 279-280.

<sup>190</sup> *Ibid.*, p. 296.

<sup>191</sup> *Ibid.*, p. 302.

<sup>192</sup> *Ibid.*, pp. 304-312

<sup>193</sup> *Ibid.*, pp. 323-325.

<sup>194</sup> *Ibid.*, pp. 14-15 and 354-360.

## 1.10 The Mafia as criminal organization and disease of modernity

The historian Paolo Pezzino defines the “Mafia paradigm” as:

A set of analyzes, investigations and clichés that have been progressively laid down and stratified over time upon events and significant aspects of Sicilian history, and not always identified or classified with the term ‘Mafia.’<sup>195</sup>

Resuming the various positions that have emerged in the historiographical debate more recently, Pezzino wrote:

We could say that today we confront two approaches: the first predominantly ascribes the development of the Mafia to characters endogenous to Sicilian society; the second focuses on the State, whose evolution has historically realized itself in Italy, as the principal source of illegality.<sup>196</sup>

The first argument is that of self-endorsement. Pezzino in fact interprets the Mafia as

(...) a criminal and delinquent structure – or, rather, a collection of criminal organizations endowed with a particular ‘political’ character – with the ability to root itself in a certain territory, to have substantial economic resources available, and to exercise forms of control upon increasingly greater segments of local society imposed thanks to its military apparatus.<sup>197</sup>

We are at the flipside of the culturalist argument: the Mafia is seen as a formalized and centralized criminal organization linked to politics in a relationship of exchange, and is characterized by the ability to root itself in a certain area through the use of violence and strict forms of social control. Its formative process developed right after the unification of Italy thanks to the networks that arose between bands of outlaws who survived the repression of brigandage. Such networks explain the particular configuration assumed in Sicily through the relationship between State, society and the ruling classes, which gave rise to a welding together of criminal groups, ample social strata, and political power. The aims of this link, continuously maintained over time, are identified in the support offered to certain forms of

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<sup>195</sup> P. Pezzino, *Stato violenza società. Nascita e sviluppo del paradigma mafioso*, in M. Aymard–G. Giarrizzo (eds), *La Sicilia, op. cit.*, p. 906. See also P. Pezzino, *Una certa reciprocità di favori. Mafia e modernizzazione violenta nella Sicilia postunitaria*, F. Angeli, Milan, 1990; and *Mafia: industria della violenza*, La Nuova Italia, Florence, 1995.

<sup>196</sup> P. Pezzino, “Mafia, Stato e società civile nella Sicilia contemporanea: secoli XIX e XX,” in G. Fiandaca, S. Costantino (eds), *La Mafia, Le mafie. Tra vecchie nuovi paradigmi*, Laterza, Rome-Bari, 1994, p. 9.

<sup>197</sup> *Ibid.*, p. 10.

entrepreneurship in the facilitation process of social mobility through crime and illegality, and the collusion between power and wrongdoing. Regarding the social composition of the Mafia, Pezzino puts the attention upon

(...) the violence of popular and lower classes, because historically it introduced an uncontrollable and dangerous element of ‘democracy’ in the use of violence which was progressively realized in real, organized and associative forms.<sup>198</sup>

This violence functioned both in maintaining the privileges of wealthy landlords as well as the affirmation of a medium and rural class and at the rapid enrichment of those from the lower classes who were ready to make use of violence.

Consistent with this type of approach, Salvatore Lupo writes that “it is no longer admissible that general political, economic and cultural history can be disguised as a history of the Mafia,” a position diametrically opposed to that assumed by historians such as Marino presented in the previous section (Lupo displays an open intolerance for the numerous citations of Lampedusa’s *Il Gattopardo* which he criticizes as “crippling rhetorical traps, destined to forever maintain the existing condition”).<sup>199</sup> The secret criminal association coordinated by an organized structure which emerged from the 1960s through the disclosures of turncoats, can, according to the moment, successfully coordinate member activities or move in the opposite direction towards internal conflict and fracture. But, since it’s a criminal organization, must be considered other than in respect to society. As a criminal organization, the Mafia is

(...) formed by – and connected by – informal groups, secret and illegal, that collaborate or even argue between themselves for the management of ‘peripheral’ economic, political, or social areas in which it has been difficult to assert the abstract and general character of the law. Mafia rule is essentially based upon actual or potential intimidation: in short, upon violence but also upon real or presumed consent. The Mafia proposes itself as a pre-State or non-State set of rules; a sort of ‘modern’ improvement of the ancient judicial model in some ways able to be connected to that of feudalism. Not on the rare occasion it happens that the State delegates (strongly? Voluntarily?) a part of its function to Mafia groups with the expectation that they guarantee some sort of order and whose services are valuable to businessmen, politicians, and various groups and parts of society.<sup>200</sup>

According to Lupo, the Mafia demonstrates inter-class characteristics and is a complex

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<sup>198</sup> *Ibid.*, p. 15.

<sup>199</sup> S. Lupo, *Potere criminale*, *op. cit.*, p. 117. S. Lupo, *Storia della mafia*, *op. cit.*, pp. VII and following. For Marino’s response to these criticisms, see G. C. Marino, *Storia della mafia*, *op. cit.*, pp. 5–6.

<sup>200</sup> S. Lupo, *Potere criminale*, *op. cit.*, pp. 165-166. Translated semantically and not literally in order to help the reader better understand.

phenomenon that cannot be enclosed in a single legal formula and which, in order to be studied, needs to be extracted from its network of external relations in such a way that the analysis of academics and the work of magistrates tend to coincide:<sup>201</sup>

In this sense, the intellectual battle, above and beyond the judicial battle that Giovanni Falcone waged was especially important, as was the attempt to extract Cosa Nostra from the networks of its external political and business relations, so as to be able to examine the Mafia itself. This judicial and repressive strategy coincided to a certain degree with the problem facing us scholars, inasmuch as that which cannot be distinguished cannot be fought.<sup>202</sup>

Lupo also points out how Falcone refused to consider the relations between the Mafia and politics according to a hierarchic scheme. The magistrate, in fact, wrote:

If it is true that a fair number of Sicilian politicians have been, to all intents and purposes, adepts of Cosa Nostra, it is also true that within the Mafia as an organization they have never enjoyed particular prestige because of their political origins. In short, Cosa Nostra is so strong, compact, and independent that it can speak and make alliances with whomever it chooses, but never from a subordinate position.<sup>203</sup>

It is worth mentioning Gabriele Centineo's criticism of these positions, which underlines how reconciling judicial and cognitive strategies implies the assumption of "the logic of the State as a criterion for writing history, precisely what any critical analysis should question, or make the object of criticism."<sup>204</sup> This criticism recalls Sciascia's postulate mentioned earlier that the State cannot make justice of its own. A certain contradiction has also been noted between the extraction of the Mafia from its network of relationships and its subsequent replacement within it.<sup>205</sup> Umberto Santino has noted how Falcone did not limit himself to "extracting Cosa Nostra from its network of external relations," but on the contrary elaborated concepts such as that of "contiguity" or "collusion with the Mafia" in order to "legally prosecute those multi-form behaviors of a different kind, intensity and effectiveness that determine the vast area of 'contiguity' with regards to Cosa Nostra" (we owe Falcone, in fact, the formulation of the typology of crime of *concorso esterno in associazione mafiosa*, i.e., collusion with the

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<sup>201</sup> S. Lupo, *Storia della mafia*, op. cit., pp. 18-19, and p. 46. For a criticism of these positions see U. Santino, *Dalla mafia alle mafie*, op. cit., pp. 122-130.

<sup>202</sup> S. Lupo, *Storia della mafia*, op. cit., p. 266.

<sup>203</sup> Lecture by G. Falcone in the summer of 1989 reported in *l'Unità*, 31/5/1992, cited by S. Lupo, *Storia della mafia*, op. cit., p. 266.

<sup>204</sup> See the debate on Lupo's publication published in *Città d'utopia*, no. 9/10, September–December, CLUEB, Catania, 1993, p. 41.

<sup>205</sup> See also U. Santino, *Dalla mafia alle mafie*, op. cit., p. 254.

Mafia).<sup>206</sup> According to Santino,

The entire history that Lupo outlines demonstrates that one constant of the Mafia is its interpenetration with power, which from the formation of the unitary State to today happens in countless modes and different contexts to the extent that it could be considered as a constituent component of the Mafia, since it appears as a strategic project and not as a mere tactical trickery, although recurrent.<sup>207</sup>

The subject of relationships with official power is however present in Lupo's reconstruction, although the relationship between the Mafia and politics is conceptualized as occasional and not organic or constituent of the phenomenon.<sup>208</sup>

The *mafiosi* are involved in business dealings that link them with subjects who neither belong to the Mafia nor could they ever do so: intermediaries, criminals of every kind and every nationality, Turkish or Chinese drug traffickers, bankers. In their role as protectors – a role as we have seen is highly ambiguous – they interact with landowners, entrepreneurs, and shop owners. In their necessary connections with politics and public institutions, they make deals and agreements with notables, professional politicians, policemen, and judges ... The individual *mafiosi* carry on conversations with the outside world, in some cases independently from the Mafia as an organization. This helps us to see, among other things, that the concept of the Mafia as an anti-State is overstated and misleading, and it points us to the theme of the ties linking the Mafia and official power.<sup>209</sup>

Moving further, the Mafia network comprises three types:

First: family clans that utilize the particular compactness of the institution for violent competition and to better maintain secrets in the face of adversaries and the authorities. Second: organizations of a pseudo-Masonic model, i.e., secret societies, usually based on an oath, that operate at the local level and may coordinate their actions. Third: networks of illegal enterprises operating above the local level and sometimes on an international scale, which are fluid depending on the type of business.<sup>210</sup>

A fourth type, composed of those subjects outside the previous three frameworks, would contribute in a decisive manner to the success of the criminal organization and give the Mafia

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<sup>206</sup> *Ibid.*, p. 123; concerning the concepts of “contiguity” and “organic compenetration,” see U. Santino, “Mafia e maxiprocesso: dalla “supplenza” alla crisi della giustizia,” in G. Chinnici, U. Santino, G. La Fiura, U. Adragna, *Gabbie vuote. Processi per omicidio a Palermo dal 1983 al maxiprocesso*, F. Angeli, Milan, 1992, pp. III and following. The quote on the *concorso in associazione mafiosa* is taken from Tribunal of Palermo, Ufficio Istruzione, Judge Giovanni Falcone, *Ordinanza-sentenza contro Abbate Giovanni + 162*, 1987, vol. 2, pp. 429 and following.

<sup>207</sup> U. Santino, *Dalla mafia alle mafie*, *op. cit.*, p. 129.

<sup>208</sup> *Ibid.*

<sup>209</sup> S. Lupo, *Storia della mafia*, *op. cit.*, p. 17.

<sup>210</sup> S. Lupo, *Potere criminale*, *op. cit.*, p. 166.

its connotation as a “disease of power.”<sup>211</sup>

Regarding the problem of origins, Lupo maintains that the term and concept of the Mafia appear only at the end of the period of Italy’s unification and that “*esse est percipi*” (“to be is to be perceived”): one must hence begin the study of the Mafia from here, from the appearance of the term.<sup>212</sup> These positions are not without their critics either: it would be desirable here to suggest how the existence of the concept, or the concept itself, does not imply a term that is defined at the end of its existence (it cannot be maintained, for example, that cancer didn’t exist before it was given a name – of which other disease did millions of cancer victims die before some scholar or form of recognition put the name and concept together and labeled its existence?). The absence of a term of definition for a concept cannot, in short, imply that that concept or that thing doesn’t exist or has never existed, and therefore it can be argued that perception doesn’t necessarily coincide with birth.<sup>213</sup>

Lupo then criticizes the approach of an earlier historiographer, largely put forward by sociologists and anthropologists and in certain cases even by the Antimafia Commission, according to which the Italian South in the nineteenth and twentieth centuries reflected solely a semi-feudal society:

Unfortunately, however, these sources often use an outmoded approach to historiography that describes nineteenth and twentieth-century southern Italy (the Mezzogiorno) as a semi-feudal society. The region is depicted as entirely agrarian and organized according to the *latifundum*, or large landed estate, economically and socially inert and immobile, swept by only a single impulse of reform: the peasant movement. In this context, it seems logical to assume that the Mafia served essentially to ensure the subordination and obedience of the peasants to the ruling classes, even though this function does not appear clearly until the years following the First World War and the Second World War – that is, in certain specific moments of the long story of the Mafia.<sup>214</sup>

Lupo notes how the “modern” did not absolutely contradict the Mafia, as the American and southern Italian cases of more recent periods demonstrate.<sup>215</sup> The Mafia, instead, has never been the residue of a peasant society or the mirror of a traditional society destined to exhaust itself with the arrival of modernity (according to the implication that Mafia equals large estates and small ownership, which equals social progress according to the implications that Mafia would equal *latifondi* – large estates – while small ownership would equate with social progression); its origins must not be searched solely in the Sicilian *latifondi* but, as quite a

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<sup>211</sup> *Ibid.*

<sup>212</sup> S. Lupo, *Storia della mafia, op. cit.*, p. 6.

<sup>213</sup> U. Santino, *Dalla mafia alle mafie, op. cit.*, p. 124.

<sup>214</sup> S. Lupo, *Storia della mafia, op. cit.*, p. 17.

<sup>215</sup> *Ibid.*, p. 17 and p. 19.

number of nineteenth-century sources point out, also in the urban and costal parts of western Sicily, in a socio-economic framework characterized by different productive and social systems as well as circles of power:<sup>216</sup>

Fascinated by rural and ‘primitive’ settings, scholars have often forgotten the island’s ‘capital’ and its urbanized countryside, even though many nineteenth-century sources identified those as the center of the Mafia infection.<sup>217</sup>

That which unites the city and rural Mafia, therefore, is the control over all activities, legal and illegal, exercised through the monopoly of estate duties, the management of public contracts, and extortion rackets. The main elements of fracture in Mafia history can be identified in the enlargement of public expenses, which at the beginning of the 1950s brought a construction boom to Palermo and other Sicilian cities. The development of criminal activities of the end of the 1950s also brought enormous international traffic linked to narcotics, and eventually the return to a phase of cohabiting in the shadow of political power after the escalation of violence in the first years of the 1990s.<sup>218</sup>

This reconstruction clearly gives rise to that which Lupo defines as the “formidable historical continuity” of the Sicilian Mafia,<sup>219</sup> demonstrated by the permanence of family, clan, coordination structure and affiliation rites across time. One needs to ask if, and how, this “formidable historical continuity” could be reconciled with the absence of a *gattopardismo* of Mafia power, and in general if the cutting-off of the criminal organization from its network of relationships were an operation that could go in the other direction to attempt to explain this continuity.

The principal lines of discontinuity in recent history would be the growth of State charitable handouts from postwar years to today, the consequent increase in public expenses, new forms of clientelism linked to the development of mass parties and at the origin of the conquest of local governments, the spread of the Mafia into areas in which it was previously absent and in its movement from the periphery to the center of the political system. The most important of these lines of discontinuity, however, would be the escalation of violence that was carried by the Corleonese clan once it was in control of Cosa Nostra:

(...) the greatest discontinuity in the more than one-hundred-year history of the Sicilian Mafia, which beginning

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<sup>216</sup> In this regard, Lupo cites the work by A. Cutrera, *La mafia e i mafiosi. Saggio di sociologia criminale*, A. Reber, Palermo, 1900, p. 57.

<sup>217</sup> S. Lupo, *Storia della mafia*, op. cit., p. 18.

<sup>218</sup> S. Lupo, *Cos'è la mafia. Sciascia e Andreotti, l'antimafia e la politica*, op. cit., pp. 89-97.

<sup>219</sup> S. Lupo, *Storia della mafia*, op. cit., p. 272.

in 1979 became the protagonist of a ferocious terrorist escalation directed against magistrates, policemen, and honest politicians and corrupt politicians alike. Thus, it broke with its past behavior of prudently blending into the shadows of social and institutional powers, toward which it had previously deemed an attitude of collaboration both advisable and normal, perceiving those institutional powers as unquestionably superior to it. In recent years, this aggressive approach distinguished Cosa Nostra from all other types of criminal organizations, at least those operating in Italy.<sup>220</sup>

Regarding such an exception, Lupo asks if it must consider itself the effect of a weakness of State power or the extreme revelation of Mafia ideology:

Was this perhaps an effect of the fragmentation of the State, which had become a weak network of informal relations that created a vacuum to be filled by a compact clandestine structure? Or was this merely a short-sighted and arrogant decision, at the far extreme within Mafia ideology itself, with which the Mafia ordering finally revealed itself as antagonistic to that of the national State, whereby this underworld finally wound up rendering itself as distinguishable from the overworld, and therefore subject to attack from it?<sup>221</sup>

A reconstruction very similar to Lupo's is that of John Dickie,<sup>222</sup> even though the latter presents a quasi-fictional narrative not comparable to the first, which in contrast does not give the reader the impression that he is reading a history book. Dickie's history seems to be a summary of the most accredited theories in the history of the Mafia: its origins around the 1860s; the Mafia becoming an integral part of the government system in 1876 coinciding with the government switch from the right wing to the left; the birth of the first antimafia movements around the end of the nineteenth century; the Notarbortolo assassination that exposed its collusion with politics; the Fascist repression viewed substantially as a police operation; the peasant movement as the only real opposition to the Mafia in the postwar years; the First Mafia War as a conflict between a group more oriented towards political alliances and another more oriented towards business; the increase in violence in the first years of the 1980s linked to the rise of the Corleonese clan inside Cosa Nostra; and finally a real antimafia response as conducted solely by a virtuous minority of State officials.

The historian Marino has expressed the following judgment of Dickie's work:

The Mafia reasoning of John Dickie's work is not a real history, but rather a striking narrative mix of information already well noted; for which the young and talented author has undertaken to conjure a type of Minerva

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<sup>220</sup> *Ibid.*, p. 41.

<sup>221</sup> *Ibid.*

<sup>222</sup> J. Dickie, *Cosa Nostra. A History of the Sicilian Mafia*, *op. cit.*

springing directly from the brain of Jupiter.<sup>223</sup>

## 1.11 The “third level”

One of the crucial knots surrounding those which have developed the debate, particularly more recently, is that of the possible existence of a “third level” above the criminal organization.<sup>224</sup> In 1993, after the bloodshed that killed Falcone and Borsellino and the Mafia bombings outside of Sicily, the Parliamentary Antimafia Commission report introduced (rather too late) the concept of cohabitation between Mafia and politics, putting “political responsibility” next to “criminal responsibility.”<sup>225</sup> Already in 1982, the magistrates Giovanni Falcone and Giuliano Turone had spoken of a “third level” relating to those homicides in which victims were not members of the criminal organization, such as for example the murder of a politician or a State official of any sort.<sup>226</sup> In following, this expression is often drawn upon together with an alleged politico-financial “Super Commission” – a sort of secret governing entity coordinating or commanding the Mafia – able to decide general strategies including the most important homicides or terrorist actions which represent a method of intervention in the political sphere.

Regarding the hypothesis of a “third level” understood as the political director of a “Grand Conspiracy,” Falcone himself spoke of a form of “intellectual coarseness.”<sup>227</sup> This expansion of the expression “third level” beyond his initial intentions also convinced him to return to the argument and clarify:

‘Third levels’ do not exist above top organizational heads of any kind that influence or determine the direction of Cosa Nostra.<sup>228</sup>

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<sup>223</sup> G. C. Marino, *Storia della mafia, op. cit.*, p. 2.

<sup>224</sup> Recently, journalist Maurizio Torrealta came out with the expression “Fourth Level” to refer to State officials of the highest level who possibly acted as the “fourth level” of *mafioso* power: see M. Torrealta, *Il quarto livello*, BUR, Rizzoli, Milan, 2011.

<sup>225</sup> *Commissione Parlamentare Antimafia, Relazione su Mafia e politica*, Rome, 1993, published in *Mafia e politica*, Laterza, Rome-Bari, 1993.

<sup>226</sup> G. Falcone, G. Turone, “Tecniche di indagine in materia di Mafia,” in *Il Consiglio Superiore della Magistratura*, suppl. no. 2 to no. 3, May–June 1982, Rome, 1983, pp. 38-71, re-published in G. Falcone, *Interventi e proposte (1982–1992)*, Sansoni, Florence, 1994, pp. 221-225.

<sup>227</sup> In G. Falcone, M. Padovani, *Cose di Cosa nostra, op. cit.*, p. 169.

<sup>228</sup> Conference by G. Falcone, reported in *l’Unità*, 31/5/1992, cited by S. Lupo in *Storia della mafia, op. cit.*, p. 266.

In 1993, the Palermo Prosecution Office driven by the magistrate Caselli opened the period of political trials in which the key defendants were politicians accused of collusion with the Mafia, remaining nevertheless anchored to the idea of Cosa Nostra's self-made sovereignty dear to Falcone.

The whole issue of the “third level” has thus translated into the identification of a plot between the Mafia, concealed lobbies, circles of power such as some Freemason lodges more or less secret and unofficial with their corollary of deviated sectors of the State such as branches of the secret services and so on. These plots have been positioned as an object of debate by Tranfaglia, who queried whether they constituted “a coherent political project,” or more simply “tactical alliances, even though frequent.”<sup>229</sup> On this point, as we will see following, some documents studied to compile this work cast an important light upon the subject, giving us the opportunity to respond to this question. For the moment, we can limit ourselves to observing that such frequent tactical alliances, precisely because they are frequent and span quite a long period of time, eventually end up constituting rather than a project (we have already previously seen that when the Mafia is spoken of, the concept of politics as a “Grand Plan” tends to be excluded), a subversive political orientation – which we may define as an “(anti)culture” of criminal politics – directed to maintenance with every means drawn from a dense net of dishonesty and corruption. This, rather than demonstrating the existence of a Grand Conspiracy or Super Commission, offers us a simpler interpretation at the base of which the “third level” would be none other than the product of a strong convergence of interests and of a certain mode – cynical and Machiavellian to the extreme – of conceiving and doing politics for which it is fundamental to understand the historical reasons. In this way, the sovereignty of Cosa Nostra is not put up for discussion and, at the same time, the crucial interests that the *mafiosi* have had for politics – as far as politics is understood as a bureaucratic “machine” and not as a Grand Plan – are maintained stable.<sup>230</sup>

We therefore rejoin the second historiographical approach according to which the organic relationship with political power explains the formidability of the historical continuity of the Mafia. The whole history of the Sicilian Mafia could, in fact, be interpreted not only as the history of a certain type of criminal organization, but also – and perhaps primarily – as that of a power system which has historically used, nourished, and in various measures legitimized this type of crime, thus creating a political (sub)culture that considers the relationship with it normal, unavoidable, and necessary. Marino summarizes this historiographical approach quite

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<sup>229</sup> N. Tranfaglia, *La Mafia*, *op. cit.*, p. 102.

<sup>230</sup> S. Lupo, *Storia della mafia*, *op. cit.*, p. 269.

well:

With a reasonable procedure to verify clues through facts, it is possible to cast light upon the courses through which a phenomenon undoubtedly of a criminal nature has been utilized by politics for unscrupulous power strategies, sometimes conceived and justified with the deferment of superior requirements by general interests ... We find ourselves, in other words, before a very complex criminal phenomenon that it is an integral part of a system of power. And it is of central importance to understand how such a system was formed and reproduced itself in history. It does not seem that other roads exist to distance ourselves from the Babel of judgments and interpretative models produced over the years by the so-called 'Mafiology'.<sup>231</sup>

In conclusion, the historiography on the Mafia, upon which this chapter has focused after having aired a "culturalist" interpretation of the phenomenon, can be perceived as poor in titles (in a qualitative sense), rather paradoxically if one considers the enormous mass of publications on the theme, and for its division in two main lines of thought: one that considers the Mafia only as a criminal organization, and the other that instead considers it as a power system which throughout history has constantly generated the criminal organization. It is thus the relationship with politics that divides the two interpretive lines of thought: occasional – or however not decisive – in one; "constitutive" of the phenomenon in the other.

It can be concluded that the reason underlying the existence of two families of historiography on the Mafia is the different response to the question with which we introduced this essay: *What is the Mafia?* That is, the very definition of the object of study. And it is clear upon departure from different presuppositions that the results are also different.

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<sup>231</sup> G.C. Marino, *Storia della mafia, op. cit.*, p. 17.

## Chapter 2

### Methodology and source criticism

#### 2.1 Reconsidering Occam's razor

In order to explain how and why the Mafia changed from 1989 to 2006 and provide a more credible interpretation of the facts that took place in Sicily and in Italy in 1992-1993, when Mafia violence reached its highest peak in history, this research paper has endeavored to piece together fragments from the different types of documents usually studied by historians approaching this subject: police, government, or parliamentary reports; judiciary sentences; and books and newspapers.

The first important consideration concerns the main problems that afflict the study of the Mafia, which have been characterized by a disdain for the philology and disinterest in critiquing the sources, the latter particularly important in our case given the overabundance of available sources for the study of Mafia-related facts of recent years.<sup>232</sup> It has been seen in the previous chapter how features at the basis of a decent part of the historiographical literature on the Mafia have been based for a long time upon nineteenth-century and early twentieth-century publications, and how the considerable impact of socio-anthropological research, while having contributed greatly to the subject, has also led to erroneous or partially misleading conceptualizations that have been held up until disproved by evidence of facts and, to a certain degree, have stifled other types of approach and interpretation because of their success.<sup>233</sup> To this, we must add that if it is true that during the past three decades we have understood more about the Mafia, it is equally true that this considerable amount of new

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<sup>232</sup> See S. Lupo, *Potere criminale*, *op. cit.*, p. 44 and p. 145. Practical classifications of how sources have been used in history can be found in G. De Luna, *La passione e la ragione. Il mestiere dello storico contemporaneo*, Mondadori, Milan, 2004; and M. Maniaci, "Fonti storiche. Tipologie e problemi di utilizzazione," in *Dizionario di Storia*, Treccani, <http://www.treccani.it/> 2010. An interesting general criticism of the achievements of Mafia historiography is that of A. Criscione, "Mafia: Percorsi di conoscenza. Da presunto residuo feudale a effetto perverso della modernizzazione," in *La Balena Bianca*, Year IV, No. 7, La Balena Bianca, Milan, July 1993, see: <https://www.peacelink.it/sociale/a/26955.html> (accessed 15/7/2015). According to Criscione, it can be agreed that, despite the brilliance of some of its accomplishments, the contribution provided by historiography has not always been at the height of the structural importance of the subject, particularly from the perspective of the rapport between Mafia, politics and business; and Mafia, social classes and the cultural system.

<sup>233</sup> The reference is mainly to the prevalent interpretation provided by anthropologists of the Mafia being merely a form of behavior. For an analysis of these positions, see the previous chapter.

knowledge has not corresponded with an adequate general understanding of the widespread nature of the Mafia.<sup>234</sup>

The great harmony between historians regarding the exceptional continuity of Mafia history has already been emphasized. From a methodological point of view, the inability to recognize this continuity has prevented us from having an atomist vision that would act as an obstacle in detecting aspects of permanence and continuity. It has, however, exposed us to the opposite danger, that of submitting to a monist view of history, thereby rendering it difficult, if not impossible, to admit changes and discontinuities.<sup>235</sup> With regard to this aspect, a clarification seems necessary, although it may appear redundant in light of what we have already described in the previous chapter, as it gives us the opportunity to reply to a possible criticism that may be used against our analysis: that of a monolithic vision of the Mafia which fails to detect discontinuities and prevents seeing the many forms in which the Mafia manifests herself. What should be pointed out, as outlined previously, is that amid the interpretations provided by historians it is possible to identify two principal approaches, the difference between the two being primarily the very definition of the Mafia itself. The first approach considers the Mafia as a criminal organization that, depending on the period, the case, the place, or the situation, intertwines with politics and the institutions; the second, to which this analysis reconnects, interprets the relation between the Mafia and politics as “organic:” the *gattopardismo* (the constant repetition of the same substance in ever-changing forms) of *mafioso* power, which lies at the basis of the possible accusation of a monolithic vision, is thus *the* very constituent element of the Mafia. Consequently – if we are allowed to use jurisprudential jargon – the importance of attributing to the *precedent* has translated into a methodology aimed at verifying whether and how the inevitable disruptions of history have resulted functional to the “extraordinary”<sup>236</sup> historical continuity of Mafia history, and whether and how these disruptions have merged and annulled each other within such a continuity. In the specific case of this study, this has meant verifying if even the discontinuities that characterize Mafia history from 1989 to 2006 are to be interpreted as functional to what we have defined as the *ecdysis* of *mafioso* power. In short, the best way forward has seemed to be verifying through research the possible presence of those constants

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<sup>234</sup> Concerning the difficulties in analyzing and explaining the Mafia, and the stereotypes provided by the mainstream media, see N. Tranfaglia, *Com'è difficile spiegare la Mafia*, <http://www.nicolatranfaglia.com/blog/2011/08/03/come-difficile-spiegare-la-Mafia> (accessed 8/5/2015).

<sup>235</sup> The two opposing theses, monist and atomist, are critically analyzed in E. Panofsky, *Rinascimento e rinascenza nell'arte occidentale*, Feltrinelli, Milan, 1984, pp. 17-20.

<sup>236</sup> The adjective is used by S. Lupo in his *Storia della mafia*, *op. cit.*, p. 272.

that have unfailingly determined the victory of the Mafia.<sup>237</sup> And, as we have hinted in the introduction, this has implied, at least to a reasonable extent, the transformation of “victory” and “defeat” into historiographical categories.<sup>238</sup>

Another important issue to raise is that, in the reconstruction of facts rather close to us in time, it could be argued – or at least it should be warned – that, since it is necessary to allow a certain period of time to pass before a historian may find it licit to intervene, there may have been, so to speak, the risk of historicizing the news, as the recent opening of a trial on the negotiations between State and Mafia (the so-called “*Trattativa* Trial,” hereafter referred to as the “State-Mafia Trial”) may suggest. There has been, in short, the risk of approaching history in such a way “in which it is rather the past that depends on the present, and not vice versa.”<sup>239</sup> However, one such aspect could fail to be recognized, and this has imposed other considerations upon us. Firstly, as it has been observed, contemporaneity is not a precisely defined period, and by continually varying the rapidity of historiography any history could be considered “contemporaneous”<sup>240</sup> in that it continuously opens new spaces. It is also worth adding that the facts that marked the transition from the First Republic (1948-1993) to the Second (1994-present) should have been metabolized and become part of the collective memory of Italy: to historicize them, therefore, means carrying out an operation that is opportune before being possible, because it allows for the fulfillment of a deficiency which is no longer justifiable. The 1992-1993 biennium represents a crucial moment of transition in Italian history, comparable in its importance to Garibaldi’s expedition in 1860 or to the period from 1943 to the beginning of the First Republic in 1948, with the Allies invasion of Sicily first and of Italy after during the Second World War which started the process that brought to the formation of a new republican state. Under many aspects, the years between 1989 and 1995 recall closely the events that characterize the history of the Mafia between 1943 and 1954. Regarding Mafia violence in the crucial period of 1943-1949, a more credible truth has emerged only more than 50 years after those tragic facts occurred thanks to the work of Nicola Tranfaglia, who researched declassified documents in the US archives and demonstrated that

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<sup>237</sup> Concerning the dangers of falling into an approach that is too rhetorical, see S. Lupo, *Potere criminale*, op. cit., p. 75: “The historian can detect certain things that remain stable, but quite often the only unchanging ‘facta’ is the rhetoric on the subject.”

<sup>238</sup> This approach has become common in public debate and even two of the most accredited Mafia historians of different orientation, Salvatore Lupo and Nicola Tranfaglia, have published books whose titles were *La mafia non ha vinto* (*The Mafia has not won*) and *Perchè la mafia ha vinto* (*Why the Mafia has won*).

<sup>239</sup> G. C. Marino, *Storia della mafia*, op. cit., p. 4.

<sup>240</sup> Concerning the timely of historiography see the preface by L. Zanzi to F. Giannantoni, *Fascismo, guerra e società nella repubblica sociale italiana. Varese 1943–1945*, Franco Angeli Storia, Milan, 1984, p. IV. Concerning the dangers of ‘contemporaneity’ in approaching Mafia history, and in particular the facts object of our study, see G.C. Marino, *Storia della mafia*, op. cit., pp. 1-2.

neo-Fascist groups, on the morning of May 1, 1947, right a few days after left-wing parties had won the Sicilian elections, took part in the attack at Portella della Ginestra in which 11 were murdered and several others wounded as part of a strategy aimed at excluding at any cost the Communist Party from power.<sup>241</sup> Only after more than 50 long years a historical truth that had already been understood and recounted was also *proven* (although several unclear facts remain). Tranfaglia's research, in fact, did not replace but completed the greater part of the preceding reconstructions, which recounted *another* version of history with an "official truth" that immediately appeared to be barely plausible.<sup>242</sup>

Even regarding the events that took place in 1992-93 the official truth was proven false, and is difficult to presume that the same sources which have produced such falsehoods will one day offer us more than the usual Italian lethargy that tends to forget or doze off over the most dramatic facts that involve State complicities or possible State complicities, moreover without – it is presumed – foreign archives with documents to declassify. In the case of this research, the main controversies concern the State-Mafia Trial and the trials for the Via D'Amelio bombing, with a new trial being reopened in 2013 after in 2008 a Mafia turncoat by the name of Gaspare Spatuzza gave evidence against himself of being the one who stole the car used for the explosion, in this way clearing the three false witnesses who had confessed – allegedly because they were forced to do so by some State apparatuses – to being the authors of the theft. Although considered implausible by some magistrates from the very beginning, these revelations were the basis for the previous nine trials of the bombing and were in all probability accepted by public prosecutors in order to cover up the *trattativa*, the State-Mafia deal.

These considerations introduce us to two themes of great importance. One is the risk that the historian who studies the Mafia constantly has to confront of the gap between judiciary and historical truth that often emerges from fragments of sentences or other documents than from sentence verdicts. By its very nature, any historical truth is "permanently oriented towards revision, as it answers to demands that are always new,"<sup>243</sup> and in the history of the Mafia this translates into the problem of the way to approach the constant recurring of an official truth that in almost all cases is systematically omissive and reticent as key

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<sup>241</sup> N. Tranfaglia, *Come nasce la Repubblica. La Mafia, il Vaticano e il neofascismo nei documenti americani e italiani 1943-1947*, op. cit.

<sup>242</sup> How it appeared barely credible is demonstrated by the spread, shortly after the attack, of expressions such as "coup d'état" and "black government," which were introduced by the then-Minister of Public Works and later senator elected from the ranks of the Italian Communist Party, Emilio Sereni, in his *Mezzogiorno all'opposizione* (Turin, Einaudi, 1948, reprinted by Casa del Libro, Reggio Calabria, 1980, p. 17).

<sup>243</sup> See A. Giannuli, *L'abuso pubblico della storia. Come e perchè il potere politico falsifica il passato*, op. cit., p. 132.

documents and witnesses always disappear in mysterious, unclear circumstances. Therefore, it follows a primary fundamental methodological indication of approach to the sources for the historian who studies our subject: in addition to being, in almost the totality of cases, *unilateral* – that is sources *on* the Mafia rather than sources produced *by* the Mafia (on this aspect we shall return in the following pages) – our sources are often partial or unreliable and in many cases contradict each other, or at least may appear to.<sup>244</sup> This methodology does not imply that official documentation should be wholly discarded, but put up for discussion by carefully evaluating sources in the light of all the circumstantial evidence available in order to maintain its topicality. Such attentive criticism of the sources is crucial to approaching a subject in which it is necessary to move through an arena full of hidden dangers without faltering. Precisely because of the historian's inevitable need for documentation (that writers or other intellectuals don't have, or require to a lesser extent), he who intends to recount the history of the Mafia can run the risk – paradoxically, but which admittedly exists – that a talented novelist may better succeed at making the Mafia understood. This would not be the case provided that the historian knew how to critically examine all available sources and probe them efficiently and scientifically, and that he were able to interpret even that which such sources *do not say*, although this may often imply taking a probabilistic approach: the spaces that the sources, inevitably by means of their nature, leave open must be explained, and not omitted by the historian. The best way for a correct understanding of how and why certain facts occurred seems to be putting together the available pieces of the puzzle, knowing that in most cases the puzzle will never be entirely completed.

For such reasons, our problem of approaching the sources is twofold: on the one hand, we have to establish the criteria to decide the reliability of sources or lack thereof (a point we will return to in subsequent pages); on the other, to evaluate whether and how to bridge the gaps left by official documentation. These two problems have intertwined and form the origin of a double risk: that of writing an incomplete history or, worse still, a false one; and that of understanding how events transpired, but being able to document so only partially and only through circumstantial, albeit strong, evidence. It should be now evident how this type of situations end up dilating the interpretative spaces. In order to find a solution to this problem it seems advisable to use the same historiography on the Mafia as a source and an interpretative aid: it is, in fact, beneficial to evaluate how past historians were placed in relation to similar problems and situations and use their methodology to support the argument.

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<sup>244</sup> See G. C. Marino, *Storia della mafia, op. cit.*, p. 3. As we shall see in the following pages of this chapter, from 1989 the unilateralism of Mafia sources ended.

From the methodological point of view, these problems have laid out the choice of whether to proceed or not according to the logic of Occam's razor in which, depending on factors being equal, the simplest explanation is the right one. Such formulation has been used as a methodological justification by those who favor writing the history of the Mafia focusing most – if not all – of the attention on the Mafia's internal dynamics. However, Occam's razor, whereas equal factors translates into not considering important parts of circumstantial evidence for the purpose of historical reconstruction, seems to present the danger of becoming the methodological legitimation at cutting off a crucial part of history. If used in this way, Occam's logic prevents from moving the attention onto the contexts and the real dynamics of *mafioso* power, that is, from the opportunity of placing the reconstruction of facts more critically, and, most importantly, exposes the historian to the danger of flattening historical reconstruction on judiciary evidence which, moreover, in many cases changes with the passing of time and, like said before, produces sources that are often in contradiction with each other. With regard to this aspect, and in the case of our research, it should be considered that denying the presence of instigators or prompters external to Cosa Nostra who ordered the execution of the bombings or oriented the Mafia's decisions, the existence of which the documents have somehow attested although they never surrendered the names to us, on the base of Occam's "equal factors" as it has been done (in essence, not having the Italian State provided the names of the Mafia accomplishes in deciding the 1992-93 attacks would *in itself* prove the non-existence of these accomplishes), appears to be simply a way of manipulating Occam's logic in order to dangerously simplify the analysis in such a way as to explain everything using exclusively the Mafia's internal dynamics. Instead of focusing solely on internal dynamics, it seems preferable to join them with the external ones and at the same time privilege the latter compared to the former because only this method can allow a greater interpretative effort able to not so much *bring to* but *orientate towards* less simplistic and much more believable outcomes. Only in this way it seems possible to use properly Occam's approach without bending facts to interpretations and cutting off an embarrassing amount of circumstantial evidence that demonstrates that the Mafia was part of a greater power system that in 1992-1993 may have manipulated her violence for its purposes:

With a methodology aimed at a reasonable verification of all the circumstantial evidence available through the facts, it is possible to highlight well the ways and the paths through which a criminal phenomenon of an unquestionable criminal nature has been used by politics for purposes of unscrupulous strategies of power.<sup>245</sup>

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<sup>245</sup> See G. C. Marino, *Storia della mafia, op. cit.*, p. 17.

In order to correctly follow this approach, it is necessary to cross-check facts and sources in which the quality of the historian's reasoning helps to bridge the gaps between the former and the latter.<sup>246</sup> In the constant repetition of too great a variance between official truth and that which is understood to be a more *truthful* one, it is therefore necessary to remain anchored to the facts as much as possible, which constitute the "objective documentation" at the base of every validation, as well as interpret the sources not only by what they *say*, but also by what they *assume*:

Nevertheless, there exist concrete acts that, over the course of the years, the Mafia has put in place (usually, its crimes together with the most diverse expressions of its businesses, for which it has not rarely intertwined with political and economic powers – officially not *mafiosi* – on many occasions even institutional ones). Such facts constitute a mass of 'objective documentation' ('*Verum est ipsum factum*,' said the great Giovanbattista Vico) from which, with some dose of good intuition, it is possible to trace and discover abundant quotes of a hidden truth leading to the Mafia's secret plots. In doing so, the historian arduously challenges his profession, with the permanent risk of transforming himself, along the way and almost without noticing, now into a random sociologist, now into an amateur anthropologist or criminologist.<sup>247</sup>

Thus, although the Mafia itself, at least until the most recent times, has never produced any document, it has indeed produced a series of unquestionable facts that constitute the most primary source for the historian.

Finally, the aforementioned considerations and methodological choices have influenced the stylistic choice between the weight attributed to narrated accounts and that given to interpretation. Italian Mafia historiography has often preferred to concentrate on the second (further proof of how the empty spaces left by the sources loom large in our history and how important deduction is in the interpretative work), in many cases overlooking, or ignoring, how this could prevent its dissemination to a large public.<sup>248</sup> If it were decided to follow this line, which notwithstanding has its well-justified reasons, the historian would run the risk of losing linearity, bewildering the reader with twisted facts that should instead be specified in detail because every detail enriches the picture, and narrowing the already large margin in

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<sup>246</sup> *Ibid.*, p. 2. See also J. Topolski, *Narrare la storia. Nuovi principi di metodologia storica*, Bruno Mondadori, Milan, 1997, p. 47.

<sup>247</sup> G. C. Marino, *Storia della mafia*, *op. cit.*, p. 3.

<sup>248</sup> U. Santino's criticism here is quite interesting and commendable, according to whom Lupo's *History of the Mafia* leaves the impression of being "a history without history, in which continuity prevails on transformation (see U. Santino, *Dalla mafia alle mafie*, *op. cit.*, p. 129). In his *Perchè la mafia ha vinto* (*op. cit.*), Tranfaglia explains how he favored interpretation over narration in order to focus on the "turning points that have characterized the period spanning national unification to the present day."

which the interpretive phase can operate.

To the standpoint of remaining true to the facts it has added the danger that we could define as the “trap of events;” that is, the almost exclusive concentration on a procedure of “factualization” that doesn’t consider the extent of “theory” that even the sole verification of facts requires: in other words, the danger of reducing, somehow uncritically, the historiographical work to little more than an arid chronicle of the facts.<sup>249</sup> In contrast, we have attempted to combine a more or less enjoyable reading with the rigors of scientific scrutiny, trying to reach the objective of combining two approaches by no means incompatible with each other even if, as one of the few historians specialized in our material has written, “academics are rarely capable of it.”<sup>250</sup> Therefore, we have tried to maintain as much as possible that linearity typical of English-speaking historiographers while combining it with the brilliant reasoning that has characterized some of the Italian historiography on the Mafia. It is worth adding that well-known journalist and historian Indro Montanelli’s provocation of Italian scholars – accused of writing illegible books destined to be read solely by other scholars – finds an additional valid argument with respect to our subject: it is, in fact, more than legitimate to presume that such little-read and somewhat unreadable books play into the hands of the Mafia, while it can be assumed that even the *mafiosi* abhor those books that are scientifically accurate, well-documented, and most importantly, that recount or hint at the *truth*.<sup>251</sup>

A final consideration on style relates to the length of certain citations. This is justified by our intention, as far as possible, to allow the documents to speak for themselves in the most controversial cases, with the knowledge that certain texts may appear rather heavy, especially to a non-Italian reader.

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<sup>249</sup> L. Zanzi, preface to F. Giannantoni, *Fascismo, guerra e società nella repubblica sociale italiana. Varese 1943–1945*, *op. cit.*, p. V.

<sup>250</sup> G. C. Marino, *Storia della mafia*, *op. cit.*, p. 2.

<sup>251</sup> I. Montanelli, “Gli studenti ci leggono, siamo i loro amici proibiti,” in *Il Corriere della Sera*, 6/11/2003. See also “‘Mondo Nuovo,’ raccontare la Storia attraverso le storie,” in *Il Corriere della Sera*, 28/5/2013.

## 2.2 The reports of the Parliamentary Antimafia Commission

Since 1963, the Italian parliament has instituted specific commissions dedicated to inquiry on the Mafia. These committees have produced a vast amount of documentation, which in most cases has been more useful to historians than for solving the contingent problems for which such commissions were established.<sup>252</sup> The reports produced by parliament form the backbone of the documentation used for this research, since their centrality has divided our periodization upon the basis of the five legislatures that ran in succession from 1989 to 2006. In analyzing parliamentary reports, it has been essential to consider their nature of *mediated* sources, as what the commissioners were asked to do was study measures against criminal organizations on the basis of already existing documentation. It has been, therefore, essential to keep in mind the role of political mediation in the production of these sources. Before considering this aspect more in depth, however, it is necessary to clarify why these reports form the backbone of the documentation.

The alternation of the legislatures has seemed the best point from which to articulate the analysis, because it has allowed the reconstruction of how the Mafia adjusted to the change of governments. We will thus begin our history with the X and XI legislatures (overall, they cover the period between 1989 and early 1994), during which time violence reached its highest peak perhaps in all of Mafia history. These two legislatures identify our *before*. The other three, instead, sub-divide our *after* into three phases: the beginning of the Second Republic, which coincided with Berlusconi's first government; the change of government to the center-left between 1996 and 2001; and finally, Berlusconi's second government, which carried on undisturbed until the following political elections held on Sunday, April 9 and Monday, April 10 of 2006. On the following Tuesday, as Italy was waiting to know which coalition would win the majority of seats in parliament and form the government, the news of the election results was overshadowed in the media. The main headlines were in fact centered on Bernardo Provenzano, Cosa Nostra's main boss, who had been on the run since 1963, and upon whom, after some good 43 years as a fugitive, the police had finally managed to slap the handcuffs. The arrest of the head of Cosa Nostra, which is passed down to us as an image of

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<sup>252</sup> The first parliamentary commission of inquiry on the Mafia of the republican period was established in 1963 following the Ciaculli bomb, which killed seven policemen in a Palermo suburb. For ten years, from 1973 to 1983, the Italian parliament did not establish any commission on the Mafia. Following the wave of violence of the late 1970s/early 1980s, the parliamentary commission of inquiry became permanent. An anthology of its achievements from 1963 onwards can be found in N. Tranfaglia, *Mafia, politica e affari 1943–2008*, *op. cit.*

an old man surrounded by policemen standing under a giant poster of Falcone and Borsellino prepared in the police station immediately after his seizure at a shack near Corleone, is the moment that closes our periodization: a moment that, as we will see, is one of decisive importance in our history.<sup>253</sup>

Each of the four reports have particular characteristics. Before presenting such characteristics, it is worth briefly running over the history of the five legislatures under examination. As periodization of our research begins, the X Legislature was fully under way. During this legislature, all the three verdicts of the Maxi Trial were released. Between the first verdict and the appeal, the Cold War ended: for reasons that will become clear after reading the next chapter, this played an important, perhaps decisive role in understanding the facts object of our analysis. The parliament of the XI Legislature remained in office between 1992 and 1994, during which period Luciano Violante, an MP elected from the ranks of the Left Democrats, was the president of the Antimafia Commission, the main left-wing party that was heir to the Italian Communist Party and had disappeared as a consequence of the end of the Cold War. The premature fall of the government headed by Carlo Azeglio Ciampi in early 1992 ratified the end of the First Republic, while the introduction of a new electoral system, prevalently majoritarian (we will examine the consequences of this change in the last chapter) and the coming into play of new political players usher in the Second Republic. The parliament elected in 1994 inaugurated a new political course along the same lines as the preceding one. As a matter of fact, with the only exception of the Second Berlusconi Government (2001-2006), this new political course failed to create stable majorities. In 1994, the First Berlusconi Government remained in office for just seven months, forced by internal disputes to step aside for a so-called “technical” government – one whose political identity was undeclared due to the lack of finding a parliamentary majority to support it – which led the country towards the next elections of April 1996. The XII Legislature lasted only two years, during which the presidency of the Parliamentary Antimafia Commission was given to Tiziana Parenti, a congresswoman close to Berlusconi whose profile will be presented in the fifth chapter. From the elections held on April 21, 1996 the Ulivo alliance of center and left-wing parties emerged victorious. Even in this phase, the parliamentary majority had a rather precarious internal cohesiveness, as demonstrated by the fact that it gave rise to three governments; however, the legislature concluded without the need to resort to early elections. The Antimafia Commission established by the parliament elected in 1996 saw the interchange

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<sup>253</sup> Concerning the arrest of Provenzano see L. Zingales, *Il padrino ultimo atto. Dalla cattura di Provenzano alla nuova Mafia*, Aliberti, Reggio Emilia, 2006.

of two presidents: the socialist Ottaviano Del Turco first, and then the MP of the Left Democrats Giuseppe Lumia. We shall later consider how differently the commission worked under each presidency. Finally, the 2001 elections inaugurated the XIV Legislature, characterized by the longest-serving government in Italy's republican history, the second in which Berlusconi was prime minister, which lasted for the full five years of the duration of the legislature. The parliament elected in 2001 gave the presidency of the Antimafia Commission to Roberto Centaro, a senator elected from the ranks of Berlusconi's party Forza Italia.

In each of the legislatures examined, the parliamentary inquiry produced reports that were vastly different from one another in terms of their reliability. The drafting of the XI Legislature commission report coincided with Cosa Nostra's attacks and the transition between the First and Second Republic. With emotions running high because of the bloodbath of State officials and innocent people, the commissioners elected by this parliament gave the impression of making a considerable effort to fully understand the root of the causes as the events were happening. Despite that the times weren't yet physiologically mature, these commissioners identified fundamental aspects of the dynamic of that wave of violence, namely the presence of instigators or prompters external to Cosa Nostra. The trials had not yet begun, and so the documentation at their disposal could only lead to partial results. Nevertheless, it is significant that the shadow of some of Cosa Nostra's allies was noted before the beginning of the sequence of judicial events, and even while bombs were still exploding.

The second of the parliamentary document used in this study is the report produced by the first Antimafia Commission of the Second Republic. The brief life of this commission, due to the anticipated election that ended the XII legislature, is the reason for a study that is partial not only for contingent reasons (the previous parliament also lasted for only two years, and yet produced a document that appears decisively reliable), as much as for reasons that seem to be of political interest (the Mafia tends to be minimized in conjunction with the launch of a new political phase).

The third report is that of the parliament of the center-left legislature. Here, we want to recall what we briefly introduced earlier while hinting at the mediation of politics in the production of these sources. It seems, in fact, opportune to digress in order to introduce the theme of an inevitable skepticism of sources produced by a corrupt and polluted parliament as the Italian one of that period was, by no means credible when called to declare upon facts that potentially saw it involved. This aspect has been important above all to evaluate the weight of the second and fourth of the parliamentary reports studied for the purpose of historiographical

reconstruction, those produced by a majority of commissioners whose political boss, Berlusconi, was even under investigation, notwithstanding the other countless trials in which he was a defendant, for being suspected of being one of the instigators of the murders.<sup>254</sup> As a matter of fact, it happened that during the XIII Legislature Ottaviano Del Turco, president of the Antimafia Commission from 1996, was nominated Minister of Finance in 2000. The second ballot for the election of a new president narrowly missed handing victory to Forza Italia representative Gianfranco Micciché, rumored to be in collusion with the Mafia. The presidency was instead handed to Giuseppe Lumia, who became a Mafia target for the efficiency with which he directed the commission. It is quite interesting that Lumia was not only a target of Cosa Nostra but also of some of his colleagues within the commission, who accused him of *justicialism*. This reconnects us with the theme of Mafia convergence with a part of politics whenever the State is embodied by an official ready to do his job seriously and regardless of any danger.<sup>255</sup> Lumia's credibility as a serious State official seems to convey a certain trustworthiness to his commission's final report. Later, the previous president Ottaviano Del Turco was arrested and put on trial under charges ranging from criminal association to fraud, corruption and extortion (for which he was sentenced guilty in the first degree on July 22, 2013).<sup>256</sup> One can easily understand the paradox of a parliamentary inquiry called upon to produce debates, reports and laws in relation to the same crimes that besmirch its very own most authoritative representatives.<sup>257</sup> The historian, therefore, needs to use these documents with a certain, justifiable caution. With regard to this aspect, it is also worth reiterating what has already been said for other official sources: that they should be put up for discussion not in order to evade but rather to maintain their centrality: evaluating their reliability and understanding how they approach the most controversial aspects of the dynamics between the Mafia and political power is thus the most crucial aspect for the historian, whose duty it is to give these sources the value that they deserve.<sup>258</sup> This implies the consideration – in relation to one of the central theme of our facts, the existence of external instigators or prompters behind the bombings of 1992-93 – that is quite unlikely to hypothesize the efficiency of a possible parliamentary commission of inquiry, requested by the majority of parties, which could shed light on these facts. Such hypothetical commission,

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<sup>254</sup> Concerning how corruption and the Mafia have intertwined in Italy see P. Ginsborg, "Corruption and the Mafia," in *Italy and its Discontents: Family, Civil Society, State, 1980–2001*, Penguin, London, 2001, pp.179-248.

<sup>255</sup> "Antimafia, Lumia presidente" in *la Repubblica*, 1/6/2000.

<sup>256</sup> *Il Corriere della Sera*, 22/7/2013.

<sup>257</sup> *Ibid.*; see also "Pomicino e Alfredo Vito nell'antimafia: è scontro," in *Il Corriere della Sera*, 17/11/2006.

<sup>258</sup> *Ibid.*

in fact, would be called upon to seek out the truth behind the incidents that potentially involves the same government handling it, and therefore strong doubts about its reliability would be inevitable.<sup>259</sup> However, the presence of instigators or prompters external to Cosa Nostra, as we know, is confirmed by documents, including those produced by the parliamentary inquiry particularly when headed by a president whose reliability we have little reason to doubt.

The last parliamentary document is the final relation produced by the parliament of the XIV Legislature. This is the only one of the five reports studied that, not having been agreed upon by the commissioners of different political alliances (on the contrary, they were in complete disagreement over the key issues), is split into two reports that recount opposite stories: Centaro's, which is blatantly pro-government and omissive to such an extent that it appears to be an actual fabrication of history (its glaring falsity is actually its most interesting aspect and the most pertinent to the analysis); and Lumia's (in 2001–2006 no longer the president of the commission but the leader of the opposition within it), which is definitely more reliable.

One final consideration is that, in approaching the documents produced by the parliament, it has seemed preferable in nearly all cases to refer to the conclusive reports rather than the myriad attachments and hearings produced by each commission: firstly because the final reports have allowed us to better frame the rapport between Mafia and politics from the point of view of how politics related to the criminal organization; and then because such reports allowed us to understand how the parliament tackled the key issue of external instigators. However, the documents produced by the parliament were just one piece of the cake: they had to be integrated with others, primarily the verdicts and preliminary trial investigations, and investigative sources, specifically the reports produced by the DIA, the special police body established in 1991 to tackle organized crime.<sup>260</sup>

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<sup>259</sup> See M.V. Giannotti, "Una commissione parlamentare sulle stragi di Mafia," in *l'Unità*, 23/3/2008, and RAINews24, "Sul golpe del '93 una inchiesta parlamentare," see <http://www.rainews24.rai.it/it/news.php?newsid=141452>, (accessed 17/5/2017).

<sup>260</sup> See N. Tranfaglia, *Mafia, politica, affari*, *op. cit.*, pp. 351-356.

## 2.3 Criminal and historical judgment: The judiciary sources

In approaching judiciary sources, the crux that has been presented is the rapport between criminal and historical judgment. Over the past 30 years, mainly thanks to the work of a virtuous minority of officials – politicians, magistrates and policemen, who in some cases have paid with their life for their commitment to their profession – rather than that of the State as a whole, some court findings have emerged and are now taken for granted from a cognitive point of view, the first being the very existence of the Mafia as a criminal organization and the vertical structure of Cosa Nostra.<sup>261</sup> We cannot, however, equate and accept without question legal outcomes with historical truth. As an example, we need to keep in mind how much the public prosecutors of the Maxi Trial may have simplified the reality of a federation of criminal groups (Cosa Nostra), undoubtedly coordinated, for the sake of convenience, to judicially equate it with a pyramid in order to condemn more easily the entire organization. Such a simplification of judicial proceedings, useful for a prosecutor who bears the accusation in a criminal trial, puts the historian at risk of simplifying a more complex reality in which each Mafia group most likely enjoyed a degree of autonomy greater than that implied by the trial verdict.<sup>262</sup> In general, we can argue that the history of the Mafia suggests, almost dictates, a certain skepticism of judiciary sources, in particular with regard to the many full or partial acquittals which characterize it. Indeed, if we based the reconstruction of our history exclusively upon the study of the verdict rulings, we would come to the conclusion that the Mafia was born only in the latter part of the twentieth century, precisely in 1992, after the Italian State managed to condemn it in court for the first time. Prior to that, the typical scenario was characterized by acquittals based on insufficient evidence. Moreover, the existence of the Mafia had already been acknowledged through the introduction of a specific law defining the characteristics of this particular type of criminal phenomenon (the Rognoni-La Torre of 1982).<sup>263</sup> Of course, such a conclusion would, from a historical point of view, be patently false.

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<sup>261</sup> See V. Foa, P. Ginsborg, *Le virtù della Repubblica*, Il Saggiatore, Milan, 1994; and J. Dickie, *Cosa Nostra. A History of the Sicilian Mafia*, *op. cit.*, pp. 379-382. Concerning Mafia witnesses see [http://www.camera.it/\\_bicamerali/leg15/commbicantiMafia/documentazionetematica/28/102/schedabase.asp](http://www.camera.it/_bicamerali/leg15/commbicantiMafia/documentazionetematica/28/102/schedabase.asp) (accessed July 2017)

<sup>262</sup> See the *ordinanza di rinvio a giudizio per il maxiprocesso*, reported in C. Stajano (ed), *Mafia. L'atto di accusa dei giudici di Palermo*, Rome, 1986. See also S. Lupo, *Cos'è la mafia*, *op. cit.*, p. 82.

<sup>263</sup> With only the partial exception of Fascism, which also prosecuted the Mafia as a criminal association. On Mafia and Fascism see C. Duggan, *Mafia and Fascism*, *op. cit.*; S. Lupo, *Storia della mafia*, *op. cit.*, pp. 181-191; and G.C. Marino, *Storia della mafia*, *op. cit.*, pp. 126-133.

The subject of the relation between judicial and historical judgment should be framed within the broader perspective that has given rise to the debate that has opposed the positions of “judge and understand” with respect to history and its flipside “understand and judge.”<sup>264</sup> Although in opposition, these positions, as it has been brilliantly pointed out, share the same faith in proper methodology, the rigor of work, and a professional code of practice, but don't grasp the essential point that complying with the processual dynamic could lead the historian to “succumb to the temptations of metonymy, to take the part for all and vice versa, and to believe that that which is true in a situation will also be necessarily so in another, assuming that all are equal.”<sup>265</sup> This happens because the preliminary judicial investigation bears the factual experience of historicization, becoming in this way one of the areas in which “historiographical practice is implicated” – as one historian has suggested – comes into existence.<sup>266</sup> Nevertheless, the “historicization” that takes place in the judicial sphere aims to resolve a legal case through a judgment based on a set of rules, as the preliminary investigation must conclude with a charge against one or more defendants who may have broken the law. Such historicization is not, therefore, as problematic as that of the historian, who aims to reconstruct cycles of things, evolutionary periods, lines of continuity and discontinuity, accessible states within different hypothetical contexts, and alternative situations and sequences of significant dates, without reducing the reality of something attributable only to the voluntary actions of one or more subjects:<sup>267</sup>

Contrary to the judge, who searches for elements that can prove that a defendant is guilty of a certain crime and considers of secondary importance, if at all, the social or political aspects of the case he is called to judge upon, the historian must put the social, economic, and political dynamics at the center of his analysis, and focuses only secondarily on personal responsibilities. In short, the judge searches for a culprit, the historian for an explanation.... A trial must end with an assertive truth that implies demonstrated reasoning, whereas history prefers a more nuanced type of reasoning.... For this reason, the logic of a trial is assertive, because it can, and it must be, while that of the historian is probabilistic because it could not be otherwise.<sup>268</sup>

The issue of the rapport between the two judgments, criminal and historical, is connected with

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<sup>264</sup> The “judge and understand” approach was formulated by C. Meier; see *Da Atene ad Auschwitz*, Il Mulino, Bologna, 2004; that of “understand and judge” was formulated by G. Miccoli; see *I dilemmi e i silenzi di Pio XII*, Rizzoli, Milan, 2000.

<sup>265</sup> See A. Melloni, “Per una storia della tribunalizzazione della storia,” in O. Marquard, A. Melloni, *La storia che giudica, la storia che assolve*, Laterza, Rome-Bari, 2008, p. 58.

<sup>266</sup> See L. Zanzi, *Fascismo, guerra e società nella repubblica sociale italiana. Varese 1943–1945*, op. cit., p. XXIII.

<sup>267</sup> *Ibid.*, pp. XXIII-XIV.

<sup>268</sup> A. Giannuli, *L'abuso pubblico della storia*, op. cit., pp. 130-132 and p. 134.

that of the “right to truth” and of the “impossible coincidence” between historical and judicial truth.<sup>269</sup> As it has been noted, the two of them are different, first of all, from a teleological point of view:

There is no doubt that the legal investigation of a crime (or) of a right to property must be entirely conducted through the historical method; however, it is equally clear that in this or in similar cases it is not, and it should not be, the comprehension of a character for that which this character has done, as the knowledge of facts that have previously occurred should not be a judicial formation that has taken shape in such a fact of private law. That in this, as well as in similar facts, the result it is not, and it should not be historical, but of a practical nature.<sup>270</sup>

In short, the historicization that takes place within the preliminary judiciary investigation, while being a source for the historian, also constitutes something which he must go beyond, given his duty to formulate a scientific discussion. In this regard, Gramsci's suggestion that “in the formulation of historical-critical problems we should never conceive the scientific discussion as a judiciary trial in which there is an accused and a prosecutor who, as an obligation of office, must demonstrate that the accused is guilty and deserving of being removed from circulation;” in scientific discussion, “since it is supposed that the interest lies in the search for truth and the advancement of science, it is more ‘advanced’ he who accepts that those claiming the opposite thesis may express a demand that needs to be incorporated, although as a subordinate moment, in the formulation of his own thesis;” thus, it becomes crucial to “realistically comprehend and evaluate the position and the reasons of the opponent (and sometimes the opponent is the previous thought in its entirety) indeed signifies being free of the trap of ideology (in a pejorative sense, of blind fanatical ideology), that is to have a ‘critical’ point of view, the only productive one in scientific research.”<sup>271</sup>

If we want to adapt these arguments to the history of the Mafia we should, first of all, consider the problems deriving from the rapport between *explanation* and *culprit*. Our history, especially in the most controversial and important situations involving the dynamic between the Mafia and political power, presents many cases of political-historical responsibilities that are quite difficult to punish in a criminal trial but however emerge from the overlapping of the historicization of the preliminary judiciary investigation with the facts. Being unpunished or unpunishable by a court judge, this or that politician, or even an entire political class, may be

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<sup>269</sup> *Ibid.*, p. 139. See also C. Ginzburg, *Il giudice e lo storico. Considerazioni in margine al processo Sofri*, Einaudi, Turin, 1991.

<sup>270</sup> J. G. Droysen, *Istorica*, Guida, Naples, 1994, pp. 146-147.

<sup>271</sup> A. Gramsci, *Il materialismo storico*, Editori Riuniti, Turin, 1975, p. 25.

*culprits* for the historian.

Moving further on with our argument, we should mention that the issue of the rapport between criminal and historical judgment has deep historical roots. Already between the mid-nineteenth and mid-twentieth centuries, a “history court” was being evoked. At the end of the Great War, the victorious powers sought to pass judgment upon the German emperor Wilhelm II with a deliberately non-judicial charge (“supreme offence against international morality and the sanctity of treaties”) as suggested by American President Woodrow Wilson. In so doing, they attempted to go beyond international law which, until then, considered the United States responsible for treaty violations and war atrocities, adding to such responsibilities those of individuals.<sup>272</sup> In the years following the Second World War, this process reached its completion with the Nuremberg and especially the Frankfurt trials, in which the intertwining of criminal justice and historical judgment became inseparable to the point that, for the first time in history, historians were employed as experts “not to integrate the basis of documents supporting the accused, but in order to provide interpretative categories proper to historiography in the attempt to near historical and judiciary truth, merging the one into the other.”<sup>273</sup> In short, the Shoa trials held in Germany after the Second World War did not just change the approach to criminal justice or international criminal law, but, in establishing “a dangerously solid link between historical and criminal judgment,” also the way of approaching history.<sup>274</sup>

In relation to Mafia trials involving politicians or State officials, the debate pitted those who considered trials of this sort to determine political effects against those who instead framed such positions in the liberticidal tradition of special laws.<sup>275</sup> We may suggest a sort of third way, so to speak, which may even simplify the problem. It seems in fact that it should be taken for granted that the political effects of this type of trial are destined to transform into historical consequences, while it appears right to remain wary in cases, such as those of the Shoa trials mentioned previously, in which the magistrate invades the terrain of the historian. It is precisely upon this point that it is worth reflecting and re-acquainting ourselves with the theme of the judging of history in court.<sup>276</sup> In the case of the Andreotti trials, those of the Mafia bombings of 1992-1993, trials of politicians and functionaries of the State accused of

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<sup>272</sup> *Ibid.*, pp. 7-19.

<sup>273</sup> A. Giannuli, *L'abuso pubblico della storia*, *op. cit.*, p. 133.

<sup>274</sup> *Ibid.*, p. 98.

<sup>275</sup> Concerning the first position, see the interview by Giorgio Bongiovanni of the magistrate Guido Lo Forte, “Le strategie politiche di Cosa Nostra. Intervista a Guido Lo Forte” in *Segno*, 1998, 196, p. 9; concerning the other, see E. Macaluso, *Mafia senza identità. Cosa nostra negli anni di Caselli*, Marsilio, Venice, 1999, p. 83.

<sup>276</sup> Concerning the problems deriving from the rapport between historical and judiciary truth, see S. Lupo, “Processo Andreotti e dintorni, dieci anni dopo” in *Cos'è la mafia*, *op. cit.*, pp. 71-100, in particular p. 76.

collusion with the Mafia and, most importantly, in the case of the State-Mafia Trial, in which *mafiosi*, politicians and State officials sat next each other in the court seats reserved for defendants, it may be argued that the magistrature may have exposed itself to risks similar to those outlined earlier.<sup>277</sup> To develop our argument, we can focus our attention on the Andreotti trial, premising that for the purpose of this work, rather than the final verdict of the court, of most interest to us is the fact that a ruling which did not clear the defendant in the least from the criminal charges of which he was accused was greeted with practically unanimous jubilation by politicians of all ranks and from all parties, the entire mainstream media, and, perhaps almost as a consequence, by a good part of public opinion.<sup>278</sup> This trial will be, in summary, useful to our reconstruction mainly as an indicator of the attitude of self-defense of Italian politicians whenever they are put on trial, especially with criminal charges this serious. In the case of the Andreotti verdict, what should be highlighted is that in the appeal ruling, later confirmed by the Supreme court, the magistrates operated a scission between historical and criminal judgment in a manner that couldn't be more evident, since they reserved the *obiter dicta* – the part of a sentence that does not have any criminal effect – to a purely historical judgment. While operating such a clean cut – which was even “physical,” considering that the two judgments were made in two different sections of the sentence between criminal judgment and historical judgment – the judges, perhaps, obtained exactly the opposite result of what they wanted, and ended up entwining the two. Essentially an acquittal under the juridical profile, the Andreotti verdict is a decisive conviction under the historical one as it states that:

(...) participation in the criminal association consisted of the will of the Mafia bosses to include in it (their association) the subject [Giulio Andreotti], and in his commitment to contribute to the association through the form of a free conduct, but such as to constitute an appreciable and concrete contribution to the existence and the reinforcement of the criminal association.<sup>279</sup>

This contribution was made with

(...) an authentic, stable and amicable availability of the accused to the *mafiosi* until spring 1980.<sup>280</sup>

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<sup>277</sup> A criticism of the *Trattativa* (State-Mafia) Trial came from the magistrate Giuseppe Di Lello; see “Di Lello smonta il processo di Palermo sulla trattativa,” in *Sicilia Informazioni*, 6/7/2013.

<sup>278</sup> See S. Lupo, *Cos'è la mafia*, *op. cit.*, pp. 75-76.

<sup>279</sup> See *Considerazioni conclusive della sentenza della Corte di Cassazione al processo Andreotti*, criminal trial No. 49691/04, 15/10/2004, pp. 209 and following.

<sup>280</sup> *Obiter dicta* of the Court of Appeal of Palermo sentence, released 2/5/2003, recently confirmed by the Supreme Court.

Therefore, according to Italian justice, Andreotti contributed to reinforce Cosa Nostra at least until the spring of 1980, after which the judges lacked evidence to establish whether the relationship had continued.<sup>281</sup> The result of the trial was sealed with a statute of limitations that came into effect in December 2002 (and if the appeal process had finished a mere few months earlier, Andreotti would have been condemned for Mafia) and an acquittal due to insufficient evidence that did not clear the accused's name from historical-political responsibility, for which he was not called to atone for other convictions. While leaving the lingering sensation of an Italian-style compromise – in which the guilt of a defendant who could not better embody the power system of the First Republic was somehow acknowledged, yet condemnation was avoided so as not to displease both Andreotti's supporters and critics – the final sentence offers a “questionable interpretation under the historical profile since it does not explain the continuing collaboration, in Sicily, between Cosa Nostra and Andreotti's faction of the Christian Democracy after the spring of 1980.”<sup>282</sup> According to this interpretation, thus, the trial against Andreotti was opportune and the judges did not really intrude on the terrain of the historians. Contrary to this position are those who believe that, not just in the case of the Andreotti trial but also in that of the others crucial to our reconstruction, the magistrature risked invading the field of historiography with a dangerous process of *tribalization* of history comparable to that of the cases previously outlined, or even the belief that the trial itself should have not been celebrated.<sup>283</sup> The second thesis, however, evidently contrasts with the very outcome of the trial itself, which demonstrates that the charge against the defendant was both *criminal* and *historical*. In the words of the Palermo Chief Prosecutor who staged the trial, Giancarlo Caselli, “in the face of the mountain of evidence gathered by the prosecutors, not to open a trial would have been illegal, dishonest, vile, and illegitimate.”<sup>284</sup> In this light, even the other accusation applied to the trial, that of being “historical-political,” does not seem sustainable. Even though political implications may exist in the prosecutors' choice to put the most powerful man of the First Republic on trial for having backed the *mafiosi* and having let them back him, these are unavoidable, and acceptable, as far as they are substantiated by a concrete criminal charge. As noticed earlier, in the case of Andreotti this charge existed and was proven in the trial. What could, instead, be

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<sup>281</sup> See the operative part of the aforementioned judgment, pp. 220 and following.

<sup>282</sup> See N. Tranfaglia, “La sentenza Andreotti di Palermo,” in *La resistibile ascesa di Silvio Berlusconi*, Baldini Castoldi Dalai, Milan, 2004, pp. 106-107. For a different interpretation, see S. Lupo, *La mafia non ha vinto*, *op. cit.*, p. 20.

<sup>283</sup> See S. Lupo, *Cos'è la mafia*, *op. cit.* pp. 76-77. See also E. Macaluso, *Mafia senza identità. Cosa nostra negli anni di Caselli*, *op. cit.*

<sup>284</sup> In G. Caselli, A. Ingroia, *L'eredità scomoda. Da Falcone ad Andreotti, sette anni a Palermo*, Feltrinelli, Milan, 2001, p. 145.

outlined is more simply the slowness of the Italian judiciary for which a defendant guilty of such a serious crime can avoid punishment, as well as the absurdity of celebrating as a triumph a verdict that proved a seven-time prime minister's collusion with an organization of assassins, and the fact that, after the verdict, Andreotti retained his seat in the parliament without feeling the least need to resign and above all without anybody expecting or asking him to do so.<sup>285</sup>

In short, our conclusion is that the two judgments, historical and judicial, are allowed to intertwine as far as the judiciary trial is based on a criminal, and not a historical, charge, albeit such a charge, for its seriousness, may inevitably affect history. To validate this argument, we could hypothesize an American prosecutor who, in the presence of new evidence proving the responsibility of persons still alive for the assassination of J.F. Kennedy, put them on trial in order to judicially verify their guilt and eventually have them condemned. Even though, by force of things, our imaginary prosecutor would give a decisive contribution to the writing of the history of one of the most controversial facts in the history of the United States, could he have ever shirked such a duty?

With the same argument we may confront the criticism directed at the State-Mafia Trial, which was also accused of being a trial based upon a substantially historical, rather than judicial, charge.<sup>286</sup> Even in this case, the debate has pitted those who, to put it in the terms of the magistrate Giuseppe Di Lello who said that if he were in the defendant's position he would be "terrified of facing a historical and not a judicial accusation" and by having to "prove to have had nothing to do with a pact that has always existed" since "the convergence between the Mafia and the institutions is a constant in Italian history."<sup>287</sup> Those who consider the accusation judicial rather than historical, and in consideration of the fact that what has emerged so far has demonstrated the existence of responsibilities far beyond those solely of the Mafia, have expressed the wish that this new trial helps to ascertain the truth.<sup>288</sup> Although the situation may appear more controversial for the overall setting of the trial, even in this case the charges against the defendants seem to be criminal rather than historical, although with obvious historical implications. To validate this argument, we could point out that, should this not be the case, we would meet the opposite danger: that the historian invades the garden of

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<sup>285</sup> See also S. Lupo in *Cos'è la mafia*, *op. cit.*, p. 75.

<sup>286</sup> See the criticism by G. Fiandaca which can be found in S. Lupo, G. Fiandaca, *La Mafia non ha vinto*, *op. cit.*, pp. 69-135. Both Lupo and Fiandaca claim, from different perspectives, that the object of the trial, rather than a criminal charge, would be the government's policy of those years. *Ibid.*, p. 48 and p. 131. See also "Di Lello smonta il processo di Palermo sulla trattativa," *op. cit.*

<sup>287</sup> "Di Lello smonta il processo di Palermo sulla trattativa," *op. cit.*

<sup>288</sup> N. Tranfaglia, "Il ritorno delle trattative," in *Antimafia2000*, 2/6/2013.

the judge by searching for a judiciary, and not simply historical, truth.

Regarding the available sources for the reconstruction of the period concerning our study, the most important discontinuities with the past have been the proliferation of collaborators of justice after 1992 and the more effective use of technology in the Antimafia Commission investigation. With reference to the first, it is worth noting how the break is not so much due to leaks in the Mafia, as the fact that such leaks have been brought “into the framework of a criminal trial when beforehand it took place behind closed doors in the police commission.”<sup>289</sup> When approaching the testimonies released by *mafiosi*, the historian, similar to the judge of a court, should consider that they were given deliberately and consciously: this characteristic of *willingness* has imposed particular caution upon the interpretive phase. However, new sources such as wiretaps and *pizzini* – the notes used by *mafiosi* to communicate with each other – have broken this pattern and have resulted in being highly reliable, giving the historian, for the first time, the opportunity to use sources produced *by* the Mafia rather than *on* the Mafia that exhibit those characteristics of *unwillingness* essential to endow them with decisive credibility: more than sources, we find, in the majority of cases, *facts*.<sup>290</sup>

The subject of the use of wiretaps as sources for historical research has been recently put forward by the historian Aldo Giannuli, with whom we can agree that “if a wiretap has been done without respecting the procedure established by law, the judge can declare it as non-admissible in the trial; however, such wiretaps, where it is possible to obtain the transcript, should be used by the historian, who chooses his sources regardless of their judicial usability.”<sup>291</sup> In particular, the interceptions have allowed the reconstruction of decisive aspects of *mafioso* power and given us a real, precise measure of what the system of relations of Cosa Nostra was and how it functioned, as well as the opportunity to understand the rapport between the *mafioso* and the corrupt politician or official in a *non-mediated* way.

With regard to politicians and institution officials in collusion with the Mafia, it should be said that, as in previous periods, even in the one studied in this line of research the verdicts resulted for the most part in acquittals and, more importantly, several trials were unable to be held or were held in a climate heavily conditioned by the vetoes and repeated attacks of

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<sup>289</sup> S. Lupo, *Che cos'è la mafia*, *op. cit.*, p. 21.

<sup>290</sup> An anthology and a critical analysis of Provenzano's notes can be found in S. Palazzolo, M. Prestipinto, *Il codice Provenzano*, Laterza, Rome-Bari, 2009. On the unilateralism of Mafia sources, see G.C. Marino, *Storia della mafia*, *op. cit.*, p. 3. Concerning how the Mafia represents itself, see S. Lupo, *Storia della mafia*, *op. cit.*, pp. 17-22.

<sup>291</sup> A. Giannuli, *L'abuso pubblico della storia*, *op. cit.*, p. 130.

political power against the magistrature.<sup>292</sup> The main problem, therefore, derives from the fact that it is more than legitimate to presume that institutional complicity – or even the same fear felt by judges of being subject to retaliation, not only violent but also professional, when opening a trial against the powerful – have created, especially in the case of important trials, a net variance between preliminary investigative and case ruling phases: that is, between investigative findings and trial outcomes. This reconnects us with Sciascia's postulate that we cannot expect the State to do justice to itself, which in its extreme and appropriate simplification is useful to realize the extent of the discrepancy between a judiciary truth that is systematically reticent, omissive, false and misleading, and historical *truth*. As with all verdicts, even the acquittals should be respected by the historian, who certainly does not want to take on the task, or risk, of replacing the judge, but should also be transformed into historical problems by verifying their possible contradictions with other sources, including the sentences of other trials.

It should also be noted that court acquittals, or trials prevented by a vetoing vote of the parliament, of politicians or institution officials accused of aiding, abetting or being in collusion with the Mafia, notwithstanding investigations from which those later acquitted or saved from the trial emerged as having colluded with the Mafia, consign officials whose relations with criminals were ascertained to history. In order to reconstruct the rapport between Mafia and politics, numerous authorization requests to proceed against politicians presented by the magistrature to the Italian parliament have assumed considerable importance, rather than the final verdicts themselves.<sup>293</sup> For this reason, we have to take into consideration not only the trials that have occurred, but also those that never took place because the parliament denied the magistrature the authority to proceed against this or that State official. We can take, as an example and to expand our argument, the case of Nicola Cosentino, the regional coordinator of Berlusconi's party Forza Italia for the region of Campania and an MP in the parliaments of the XIII and XIV legislatures. In November 2009, the public prosecutor of Naples dispatched an authorization request to the Chamber of Deputies to begin proceedings against Cosentino, and an order to request his preventive detention and a trial. Among various misdemeanors, Cosentino was accused of collusion with the Mafia. Both requests, initially rejected by the parliament, were later accepted, but under the condition that the use of wiretaps – the strongest evidence against the defendant and the basis of the entire

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<sup>292</sup> Concerning the so-called “political trials” see M. Travaglio, S. Lodato, *Intoccabili, op. cit.* The expression “*scontro tra poteri*” emerged in the public debate because of its common use in the press. It was also used by the President of the Republic, Giorgio Napolitano (see *Il Messaggero*, 21/7/2011).

<sup>293</sup> See A. Stille, *Nella terra degli infedeli, op. cit.*, p. 523.

prosecution – was prohibited in the trial, which in this way was lopped from the start. However, such wiretaps had already been published by the press – and were therefore exposed to the judgment of a seemingly careless and unmotivated public opinion – thereby publicly stripping bare Cosentino's criminal relations and a whole system of complicity between the Camorra, the government, and a group of Freemason lodges.<sup>294</sup> We may continue with our argument of the possible and frequent distortions between judicial truth and historical evidence by stopping to linger upon the case of former President of the Region of Sicily, Salvatore Cuffaro, acquitted of the accusation of collusion with the Mafia (he had already been sentenced for *favoreggiamento alla mafia*, namely aiding and abetting the criminal association) for matters that had already been considered felonies by the Supreme court, notwithstanding an earlier sentence that had judged him a point of reference for *mafiosi* of whose high criminal profile he was perfectly aware.<sup>295</sup> In forming a historical reconstruction of such a case, what should the historian credit the most: the first sentence, the second, or perhaps the initial wiretaps forbidden by the parliament in the trials? As we shall see, sources allow for conflicting, even opposite, verdicts by historians.

In addition to all these difficulties, even the convictions should be evaluated by historians with great prudence, especially in cases where the condemned were members of the lowest level of unskilled criminal Mafia labor. In such instances, in fact, the question for the historian should be whether the condemned might have covered up the possible complicity and collusion of someone in the halls of power. The history of the Mafia teaches us that in most cases when violence has become blatant there has always been a sinister shadow, and a strong impression that culprits were delivered to public opinion just for show, leaving well-founded suspicions that the real scope was focused on hiding the government's own responsibilities. In the period studied in this research paper, the most sensational sidetracking in the history of the antimafia investigation took place, fully scrutinized by the judiciary which, following the emergence of new evidence that demonstrated the falsity of testimonies at the basis of the three previous proceedings (all passed in the Supreme court), had to reopen the Via D'Amelio bombing trial almost 20 years after it took place. The family members of Scarantino, the main informer whose accusations, subsequently proven false by the revelations

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<sup>294</sup> See *Ordinanza di custodia cautelare N. 36856/01 R.G.N.R, N. 74678/02 R.G. GIP, del 7/10/2009 emessa dal GIP Raffaele Piccirillo nei confronti di Nicola Cosentino*. Concerning the articles published by *L'Espresso*, see Gianluca Di Feo, Emiliano Fittipaldi, "Cosentino, meglio tardi che mai," in *L'Espresso*, 14/7/2010; G. de Feo and C. Pappaianni, "Dal paese di Gomorra al ruolo di sottosegretario. Nuovo uomo forte della Campania. L'ascesa di Nicola Cosentino," in *L'Espresso*, 29/8/2008; and Dario Del Porto, "Un altro pentito accusa Cosentino," in *L'Espresso*, 1/12/2009.

<sup>295</sup> *Il Fatto Quotidiano*, 13/8/2011.

of Mafia turncoat Gaspare Spatuzza in 2009, had formed the basis of all previous trials, had denounced since the very early hearings the use of both physical and psychological torture that even included the eating of insect-infested food that had been urinated on by policemen, under threat of death, in order to force Scarantino to issue a false confession with the outcome of directing the investigations towards the lowest unskilled criminal laborer (and not even a *mafioso* laborer, since Scarantino and the other false informers turned out to be related to *mafiosi* by marriage, but not actually *mafiosi* themselves). Even today, we still do not know whether this was done – as the most credible hypothesis seems – to divert investigations that immediately pointed towards the instigators or prompters external to Cosa Nostra (therefore putting a real State red herring in place), or to ensure some sort of justice for the perpetrators in the briefest time possible in order to satisfy the compelling demand of public opinion for a just response to the Mafia attacks (in which case, the cause of the “fabrication” of the false informers would be an arguable “reason of State”).<sup>296</sup> Clearly, the historian here is faced with delicate and risky dynamics that impose great caution. The sequence just recounted, however, is important as it confirms the continuity of a political-institutional climate in which the bounds of inefficiency and collusion become so elusive as to suggest that the former may explain itself through its functionality in comparison to the latter. What is proved and cannot be doubted, is that for nearly two decades a historical truth whose most controversial aspects still remain to be ascertained today, was completely distorted and obscured by the State. What history would the historian have written if he had faithfully believed that sentence *a priori*, if it had not been later proven false? Isn’t this argument too favorable in our choice of inverting Occam’s razor, to the point of suggesting that the historian should consider it a methodological suicide?

What can be agreed is that court sentences are essential documents, yet the interpretative problems go far beyond the verdicts of tribunals and courts.<sup>297</sup> But once again, if we admit that the main characteristic of the history of the Mafia is its complicity with political power, isn’t it inevitable that the State might avoid putting itself on trial for its own guilt? Doesn’t this imply the strongest skepticism on the part of the historian, and his necessity not to take the official truth, any judicial truth, for granted? If, instead, he did not consider, or did not give any real importance to the overabundant circumstantial evidence available, wouldn’t he cut out that essential part that is the principal characteristic of Mafia history? In conclusion, in

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<sup>296</sup> An account of these facts can be found in G. Lo Bianco, S. Rizza, *L’agenda Nera della Seconda Repubblica. Via D’Amelio 1992–2010. Un depistaggio di Stato*, Chiarelettere, Milan, 2010, pp. 197-229 and pp. 376-380; see also A. Caruso, *Milano ordina uccidete Borsellino*, *op. cit.*, pp. 25-33.

<sup>297</sup> See S. Lupo, *Potere Criminale*, *op. cit.*, p. 10 and p. 152.

approaching judiciary sources we should repeat what we have already stated for the others: that their validity, reliability, and, regardless of the two, their significance, should always be questioned by the historian in order to maintain their central role and decipher what they say as well as what they avoid saying, the latter being crucial as “the residue of options, dilemma, error that in the judiciary has as its main consequence the appeal trial, in the historical reconstruction may bear towards new horizons.”<sup>298</sup>

If there is no residue, a suspicion arises of woodwork without shavings, which probably covers a shop where other people's things are marketed: if the gap disappears; if ‘everything adds up’ in an overall scheme, it ends up that while the historian seeks to re-establish a sense and function to events, he is limited in reproducing that ‘universal history’ so decisive in forming that which we call history but which, as Walter Benjamin understood, destroys hope nestled in the incongruous, in spirit, occasion, change and detail.<sup>299</sup>

A further, essential consideration is that a certain hyperrealism is unavoidable in approaching the sentences, because in our history *another* truth, different to the official one, emerges shyly and, in most cases, partially. As far as the sentence fragments chosen are verified in the light of all the circumstantial evidence and other sources available, and as far as our fragment is interpreted as a piece of the mosaic and not as the mosaic itself, the historian can use them without hesitation. If he were not to proceed in this way, he would have to reject the whole source, which is not admissible in a situation such as the one that we have had to confront, in which even when the sources available are myriad they still lack something to say.

As far as the inquiries of the magistrature are concerned, the Criminal Systems inquest, in which circles of power external to Cosa Nostra were investigated in relation to the 1992-93 bombings, dismissed by the Palermo Prosecution Office in March 2001, has been quite important to this research. Contrary to what other historians have claimed, and in the light of the previous considerations, refusing this document just because no prosecution followed the investigations seems akin to dumping gold in the trash.<sup>300</sup> Instead, in order to attribute this document with the importance that it deserves, we should first of all understand the reasons why it was dismissed, which were explained rather well by the prosecutors who issued the request to avoid prosecution, and which were precisely the lack of

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<sup>298</sup> *Ibid.*, p. 66.

<sup>299</sup> A. Melloni, “Per una tribunalizzazione della storia,” in O. Marquard, A. Melloni, *La storia che giudica, la storia che assolve*, *op. cit.*, pp. 65-66.

<sup>300</sup> See S. Lupo and G. Fiandaca in *La mafia ha vinto*, *op. cit.*, pp. 51-58 and 85-92.

a) certain proof of a causal link between the strategy deliberated within Cosa Nostra and the emergence of southern political movements;

b) proof, strictly connected to the above, of a true and real ‘association’ in order to realize a subversive-secessionist program through violent acts.

... In short, it is neither sufficiently proven that the Mafia deliberated its ‘strategy of tension’ in order to facilitate the Gelli-Delle Chiaie group political project, nor that the Mafia had approved the implementation of such a subversive secessionist plan as an effect of contacts with the aforementioned Gelli-Delle Chiaie group. An alternative explanation – given the state of the proceedings – is, in fact, feasible: that the subversive plan, conceived outside of Cosa Nostra, was ‘suggested’ to the Mafia bosses to orientate their criminal actions, exploiting a moment of ‘crisis’ that the criminal organization was experiencing in its relations with politics and that – albeit only temporarily – it may have been influenced by such a plan without entirely committing itself to the subversive-secessionist cause. Moreover, the verification of such a hypothesis of the possible influence of ‘subjects external’ to Cosa Nostra in determining the initial phase of the strategy of tension of 1992 falls outside the specific object of this trial, while it rather constitutes the subject of the criminal trial for the assassination of Salvo Lima.

In conclusion, the Prosecution Office rules that the insufficient proof of a causal nexus between the activity intended to the constitution of political parties calling for the independence of the South and the subversive-criminal *deal* matured within Cosa Nostra, as well as the incompleteness of the proof of the ‘permanence’ of the subversive-criminal deal in the years following 1991, do not allow for the provision of insufficiency of evidentiary materials that could prove the existence of an organization between the Mafia and such other circles of power, indispensable to ascribe the charge laid down in Article 270-*bis* of the penal code as well as Article 110 and Article 416-*bis* for which we intended to proceed.<sup>301</sup>

In short, the inquiry demonstrated that Cosa Nostra maintained a relationship with Gelli’s Freemasonry and the subversive right circles, which after the fall of the Berlin Wall planned to split Italy into three macro-regions in order to direct access to power (we will closely examine such a plan in the next chapter). Although Cosa Nostra’s involvement in this project, as well as the fact that the 1992–1993 attacks were *also* made to put the plan forward, could not be demonstrated for the lack of a – perhaps impossible – causal nexus, it remains food for the historian that the attacks *may* have been part of a wider strategy that also involved other forces. Rather than fully discard the entire document and the entire historicization that it contains with it, it seems advisable to approach it in the same way as the prosecutors did: maintaining as proven that which what for them was proven, and as possible that which they considered possible. To reject this document in its entirety would prevent a reconstruction of Cosa Nostra’s main system of relationships during that period, which instead seems an

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<sup>301</sup> *Richiesta di archiviazione del proc. Pen. n. 2566/98 R.G.N.R nei confronti di Gelli Licio + 13, denominata Sistemi Criminali*, pp. 149-150.

essential part of our history.<sup>302</sup>

Another consideration should be made on the opportunity or not of a moral judgment, which the historian is advised to avoid. The case of the Mafia in general, and this research paper in particular, almost impose an ethical judgment, not so much on the conduct of the Mafia, which can be explained by a criminal logic, as much as on the ambiguity of those politicians and State officials who gave the strong impression of knowing what was behind the Mafia, yet of doing anything possible in order to avoid removing those shadows. But what could be hinted at is that such judgment should not be limited to the State intended as bureaucratic machine, but also as a community. In this respect it would also affect public opinion, suggesting a consideration of the Mafia as a *problem of citizenship*. As we shall see, the end of the emergency coincided with the advent of a new political course during which both the response of the governments and of public opinion to the issue of the Mafia became progressively weaker.

Finally, the importance and role attributed to the last type of sources used should be explained: newspaper articles, television news, and books. Here we had to keep in mind their characteristics as “indirect” sources “addressed to an audience” and “*mediated* by an informer who intentionally caters to a public intended to receive the communication [that is, according to a classification reformulated by J. Topolski, resuming ideas taken from K. Doysen et al], and at the same time the remainder of a specific activity (and therefore also ‘direct’ sources), which must be historiographically reconstructed in order to test the validity of such journalistic sources (in an indirect sense).<sup>303</sup> This has meant taking into account the distortions of the Italian publishing system of that time with a television monopoly under the control of the head of government (or the opposition, depending on the period), and the concentration of the most important newspapers and publishing houses in the hands of a few, thereby rendering the journalistic offer extremely homogenous in an overall panorama in which the boundaries of publishing, finance and politics blurred completely.<sup>304</sup> An example of this great uniformity of Italian journalism can be seen in the news proclaiming the definitive

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<sup>302</sup> *Sistemi criminali*, pp. 140-141 and pp. 137-150.

<sup>303</sup> L. Zanzi, preface to F. Giannantoni, *Fascismo, guerra e società nella repubblica sociale italiana. Varese 1943-1945*, *op. cit.*, p. XXI.

<sup>304</sup> See V. Castronovo, N. Tranfaglia, *La storia italiana nell'età della TV. Dagli anni '70 a oggi*, Laterza, Rome-Bari, 2008. The most important publications on the subject in the English language are P. Ginsborg, *Silvio Berlusconi. Television, Power and Patrimony*, Verso, London-New York, 2005; A. Stille, *The Sack of Rome. Media + Money + Celebrity = Power = Silvio Berlusconi*, Penguin Books, London-New York, 2007; a critical analysis of the relation between the media and politics in Italy in those years can be found in the aforementioned interview by M. Torrealta of A. Stille, *op. cit.*, and the interview by S. Dandini of Stille broadcast by RAI 3 as part of the program *Parla con me* on 26/2/2009; on the subject see also M. Giannini, “Media e potere: l’anomalia italiana,” in *ItalianiEuropei*, 24/1/2011; and M. Travaglio, *La scomparsa dei fatti*, Il Saggiatore, Milan, 2006.

sentence at the Andreotti trial, which was reported in a manner objectively distorted from practically all the mainstream media, since a provision and acquittal for insufficient evidence were systematically presented, without any significant exception, as a “pure” acquittal and not as a statute of limitations.<sup>305</sup> We have sought to understand how the facts object of our reconstruction have been dealt with by the media, particularly print and television: if they occupied a central role in the agenda of major newspapers, or whether they were manipulated in order to exclude the most controversial aspects, leaving them for the few willing to go and seek the most accurate and reliable information on bookshop shelves. The proliferation of investigative works may be explained, aside from the fact that books on the Mafia sold well, with the fact that this other possible truth could only find its expression in books, and not in newspapers or television news. As we will see, this has raised the value of some secondary sources, such as the books written by investigative journalists, especially those who were later threatened by the Mafia or who experienced difficulties of any kind in presenting their publications throughout the nation, even in bookstores of secondary importance.<sup>306</sup>

Newspapers have also proven to be a great help in documenting the existence of a “Grand Conspiracy” with all its corollary of irony that we will examine in Chapter 3 and especially Chapter 4. Finally, newspapers and television news have helped in documenting the numerous attacks by politicians on the magistrature, in particular that part of it most committed to the fight against both corruption and the Mafia.

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<sup>305</sup> See, among others, “Mafia, Andreotti assolto anche in appello,” in *Il Corriere della Sera*, 3/5/2003, and “Andreotti, Cassazione conferma prescrizione e assoluzione,” in *la Repubblica*, 28/12/2004. Concerning the biased coverage of the Andreotti’s sentence, see the interview of M. Travaglio by Fabrizio Li Vigni, Marco Miceli, Federica Lazzaro and Tommaso Mazzara: <http://www.disinformazione.it/intervistatravaglio.htm> (accessed 15/7/2015).

<sup>306</sup> Among the abundant number of cases available is worth mentioning those of Lirio Abbate, who was granted police protection following the publication of his book *I complici*, *op. cit.*, written together with another investigative journalist, Peter Gomez; and of Alfio Caruso, who also encountered great difficulty in finding bookstores in Italy (including those in small towns), or other spots, to present his book *Milano ordina uccidete Borsellino*, *op. cit.*, in which he claimed that the order to kill Borsellino came from a part of the Milanese financial world.

## Chapter 3

### The wave of violence of 1992

By the end of the 1980s, some leaders of Freemasons, right-wing terrorists, and bosses of the Sicilian, Calabrian, Neapolitan, Roman, and Puglia mafias – respectively Cosa Nostra, the ‘Ndrangheta, the Camorra, the Banda della Magliana, and the Sacra Corona Unita – shared a political project based on a new version of Separatism, the ancient temptation of the Mafia of being independent of political power, typical of periods of transition in history when political uncertainty makes it necessary to re-negotiate terms with official power. In the early 1990s, as the end of the Maxi Trial<sup>307</sup> was approaching – and, with it, the end of the historic impunity of Cosa Nostra – such temptation reached its climax. However, the political plan aimed at dividing Italy into macro-regions was not masterminded by the Mafia bosses but by other circles of power. This suggests endowing more importance to what happened *outside* as to what happened *inside* the Mafia.

#### 3.1 The separatist plan of the early 1990s

When, on November 8, 1989 the Berlin Wall fell, Italian politics was modeled on a bipolar scheme that since 1948 reflected the division of the Cold War. Within this scheme, the Christian Democrats functioned as the guarantors of the alignment of Italy to the western world in opposition to the Italian Communist Party, which by then was the largest communist party in western Europe (this party that remained excluded from power from the end of the Second World War until it was disbanded in 1991). The other parties, which a purely

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<sup>307</sup> The Maxi Trial (or *Maxiprocesso*) was a criminal trial against the Sicilian Mafia that took place in Palermo, Sicily, from early 1986 to January 1992. The trial was held in a bunker-courthouse specially constructed for this purpose inside the walls of the prison of Palermo. Sicilian prosecutors indicted 475 *mafiosi* for a multitude of crimes relating to Mafia activities, based primarily on testimonies given as evidence from former Mafia bosses turned informants, known as *pentiti*, the most important of whom were Tommaso Buscetta and Salvatore Contorno. Most were convicted to life imprisonment. The importance of the trial was that the existence of Cosa Nostra was finally judicially confirmed, and that the Sicilian *mafiosi* lost the impunity which had accompanied them for decades. Concerning the Maxi Trial see A. Jamieson, *The Antimafia: Italy's Fight Against Organized Crime*, Macmillan, London, 2000; and A. Stille, *Excellent Cadavers: The Mafia and the Death of the First Italian Republic*, Vintage, New York, 1995.

proportional electoral system helped to proliferate in number, were forced within this division.<sup>308</sup> As the Cold War ended, a period of intense political ferment began in the country. The first, immediate effect of the end of world bipolarization was to make the Communist Party appear as anachronistic, to the point that on November 12, just four days after the fall of the Berlin Wall, the party board announced the beginning of a process of internal transformation in order to cope with the new situation. Such a process ended in February 1991 with the dissolution of the party and the birth of two new ones: the Left Democrats, whose logo was an oak with a small Communist logo beneath it as a way of maintaining a bond with tradition, and Rifondazione Comunista, which retained the Communist logo bigger in its badge and Communist tradition closer in its program.<sup>309</sup>

The most noticeable element of this political ferment was the proliferation throughout Italy of the so-called *leghe*. These *leghe* were parties that had their roots in the Lega Veneta, established in 1980 by the initiative of some neo-Fascists and Freemasons, and the Lega Lombarda, born shortly after the Lega Veneta, also by the initiative of neo-Fascist and Masonic circles.<sup>310</sup> In a first stage, which we can place between the early 1980s and 1987, the Lega Veneta and the Lega Lombarda attracted consensus in areas of northern Italy where the middle class tended to vote for the Christian Democracy. The main reason for this consensus was the growing dissatisfaction towards the government of the owners of the myriad of small and medium firms that had made a decisive contribution to Italy's economic growth in the 1960s and 1970s. Both parties, however, shared the problem of a consensus limited to the region to which they belonged, as well as the limit of satisfying the demand for political renewal only in its destructive part (the opposition to the central government) but not in its

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<sup>308</sup> Concerning this subject see E. Bernardi, "La Democrazia cristiana e la guerra fredda: una selezione di documenti inediti (1947–1950)," in Various Authors, *Ventesimo Secolo*, Vol. 5, No. 10, Michail Gorbaciov: *ascesa e caduta di un leader politico*, Rubbettino, Soveria Mannelli, July 2006, pp. 127-137; and G. Formigoni, *Storia d'Italia nella Guerra Fredda (1943–1978)*, Il Mulino, Bologna, 2006.

<sup>309</sup> Concerning this topic see P. Ginsborg, *L'Italia del tempo presente. Famiglia, società civile, Stato. 1980-1996*, Einaudi, Turin, 1998, pp. 257-470. Concerning the transition from the Italian Communist Party to the Left Democrats see P. Iganzi, *Dal PCI al PDS*, Il Mulino, Bologna, 1992; A. Agosti, *Storia del Partito Comunista Italiano 1921–1991*, Laterza, Rome-Bari, 1999; and P. Bellucci, M. Maraffi, P. Segatti, *Pci, Pds, Ds, Le trasformazioni dell'identità della sinistra di governo*, Donzelli Editore, Rome, 2001.

<sup>310</sup> *Richiesta di archiviazione del proc. Pen. n. 2566/98 R.G.N.R nei confronti di Gelli Licio + 13, called Sistemi Criminali* (from now onwards just *Sistemi Criminali*), pp. 124-125. Such investigation demonstrated that some important far-right terrorists such as Stefano Menicacci and Stefano Delle Chiaie were part of the Lega Veneta. According to the investigation, Menicacci was "the main link" between the Lega Veneta and the *leghe* that were formed in Italy in the late 1980s and early 1990s. The *Sistemi Criminali* document reads that the Lega Lombarda was born in 1983. However, the official party registration was on March 10, 1984, although the party had already been active since 1982. Concerning the history of the Northern League see D. Biorcio, *La rivincita del Nord: la Lega dalla contestazione al governo*, Laterza, Rome-Bari, 2010; U. Bossi, *Il mio progetto*, Sperling & Kupfer, Milan, 1998; and G. Passalacqua, *Il vento della Padania. Storia della Lega Nord 1984–2009*, Mondadori, Milan, 2009.

proactive one, since the idea of transforming a region into a nation never encountered a valuable consensus even amidst the people of Veneto or Lombardy.<sup>311</sup> In 1987, a new phase began in which the center of gravity switched from Veneto to Lombardy coinciding with the Lega Lombarda's effort to expand its consensus outside of Lombardy under the guidance of its leader Umberto Bossi. The main novelty of this phase was an approach that debunked the idea of transforming a region into a nation and intended the concept of region as a "community of interests," according to a belief for which Lombardy was the land of the "productive people" opposed to a "centralist State" and a "parasitic South."<sup>312</sup> The breakthrough came in 1989, when the Lega Lombarda reformulated its political offer by presenting itself as the mouthpiece of the interests of all northern Italian regions, absorbing all the other leagues that had mushroomed throughout northern Italy and changing its name into Northern League.<sup>313</sup>

The architect of this change was a jurist, professor, and political expert by the name of Gianfranco Miglio. Understanding that a solely regional dimension would eventually end up preventing the expansion of the *leghe*, since a political offer limited to a regional scale would not guarantee adequate contractual power with both the State and the "traditional" parties, Miglio devised a strategy based on opposing a party system that the end of the Cold War had all of a sudden made obsolete, through a separatist formula embracing the entire nation.<sup>314</sup> Announced in February 1991 on occasion of a party congress, the new line of the party was based upon the proposal of a federal State composed of three macro-regions – North, Center, and South. If successful, this new federal State would make it possible the affirmation of a "Republic of the North," seen as the only viable remedy to a "corrupt and *mafiosa* centralist partitocracy."<sup>315</sup> Once the political offer was reformulated in this way, the Northern League managed to intercept the vast demand for renewal present in large areas of northern Italy, where it became the most voted party in the 1992 elections.<sup>316</sup>

In line with this plan, since 1990 a series of *leghe* specular to the Northern League had emerged in the rest of the country essentially upon the initiative of three characters: a right-

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<sup>311</sup> *Sistemi Criminali*, pp. 124-126.

<sup>312</sup> *Ibid.*

<sup>313</sup> *Ibid.*

<sup>314</sup> *Ibid.*

<sup>315</sup> *Ibid.*

<sup>316</sup> Concerning the evolution of the role of the Northern League in Italian politics see T. W. Gold, *The Lega Nord and Contemporary Politics in Italy*, Palgrave, Mac Millan, New York, 2003. It should also be noted that Bossi and Miglio declared their will to extend the experience of the Northern League to the rest of Italy for the first time in 1990 (*Sistemi Criminali*, p. 126).

wing extremist by the name of Cesare Crosta, Stefano Menicacci,<sup>317</sup> and Licio Gelli, the former Master of P2, the Masonic lodge discovered accidentally in 1981 by Milanese prosecutors during investigations on the bankruptcy of Mafia banker Michele Sindona, whose shadow extended over the bloodshed caused by neo-Fascist terrorism that Italy experienced throughout all the 1970s and the early 1980s.<sup>318</sup> The *leghe* that started in central and southern Italy between 1990 and 1993 were the Lega Centro Lazio, Lega Sud Sicilia, Lega Sud Calabria, Lega Centro, Lega Pugliese, Lega Marchigiana, Lega Molisana, Lega Meridionale or Southern League, and Lega degli Italiani. In the same months another league, called Lega Sarda, was born on the island of Sardinia.<sup>319</sup> By the end of 1991, there was a league in virtually any region of Italy.

Of all these leagues the one that is most interesting to our analysis is the Southern League. This party was founded in June 1989 by subjects who combined a neo-Fascist and Masonic background with Mafia relationships.<sup>320</sup> Its chief founder was one Egidio Lanari, former lawyer of Cosa Nostra boss Michele Greco. Investigations made by DIA – or *Direzione Investigativa Antimafia*, the Italian antimafia police unit established in 1991 – revealed that among the founding fathers of this party were also Vito Ciancimino, the former mayor of Palermo tied to Cosa Nostra, and Licio Gelli.<sup>321</sup> The program of the Southern League was centered upon the attack against both the traditional parties (the so-called *partitocrazia*) and the judiciary (the “magistrature,” as we read in the party’s statute), and was framed within a subtle and cleverly-devised political strategy according to which, in the name

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<sup>317</sup> He, too, a neo-Fascist, who had also been the lawyer and business partner of Stefano Delle Chiaie, one of the far right terrorists involved in the attacks that bathed Italy in blood between the end of the 1960s and the early 1980s. *Ibid.*

<sup>318</sup> Concerning this subject see T. Anselmi, *Relazione di maggioranza della commissione parlamentare d’inchiesta sulla loggia massonica P2*, in *Gazzetta Ufficiale della Repubblica Italiana – IX Legislatura – Resoconto seduta n. 163*, 12/7/1984, p. 15749; *Corte costituzionale, sentenza 231/75*; see also D. P. Arrigo, *Fratelli d’Italia. Cronache, storie, riti e personaggi (per capire la Massoneria)*, Rubbettino, Soveria Mannelli, 1994, p. 45; V. Gnocchini, *L’Italia dei liberi muratori. Piccole biografie di massoni famosi*, Erasmo, Rome, 2005, p. 36. And S. Fedele, *La massoneria italiana nell’esilio e nella clandestinità. 1927–1939*, Franco Angeli, Milan, 2005, p. 11.

<sup>319</sup> *Sistemi Criminali*, p. 107 and p. 116.

<sup>320</sup> The adhesion of neo-Fascist groups became evident on a few occasions. One was a conference taking place in Rome in June 1990 entitled *Un indulto per la pacificazione nazionale (An Amnesty for National Pacification)*; the conference was attended by several highly prominent right-wing extremists such as Adriano Tilgher (a member of the Avanguardia Nazionale far-right movement), Giuseppe Pisauro (another of the defending lawyers of neo-Fascist terrorist Stefano Delle Chiaie), Tommaso Staiti Di Cuddia, the brothers Stefano and Germano Andrini (both members of the far-right organization called Movimento Politico Occidentale led by Maurizio Boccacci), and a few Roman members of the neo-Fascist group Skinheads such as Mario Mambro (who was the brother of Francesca, she, too, a far-right terrorist); the other conference was held in Rome too two weeks later; during this conference, a neo-Fascist close to Gelli by the name of Elio Seggia was elected as leader of the party (*Sistemi Criminali*, p. 34 and pp. 107-108).

<sup>321</sup> Others were a Freemason by the name of Giorgio Paternò, and two neo-Fascist activists respectively from the southern regions of Puglia and Calabria: Cosimo Donato Cannarozzi and Enzo Alcide Ferraro (*Sistemi Criminali*, p. 107 and p. 116).

of different regional belonging, the Southern League was meant to oppose the Northern League in the parlance of public debate while in reality supporting the same political views and objectives.<sup>322</sup> According to a DIA report, this party was devised to attribute a primary role in the new federal political system that was being planned to the main Italian criminal associations – Cosa Nostra, the Camorra, the ‘Ndrangheta, the Banda della Magliana, and the Sacra Corona Unita.<sup>323</sup> Among the various proposals contained in the party’s statute was, in fact, also the abolition of the 416-*bis* article of the penal code, the antimafia law passed in 1982 after the assassination of Pio La Torre, the MP had drafted it.<sup>324</sup> In April 1991, during a conference of the party held in Palermo and entitled *Sicily = Land of Nobody or State of Police*, it was announced that a referendum to abolish 416-*bis* had already been put forward and the signatures to formalize it already been gathered.<sup>325</sup>

Between 1990 and 1992, the Southern League remained the most active separatist party outside of northern Italy. Even after, in early 1991, the party split over internal divisions about its name, the two parties that originated from the split – the Lega Nazionale Popolare founded by Menicacci and the Lega Italiana founded by Gelli and other neo-Fascist activists and Freemasons – did not present any substantial difference in their program from their progenitor.<sup>326</sup> In early 1992, a new league called Lega delle Leghe (League of all Leagues) was launched with the objective of merging all the other leagues, in line with the plan of reproducing the Northern League’s experience throughout the rest of the nation, taking advantage of the fact that by the end of the 1980s the Northern League electoral rise in Lombardy and several areas of Veneto was such that the party appeared destined to become the balance of power in any future coalition government (since any main party would be forced to negotiate for its support in order to have the majority of seats in parliament).

In the intentions of its architects, this plan consisted of three parts. The first was the constitution of a series of regional leagues; the second their merging into a single political unit

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<sup>322</sup> *Ibid.*, p. 33 and p. 107.

<sup>323</sup> *Ibid.*, p. 9, 16, and 129.

<sup>324</sup> Pio La Torre, elected from the ranks of the Italian Communist Party.

<sup>325</sup> *Ibid.*, pp. 107-108.

<sup>326</sup> The ultimate break came on April 21, 1991 when, in a release sent to all press agencies, Gelli explained the reasons for the break. He said that news of his expulsion from the party, which had appeared in the press in the previous days, was nonsense since he had never joined the party. After the split, Menicacci started the Lega Nazionale Popolare, among whose members were many who had belonged to the leagues previously formed in central and southern Italy, while Gelli and others (such as Bruno Rozzera, a retired prefect and a former member of P2; Domenico Pittella, a former Socialist senator previously condemned for being part of an armed gang; Alfredo Esposito, a former member of right-wing party Movimento Sociale born in 1946 out of Mussolini’s Republican Fascist Party; and Enrico Viciconte, a former right-wing politician who had served as an MP of the region of Lazio and was also a journalist) founded the *Lega Italiana*. (*Sistemi Criminali*, p. 36, 109, and pp. 104-105 and 127-128).

(the Southern League or the Lega delle Leghe) that in southern and central Italy would present itself as the equivalent, and the antagonist at the same time, of the Northern League; the third was that, had all these macro-leagues obtained a similar electoral success to that of the Northern League, the traditional parties were to disappear or succumb to a subordinate role, leaving the country in the hands of a new political class controlled by the Mafia and her allies. Through the division of the country into federal states, and thanks to the regionalization of the vote and the introduction of a uninominal electoral system easily controllable by the *mafiosi* by means of their power of intimidation, the Mafia would have the entire South of Italy under her direct control.<sup>327</sup> However, a first significant obstacle to this project came in early 1992, when the Lega delle Leghe did so poorly at the national elections that even had to change its name to Alternanza Nazionale Popolare.

Gelli's role in masterminding this new separatism and opening it to the Mafia appears crucial. Police investigations demonstrated that he was an essential partner for Cosa Nostra and the other Italian mafias since at least the mid-1970s, that he was the "banker" of the Corleonesi (from 1981 to 2006 the Cosa Nostra's controlling Family) in the same way as Sindona was the banker of the main Palermo Mafia Families led by Bontade and Inzerillo before they were exterminated by the Corleonesi in the so-called Second Mafia War of the early 1980s, and that he had relationships with other prominent Sicilian *mafiosi* and with Roman and Neapolitan criminal groups, "as phone calls, meetings held in Rome and Arezzo, and appointments annotated in his diary and his phonebook prove."<sup>328</sup> With the objective of fostering this separatist project, according to DIA investigators in the late 1980s Gelli had reorganized his relationships with Cosa Nostra and the other mafias through "the establishment of a new super-secret lodge named Terzo Oriente (Third Orient) in order to 'restore' the experience of P2 after its discovery in 1981 and its consequent ban in the years following."<sup>329</sup>

The importance that the promoters of this plan gave to the involvement of criminal organizations is confirmed by Miglio's perception of the Mafia and by the testimonies of quite a few Mafia turncoats. In an interview of 1999, Miglio admitted to be in favor of "the maintenance of the Mafia, since Italy's South should have a statute based on personalities of

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<sup>327</sup> *Sistemi Criminali*, pp. 9-16 and 126-129.

<sup>328</sup> *Ibid.*, p. 121.

<sup>329</sup> *Ibid.* The DIA report also traces a history of the relationships between the Mafia and P2 attributing to Gelli a crucial role in the process of coordination between the mafias of different southern Italian regions. Such process began in the 1970s, was consolidated in the 1980s, and made a quantum leap forward in the early 1990s thanks to the aforementioned political plan meant to divide Italy into three States.

command, and certain phenomena typical of those areas should be constitutionalized.”<sup>330</sup> A Mafia turncoat affiliated with both Cosa Nostra and the Freemasons and considered as credible by public prosecutors, Leonardo Messina revealed that “the Northern League was simply the expression of that part of the Christian Democracy and Freemasonry headed by Gelli and Andreotti” and that the “Southern League” was supposed to counterbalance the Northern League so that Cosa Nostra “could become a State itself.”<sup>331</sup> Messina also revealed that a series of meetings between Mafia bosses took place between August 1991 and the first weeks of 1992 in order “to discuss the political project of the creation of an independent State in the South as the consequence of the separation of Italy into three states.”<sup>332</sup> This project was “planned by that part of Freemasons” that “since the 1970s was a single integrated criminal structure with Cosa Nostra”<sup>333</sup> and could rely on the support of certain foreign powers and on a funding of 1000 billion liras for its enactment:

Involved in this project were not just *mafiosi* and Freemasons but also politicians, officials and entrepreneurs. The plan consisted of the creation of a new political party, the Lega Meridionale or Southern League, which was supposed to be the ‘natural prosecution’ in the South of the Northern League – that is, the southern version of Bossi’s party. When, on occasion of Bossi’s visit to Sicily in September/October 1991, I proposed his murder to Miccichè, I was told that Bossi was just a puppet and that the real mastermind of the Northern League was Miglio, behind whom were Gelli and Andreotti. I was also told that the Northern League was financed by some entrepreneurs from northern Italian regions who were interested in the division of Italy in three separate states. (...) The meetings that took place from August onwards prepared the meeting of February 1992, following which Miccichè told me that the decision to kill Falcone had been made. He did not talk to me about other matters that were discussed in this final meeting.<sup>334</sup>

Filippo Barreca, a *mafioso* from the Calabrian mafia, the ‘Ndrangheta, who also turned State witness, told investigating magistrates that the plan to separate the South of Italy from the rest of the country was to be enacted through the creation of a super-secret Masonic lodge whose members would be drafted from both the ‘Ndrangheta and the subversive right:<sup>335</sup> among them were Franco Freda, the lawyers Paolo Romeo and Giorgio Di Stefano, Paolo Di Stefano, ‘Ndrangheta bosses Giuseppe Piromalli, Antonio Nirta, and Fefè Zerbi,” and important politicians such as Ludovico Ligato, a former MP of the Christian Democrats and president of

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<sup>330</sup> *Il Giornale*, 20/3/1999. One such concept can also be found in G. Miglio, “Una repubblica mediterranea?” in J. Jacobelli et al., *Un'altra repubblica? Perché, come, quando*, Laterza, Rome-Bari, 1988, pp. 110-118.

<sup>331</sup> *Sistemi Criminali*, pp. 21-24.

<sup>332</sup> *Ibid.*

<sup>333</sup> *Ibid.*

<sup>334</sup> *Ibid.*

<sup>335</sup> *Ibid.*, pp. 62-63.

the Italian State Railways murdered in 1989 in a mafia-type ambush, Riccardo Misasi, a former Christian Democrat MP who served also as minister between 1970 and 1972 and in 1989-1990 and was later accused of collusion with the Mafia, Domenico Cazzupoli, former mayor of Reggio Calabria and leader of the Calabrian branch of *Confindustria*, the Italian Employers' Federation and National Chamber of Commerce and he, too, a defendant in a number of corruption trials, and Giuseppe Nicolò, a former counselor of the Region of Calabria.<sup>336</sup>

Pasquale Nucera, another Mafia informer from the 'Ndrangheta, revealed that each member of the *Santa* (the governing body of the 'Ndrangheta in the province of Reggio Calabria) was also “automatically” a top-ranking head of that super lodge of Freemasonry which, according to DIA investigators, was in charge of coordinating the separatist plan that would break up Italy in three. Nucera testified of a meeting held at the sanctuary of Polsi, a small village in the mountains of the Aspromonte area in the region of Calabria famous for being the place where top Calabrian *'ndranghetisti* do their annual meeting. This meeting was attended by members of the Camorra, the 'Ndrangheta, a boss of the American Cosa Nostra by the name of Rocco Zito, and a Milanese “white-collar” later identified by the investigators as one Giovanni De Stefano already been convicted of criminal association, fraud, illegal trafficking, falsification of money, trafficking of radioactive waste, and also had relationships with financial advisors close to Serbian President Milosevic and with Zeljko Razjatovic, the notorious war criminal better known as “Captain Arkan,” of whom he was a close friend.<sup>337</sup> According to Nucera, during the meeting Di Stefano said that it was necessary “to support this new ‘Party of Men’ [the Lega Meridionale or Southern League] since the Christian Democracy was no longer guaranteeing the same support as in previous years.”<sup>338</sup> Di Stefano also said that the mastermind of the plan was someone in Milan, the city that was the natural intersection between the Sicilian and Calabrian mafias.<sup>339</sup>

The converging revelations of two former *mafiosi* from another mafia, the Sacra Corona Unita, account for the attempt to extend the invitation to this new form separatism to the main criminal groups operating in the southern Italian region of Puglia. According to the testimony of Pugliese Mafia boss Gianfranco Modeo, such attempt came through the mediation of a

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<sup>336</sup> *Ibid.* On the so-called “scandal of the golden linen,” see *la Repubblica*, 26/11/1988; *Il Corriere della Sera*, 18/4/1993 and 16/11/1996. On the Ligato homicide and the relationships between the 'Ndrangheta and politics see *Commissione parlamentare d'inchiesta sul fenomeno della mafia e delle altre associazioni criminali similari, XI legislatura, Doc. 23 n. 8-bis*, pp. 10-16; see also E. Ciconte, *Storia Criminale, La resistibile ascesa di mafia, 'ndrangheta e camorra dall'Ottocento ai giorni nostri*, Rubbettino, Soveria Mannelli, 2008.

<sup>337</sup> *Sistemi Criminali*, pp. 63-66.

<sup>338</sup> *Ibid.*

<sup>339</sup> *Ibid.*

secret agent by the name of Aldo Anghessa, who, on behalf of Gelli, had tried to fix the trial of Modeo's brother, Claudio, in return for the Modeos to persuade other Pugliese Mafia bosses that the only way to solve a situation by now "too critical" for organized crime was to execute a series of attacks that the Palermo *mafiosi* had already approved after such attacks were advocated to them by Gelli in person on occasion of one of his visits to Palermo.<sup>340</sup>

In short, between 1990 and 1991 one of the most ambitious political-criminal projects in Italian history was devised. Its aim was gaining control of the whole State by "surpassing the traditional forms of relationships between each mafia until then based on bilateral deals depending on the illegal business involved (drug trafficking, human and weapons trafficking, cigarette smuggling, money laundering, and so on). This plan could rely on the complicity and the protection of high-profile personalities from the worlds of business, politics, finance, institutions, etc.,"<sup>341</sup> and was meant to "create a stricter union between the different mafias and between each mafia and those circles of power connected to them and protecting them."<sup>342</sup> For this reason, DIA investigators and Palermo prosecutors concluded that the 1992-1993 Mafia bombings, to which we will turn our attention in this and the next chapter, as well as some of the homicides of influential politicians committed in the same period, could have been "realistically prospected to the Cosa Nostra's bosses by intermediaries from secret Masonic lodges connected to the subversive right" as the political-criminal interests of these intermediaries, "although different, yet converged with those of Cosa Nostra."<sup>343</sup> The involvement of the Mafia was, according to investigators, very much facilitated by the fact that "the Cosa Nostra's old political referents had, by then, demonstrated that they could no longer take care of the Mafia's interests,"<sup>344</sup> in that the *mafiosi* were already sensing that the Maxi Trial was to have an outcome unfavorable to them. The Mafia was very much interested in this new political asset, which could be favored by a strategy consisting of, on the one hand, a series of violent, subversive actions that were meant to create a climate of terror throughout the whole country, on the other by the simultaneous creation of new parties that were direct expression of the aforementioned integrated criminal power structure."<sup>345</sup> Such a strategy was "aimed at breaking national unity and at replacing the unitary State with a 'form of State' based on the division of Italy into macro-regions, or, at least, at the secession of Sicily from

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<sup>340</sup> *Ibid.*, pp. 71-75.

<sup>341</sup> *Ibid.*, pp. 10-11.

<sup>342</sup> *Ibid.*

<sup>343</sup> *Ibid.*, pp. 13-14.

<sup>344</sup> *Ibid.*

<sup>345</sup> *Ibid.*

Italy.”<sup>346</sup> The creation of an autonomous or independent State in the South, if successful, would have allowed the integrated criminal system to control directly any legal and illegal business.<sup>347</sup> Thus, in the early 1990s, the Mafia was planning to “become itself a State,” her bosses being anxious to withdraw their “delegation” from political parties that they did not consider reliable anymore.

## 3.2 Mafia and public contracts

Throughout the 1980s, the Sicilian Mafia had a “major breakthrough”<sup>348</sup> even with regard to the control of public contracts. Rather than the number of contracts managed, it was the “quality” of these contracts that made a quantum leap forward.

In early 1991, ROS, the special body of Carabinieri police in charge of the fight against organized crime, released a report called *Mafia e appalti in Sicilia (Mafia and Public Contracts in Sicily)*.<sup>349</sup> Through tapped phone calls, shadowing and financial investigations, ROS investigators unveiled that between the mid-1980s and 1990 Cosa Nostra had been able to have a primary role in the process of assignment of quite a number of public contracts including some involving some of the most important financial companies in the country.<sup>350</sup> The report revealed that the Mafia’s control over these contracts was based on two systems. One was controlled by one Angelo Siino, an undercover Freemason never initiated into the Mafia who, until he decided to turn a State witness, was in charge of managing all public contracts in Palermo and its province as well as those contracts that were not exceeding the amount of five billion liras. The other was managed by Filippo Salomone, an entrepreneur from Agrigento, a city in south-west Sicily, who was in charge of the highest lucrative contracts, those released by the Region of Sicily and that involved some of the main national financial companies and also the relationship with high-ranking politicians.<sup>351</sup> Among the

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<sup>346</sup> *Ibid.*

<sup>347</sup> *Ibid.*

<sup>348</sup> *Procura della Repubblica presso il Tribunale di Caltanissetta, Direzione Distrettuale Antimafia, Richiesta di archiviazione “mandanti occulti bis,” N. 4645/00 Mod. 21, p. 27.*

<sup>349</sup> *Informativa del ROS n. 000001/2 del 16/2/1991 consegnata dal ROS alla Procura di Palermo il 20/2/1991 denominata Annotazione relativa alle attività di polizia giudiziaria esperite in merito ad una associazione per delinquere di tipo mafioso, strutturalmente inserita nell'organizzazione denominata Cosa Nostra, tendente ad acquisire la gestione o comunque il controllo di attività economiche, di concessione, di autorizzazioni, appalti e servizi pubblici nel territorio della regione Sicilia.*

<sup>350</sup> *Ibid.*, pp. 5 and following.

<sup>351</sup> See *Sentenza del Tribunale di Palermo, sezione V<sup>^</sup> penale, del 2.3.1994 al procedimento penale contro SIINO*

billion-lira-revenue companies discovered to flirt with the Mafia were Grassetto, controlled by one of the most successful financiers in Italy, the Sicilian Salvatore Ligresti; the Rome-based Tordivalle, whose proprietors were heirs to former Italian Prime Minister Alcide De Gasperi; Rizzani De Eccher, a company from the northern Italian city of Udine; a bunch of financial institutions controlled by the Catania knights; SII, a firm that was later bought by Antonio D'Adamo, CEO of Silvio Berlusconi's company Edilnord; several left-wing cooperatives; Raul Gardini's Calcestruzzi; Filippo Salomone's Impresem and Tecnofin; CoGe, a construction firm that, according to a 1999 DIA report, was suspected of being run by the Mafia and had among its controlling partners Silvio Berlusconi's brother, Paolo, and Giorgio Mori (the brother of Mario, head of the ROS Carabinieri unit that produced the report in question and one of the protagonists of the State-Mafia deal case); and finally, Tunnedil and Cipedil, two companies controlled by the Rappa di Borgetto financial group.<sup>352</sup> The most important politicians involved in this illegal networks were the former mayor of Palermo, Salvo Lima, the Christian Democrat MP Rino Nicolosi, the Christian democrat government minister Calogero Mannino, and the former Foreign Secretary Gianni De Michelis.<sup>353</sup> Just a few months after the report was handed by ROS to the Palermo public prosecutors in February 1991, some of these companies colluded with the Mafia ended up being at the center of the Milanese "Clean Hands" inquiries, which could have started one year earlier if only the report had had judiciary consequences proportional to the gravity of the charges that it contained. Compared to the Clean Hands inquiries, in which the accused were politicians, bureaucrats, and businessmen, the *Mafia e appalti* inquiry added a third party, the Mafia:

1) in Sicily, all the companies, even those more powerful from a financial point of view and with the strongest political connections, had to deal with Cosa Nostra;

2) whereas in other Italian regions corruption was just the consequence of negotiations between politicians, bureaucrats, and businessmen, in Sicily any deal was guaranteed with violence, or the threat of it, by the Mafia.<sup>354</sup>

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*Angelo + 5 poi parzialmente riformata dalla Corte d'Appello di Palermo con sentenza del 29/2/1996 e ormai divenuta irrevocabile*, cited in *Richiesta di archiviazione mandanti occulti-bis*, p. 7; see also *ordinanza di custodia cautelare del G.I.P. di Palermo del 2.10.1997 relativa al procedimento c. BUSCEMI A. + 9*.

<sup>352</sup> L. Abbate, P. Gomez, *I complici. Tutti gli uomini di Bernardo Provenzano da Corleone al parlamento*, Fazi Editore, Rome, 2007, pp. 120-145.

<sup>353</sup> *Ibid.*

<sup>354</sup> *Relazione sulle modalità di svolgimento delle indagini mafia-appalti negli anni 1989 e seguenti*, Doc. n. 1273, consegnato dal Procuratore di Palermo, Dott. Giancarlo Caselli, nel corso dell'audizione a Palermo del 3 febbraio 1999, Prot. n. A70/1-2, Procura della Repubblica, presso il Tribunale di Palermo, Direzione Distrettuale Antimafia, N.118/98 Ris., p. 13.

According to the system outlined in the ROS inquiry, Cosa Nostra had the task of preventing any form of free competition and free market. In return, she was granted the possibility to “clean” hundreds of billions of liras through financial companies. As an investigative journalist expert in this field wrote, the money laundering operations allowed for the exponential multiplication of the Mafia’s revenue “through a network that has its own epicenter in the Milanese banks, companies, financial companies, and multinationals, in which the illicit interests are often cemented together by Masonic loyalties that operate through branches of SISMI (at that time, Italy’s military intelligence agency) and SISDE (at that time, Italy’s domestic intelligence agency).”<sup>355</sup>

At the beginning of 1991, the report reached the desk of Giovanni Falcone. However, the version that Falcone was given was different from the original, as the names of the politicians involved had been cut off, therefore nullifying the investigation’s potential impact on the political class, or almost. Moreover, at the very same time the report was given to Falcone, it also ended in the hands of Siino, presumably one of the main defendants if a trial based on this investigation was to be staged.<sup>356</sup> The serious tip-off, as well as the manipulation of the original document, fueled a conflict between the Palermo prosecutors and the ROS Carabinieri. As the latter defended their work, the former accused them of producing a huge number of wiretaps that prosecutors could only decipher after Siino’s testimony.<sup>357</sup> The case left numerous questions unanswered, such as: “Who could have the opportunity and the authority to ‘purge’ the report, cancelling the proofs against De Michelis, Lima, Nicolosi, Mannino, and Lombardo, before the report was handed in to the prosecution office?” “Why were these purges made?” “If these omissions were the consequence of preliminary deals with Nicolosi and Mannino, who directed the ROS Carabinieri against Siino?”<sup>358</sup> The conflict extended to the magistrature, which was called to rule upon the case, and ended up in the headlines of newspapers; however, in line with an over a century-long tradition of Mafia investigations, the *Mafia e appalti* investigation did not have any considerable judiciary effect, becoming more useful to historians than to magistrates. On the basis of this investigation, in fact, the Palermo Prosecution Office issued just five arrest warrants, a decision that was in sharp contrast even to the requests of the very same Carabinieri accused of polluting the report who had demanded 45 arrest warrants. In his private diary, Falcone criticized his former boss,

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<sup>355</sup> A. Caruso, *Milano ordina uccidete Borsellino. L'estate che cambiò la nostra vita*, op. cit., pp. 75-76.

<sup>356</sup> *Doc. n. 1273*, op. cit., pp. 22-41.

<sup>357</sup> “In the years between 1989 and 1991, many tip-offs have favored those under investigation and, in particular, Angelo Siino, because he was revealed, first, about ongoing investigations on him being conducted, and then their content once they were over.” *Ibid.*, pp. 37-41.

<sup>358</sup> *Ibid.*

Palermo Chief Prosecutor Pietro Gianmanco, for such one such choice “made in order to avoid the involvement of politicians.”<sup>359</sup> Although bereft of the politicians’ names, the inquiry gave Falcone, who was just about to leave Sicily and move to Rome where he had been granted a new government office (thus, he was unable to order any prosecution on the basis of the investigation), the chance to better understand the links between Cosa Nostra and the worlds of business and finance. In Rome, Falcone was to have the investigative and judiciary powers to dismantle one such criminal system. He himself hinted, on at least two occasions, that he had grasped this tangle of collusions: first, in a 1991 convention held in Palermo; then, during a public speech given in early 1992 at the University of Pavia, in which he said that “the Mafia has entered the stock exchange.”<sup>360</sup> In short, the *Mafia e Appalti* investigation report Falcone was confirmed that by the end of the 1980s Cosa Nostra not only had tight control over national public contracts but through the complicity of some of the most important companies and institutions in the country she was also engaged in financial activities that gave her the possibility to launder profits and multiply her revenues. The case examined also presents some of the most typical continuities of Mafia history that should be highlighted: omissions by State officials, tip-offs, purging of official documents, judicial decisions that reduce or cancel the potential impact of prosecutions producing mountains of papers useful solely to scholars, and, most importantly, potential high-profile culprits who manage to avoid prosecution.

### 3.3 Falcone and the “convergence of interests”

In 1991, the Italian government introduced a new office in order to centralize and rationalize the fight against organized crime. Called Office of Penal Affairs, the new institution was assigned to, and also created for, employing Giovanni Falcone, whose rejection as new Palermo chief prosecutor in 1988 had still to be compensated (the missed nomination had left him weaker and more vulnerable and was poorly welcomed by a part of Italy’s public opinion as it came at a time when the Maxi Trial was still under way). The head of this office would coordinate 26 newly introduced antimafia prosecution offices throughout the country and the activity of DIA, a new police force created to take charge of all Mafia investigations, which

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<sup>359</sup> *Il Sole 24 Ore*, 24/6/1992.

<sup>360</sup> A. Caruso, *Milano ordina: uccidete Borsellino. L'estate che cambiò la nostra vita*, op. cit., p. 77.

until then were too often split between Carabinieri and Police, with considerable advantage for the Mafia.

As Falcone accepted the direction of the office, the number of his opponents increased to even include politicians and magistrates from those political areas – the Left and the leftist factions of both the Christian Democracy and the magistrature – closer to him, or at least that he considered as such. This discredit, however, had already become visible in 1989, when two prison mates – Giuseppe Pellegritti, a Mafia turncoat affiliated with the Catania Family, and Angelo Izzo, a neo-Fascist terrorist – accused Salvo Lima of instigating the homicides of Piersanti Mattarella, the Christian Democrat and former president of the Region of Sicily killed in 1980, and Pio La Torre, murdered in 1982 for drafting the antimafia law that allowed the government to seize and confiscate the assets of the *mafiosi* (the 416-*bis* article of the penal code that still bears his name). Realizing that these accusations were false, Falcone had indicted the two of them for slander.<sup>361</sup> However, his failure to prosecute Lima had caused a bitter public rejection of him by personalities in the spotlight for their commitment, alleged or real, to the antimafia cause, such as the Mayor of Palermo Leoluca Orlando, who even accused Falcone of hiding the truth on the assassinations of some excellent personalities killed by Cosa Nostra and issued a formal protest to the *Consiglio Superiore della Magistratura*, the governing council of the Italian judiciary, forcing the magistrate to appear before the committee in order to defend himself.<sup>362</sup> The case just mentioned is important also for two other reasons. First, it confirms the converging action of *mafiosi* and right-wing terrorists. Secondly, it shows how, by 1989, Lima was already looked upon with distrust by the Cosa Nostra bosses.

In June 1989, another fact took place that accounts for how oblique the discredit and the contempt towards Falcone were and how dangerous he was not just for the Mafia bosses but also for other circles of power that with the Mafia were associated. A bomb hidden among the rocks of his summer house at Addaura, a seaside resort near Palermo where in those days he was working with Swiss colleagues on investigations into the money laundering activities of Cosa Nostra in Switzerland, was found and defused by two intelligence officers, who both later assassinated in mysterious circumstances.<sup>363</sup> According to quite a few Mafia turncoats,

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<sup>361</sup> *la Repubblica*, 11/10/89.

<sup>362</sup> See *la Repubblica*, 24/5/1990, Palermo edition, and also *Verbale della Prima Commissione referente, 15/10/1991, relativo alla pratica n. 191/91 R. R.*, concerning the inquiry on the work of the Palermo Prosecution Office following the accusations to Leoluca Orlando, <https://www.csm.it/documents/21768/1909111/26+verbale+prima+commissione+15+ottobre+1991.pdf/ce7836e2-6333-98f6-1aeb-73dfd0432a52> (date accessed 24/7/2017).

<sup>363</sup> *Ibid.*

the two officers were killed for preventing Falcone's assassination, "Which was desired by some branch of the secret service willing to put a halt to his investigations."<sup>364</sup> In addition, it should be said that it was on this occasion that, interviewed by a journalist, Falcone used for the first time the expression "convergence of interests" alluding to the complicity between the Mafia and other, more refined circles of power (one such allusion he made while framing the attack against him in the light of the "financial investigations" that he and his "Swiss colleagues were conducting on very well-known Mafia bosses and financiers contiguous to Cosa Nostra such as Vito Roberto Palazzolo, Leonardo Greco, Salvatore Amendolito, and Oliviero Tognoli").<sup>365</sup> In a book published years later, the prosecutor who led the investigation on the Addaura case had to admit the persistence of sinister grey zones as "investigations and trials have only allowed a glimpse of a truth destined to remain buried and to add to the long list of the mysteries relating to organized crime in our country."<sup>366</sup> It was this perception of mysterious forces acting behind the scenes, this "convergence of interests" that had cost the life of two agents who had saved his, the main reason for Falcone's pessimism. On occasion of the funeral of Antonino Scopelliti, the magistrate in charge of the prosecution at the Maxi Trial killed by the Calabrian Mafia in August 1991 as a favor to the Sicilian Cosa Nostra (further demonstrating how close the relationships between different mafias had become by the beginning of the 1990s), he whispered to the victim's brother that he knew perfectly well that he "would be next."<sup>367</sup> It was in this climate, and perhaps also because of this climate, that Falcone was about to move to Rome.

With pessimism growing day by day, at the beginning of 1992 Falcone began to concentrate his attention on what remained of the undercover P2 Freemason lodge and on some circles of power connected to it, focusing on Gelli's financial operations and those of other financiers close to Cosa Nostra. On March 18, 1992, a police operation led to 26 arrests and the discovery of "a strange trafficking of weapons and a new channel of money laundering, which, passing through Bolivia, Yugoslavia and South America, connects Palermo to some Swiss banks," as well as of "Kalashnikovs bought from Czechoslovaks and Hungarians and paid with cocaine, government bonds for a total value of nearly 500 billion liras, and rubles purchased on the Russian black market."<sup>368</sup> "Behind these sophisticated

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<sup>364</sup> *la Repubblica*, 7/5/2010.

<sup>365</sup> *Ibid. and Procura della Repubblica presso il Tribunale di Caltanissetta, verbale del 4/12/1990 in relazione al procedimento n.204/B/89*. See also F. La Licata, *Storia di Giovanni Falcone*, Universale Economica Feltrinelli, Milan, 2005, pp. 114-117.

<sup>366</sup> F. Pinotti, L. Tescaroli, *Colletti sporchi, op. cit.*, p. 77.

<sup>367</sup> A. Pecora, *Primo sangue*, BUR, Rizzoli, Milan, 2010, p. 64

<sup>368</sup> *la Repubblica*, 19/8/1992.

international financial operations” – we read in the press of those days – “it appears the name of Licio Gelli.”<sup>369</sup> This last investigative trail followed by Falcone in his final days should perhaps be given more weight than it has been done so far, as “the most recent investigations on the money laundering fluctuations deriving from Cosa Nostra’s huge illegal assets seem to lead precisely to Freemasonry: for example, Totò Riina’s assets; for months, the Carabinieri have monitored the phone of a Palermo accountant by the name of Giuseppe Mandalari, who has already been convicted of money laundering, is allegedly in charge of the management of several financial companies attributable to the Corleonesi, and is the link between Cosa Nostra and a group of Masonic lodges whose affiliates may have been participants in the illegal activities carried out by Mandalari himself.”<sup>370</sup>

In conclusion, before being killed, Falcone first publicly spoke of a “convergence of interests” between the Mafia and other groups of power and of connections between the Mafia and the world of finance, then he concentrated his attention on P2 and other power circles of which Gelli seemed to be the center. Perhaps, by now he had sensed the full significance of that “Third Level” whose definition, unintentionally, he had invented.

### 3.4 Violence foretold

By the end of 1987 the worsening of the relationships between the Mafia and the Christian Democracy was already evident. On occasion of the national elections of that year, for the first time since the end of the Second World War, Cosa Nostra bosses had ordered their soldiers, families, and whoever was under their influence not to vote for the Christian Democrats but for another party, the Socialists.<sup>371</sup> Although this was partly due to the judiciary policies aiming at defending civil rights that the Socialists were campaigning for and that the *mafiosi* believed they may have used to their own advantage, the main reason for the change was that the Mafia bosses wanted to send the clear message to their long-standing allies that, should the judicial situation deteriorate in the instance of a guilty verdict at the Maxi Trial, consequences would be paid. However, at the regional elections of June 1991, the Mafia vote returned to the Christian Democrats, as demonstrated by the clear victory of Giuseppe Giammarinaro, a politician close to the party’s leader Giulio Andreotti who had come all the way down from

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<sup>369</sup> *la Repubblica*, 19/8/1992.

<sup>370</sup> *Ibid.*

<sup>371</sup> *Il Corriere della Sera*, 29/8/96; *la Repubblica*, 22/11/2013.

Rome to Sicily in order to support his candidacy.<sup>372</sup> The decision to return to support the Christian Democrats was due either to the promise made to the Mafia bosses by some of the party leaders or to the expectations of the *mafiosi* that the Maxi Trial, now coming to its final stage in the Supreme court, would have been fixed in their favor. Those in charge of fixing the trial, or expected to do so, were the two main emissaries of Cosa Nostra to the halls of power: Salvo Lima and Ignazio Salvo. It was, thus, a clause-based support the one that the Mafia was conceding.

On January 30, 1992 the Supreme court issued the final verdict to the Maxi Trial. The sentence reversed the appeal verdict, in which some of the life sentences had been cancelled due to the refusal of the court to transform Buscetta's theorem – that Cosa Nostra was controlled by a governing body, the “Commission,” which would be held responsible for all the crimes committed by the members of the organization – into a judiciary truth. Instead, for most of the defendants the final verdict confirmed the life sentences issued in the first verdict released by the Palermo Tribunal in 1987. It was a historical defeat for Cosa Nostra. Some of her bosses, such as Riina, Provenzano, Bagarella, and the Graviano brothers among others, were condemned to life prison *in absentia* as they were still fugitives as judge Alfonso Giordano read his verdict to a stunned court; those who were already behind bars began to serve their sentences, which in quite a few cases were life prison sentences, with the only expectation of finishing their days in prison or spend a number of years behind bars: such an unusual situation for criminals accustomed to, if not complete impunity, at least something of the sort.<sup>373</sup>

Even in this very last stage of the trial Falcone did not play a secondary role. In Rome, he had the opportunity to influence the final judgment of the trial by introducing a new method to choose the section of the court in charge of the ruling based on a drawing. The new system was meant to prevent possible attempts at fixing the final ruling avoiding the case be assigned to the first section of the Supreme court which was led by the so-called ‘sentence-killer’ judge, Antonio Carnevale, who, on the basis of minor technicalities, had always ruled in favor of *mafiosi* in the about 500 Mafia trials in which he had been the final judge. Some attention should be given to this judge, as he represents that type of State official who, although never being definitively condemned by a court in spite of quite a strong evidence

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<sup>372</sup> Gianmarinaro obtained 50.264 votes out of 109.261, see: <http://www.ars.sicilia.it/deputati/scheda.jsp?idDeputato=616&idLegis=11> (accessed July 2014). Later, Gianmarinaro was condemned for corruption, fraud, criminal association and abuse of office. The inquiry defined him as a “typical example of the *borghesia mafiosa*,” see *l'Unità*, 11/5/2011.

<sup>373</sup> On this subject see A. Giordano, *Il maxiprocesso venticinque anni dopo. Memoriale del presidente*, Bonanno Editore, Acireale, 2011.

against him, always plays in favor of the Mafia. Later put on trial for collusion with the Mafia, Carnevale was acquitted by the same Supreme court for which he had been in the service for many years after a long, controversial trial that saw him sentenced in appeal to six years' imprisonment. The acquittal was due to the judges' refusal to consider as proof of his guilt the confessions of some of his colleagues who revealed his strong pressures to influence trials, the motivation for this decision being that those facts had happened inside the council chamber and were thus veiled by secrecy. However, suspicions that that of the 'sentence-killer' was more than just a breach of ethics were destined to remain as the press reported of a bank account with some billion liras in Carnevale's name and of his verbal attacks on Falcone and Borsellino, labelled, when they were still alive, as "two incompetents with a professional level that equals zero who believe to live in Russia and just seek summary justice to screw some *mafioso* by adjusting trials," and as "idiots" after they were assassinated: not even their deaths were enough to soothe the grudge against of this colleague of theirs.<sup>374</sup>

The final verdict of the Maxi Trial was the prelude to the most violent season of Mafia violence in history – at least as far as the Sicilian Mafia is concerned. However, this wave of violence did not come unannounced and accompanied, and to some extent influenced, the whole process of transition from the First to the Second Republic. On March 4, a few days after the final sentence to the trial was released, and while in the midst of the 1992 electoral campaign arrest warrants of Italian politicians and businessmen were mushrooming, Leonardo Grassi, a prosecutor serving in the northern Italian city of Bologna who was in charge of the investigations of the 1980 neo-fascist bombing at Bologna's train station in which 85 were killed and hundreds wounded, received a note on his desk. The message, sent by one Elio Ciolini, a far-right extremist at that moment in prison in Florence, announced the beginning of a new phase of the so-called "strategy of tension"<sup>375</sup> (the far-right terrorism aiming at an authoritarian turn) brought forward by a "deviated political Masonic cultural order."<sup>376</sup> The note read as follows:

New strategy of tension in Italy – period March–July 1992. Between March and July of the current year events will take place aiming to destabilize public order, such as bomb explosions that will hit common people in public places; the kidnapping of a politician from either the Socialist Party, the Communist Party, or the Christian Democracy; and the kidnapping, and possibly the murder, of a future president of the Republic.

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<sup>374</sup> See *Sentenza Carnevale del 30/10/2-21/5/3 della Corte di Cassazione, Sez. unite penali*, pp. 2-3. See also *la Repubblica*, 21/1/1995, *la Repubblica*, 30/6/2001.

<sup>375</sup> On this topic see *Commissione parlamentare d'inchiesta sul terrorismo in Italia e sulle cause della mancata individuazione dei responsabili delle stragi, XIII Legislatura, Doc. XXIII, n. 64, Vol. 1, Tomo III*.

<sup>376</sup> *Sistemi Criminali*, p. 8.

All this was decided in Zagreb, Yu (September 1991) as part of a “new political order” of the European Right that in Italy is aimed at a new “general” order, which will bring economic and financial advantages (already in progress) to those responsible for this new deviated Masonic political cultural order. History repeats itself; after 15 years [from the end of right-wing terrorism in Italy] they are returning to murderous strategies in order to obtain what they were not able to obtain previously.

Like a phoenix, they keep on returning.<sup>377</sup>

Grassi initially belittled the letter. He only gave it importance on March 12, when Salvo Lima, the former mayor of Palermo upon whom Cosa Nostra had put her chances for fixing the trial, was murdered in Palermo. The primary incarnation of the Christian Democrat power in Sicily, Lima, who was now serving as an MP in the European Parliament, was killed in an ambush that presented quite a few anomalies compared to other Mafia killings. The two men who were with him were not executed, and after the murder the killers did not destroy the motorcycle used for the ambush, something *mafiosi* had always done when committing this type of murder in order to leave investigators the least evidence as possible. Moreover, Lima had not taken any precaution, which suggests that he was not expecting to be killed and did not consider himself a possible target of Cosa Nostra, although in an interview released a few days earlier he had admitted of “being scared, sometimes.”<sup>378</sup> After the murder, Grassi sent the information received from Ciolini to the government, however omitting the source.<sup>379</sup>

Upon receiving the tip, the Minister of the Interior, Vincenzo Scotti, forwarded a note to all prefects in the country warning of a plot aimed at destabilizing democracy through a series of political homicides and the kidnapping of a future president of the Republic, as described in Ciolini’s letter. As the note reached its destinations, politicians from all parties began to denounce that a destabilizing campaign was under way. The first denouncement came by Giulio Andreotti. Interviewed right before attending Lima’s funeral, Andreotti conjectured the failure to fix the trial as the motive for Lima’s murder and hinted that the murder could be the first move to throw the Christian Democrats out of power and favor an authoritarian turn: “There may be a secret political desire, not for a democratic, but for a dictatorial reform... after all, since we’ve had the Red Brigades, we may now have to deal with brigades of a different kind.”<sup>380</sup> Brigades of another kind could only mean “black brigades,”

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<sup>377</sup> *Ibid.*, pp. 83-84.

<sup>378</sup> *Il Corriere della Sera*, 13/3/1992. See also G.C. Marino, *Storia della mafia, op. cit.*, p. 319; and A. Caruso, *Da cosa nasce cosa. Storia della mafia dal 1943 a oggi*, Longanesi, Milan, 2008, pp. 499-500. The interview made by Enzo Biagi can be found in *Il Corriere della Sera*, 13/3/92.

<sup>379</sup> See *Senato della Repubblica, X legislatura, Giunte e commissioni parlamentari, 845° resoconto, seduta del 20 marzo 1992*, p. 7.

<sup>380</sup> *Il Corriere della Sera*, 18/3/1992; *la Repubblica*, 15/3/1992.

that is, neo-Fascist terror.

The second to denounce an ongoing conspiracy was the leader of the Left Democrats, Achille Occhetto. While interpreting Lima's as not merely a Mafia homicide, Occhetto spoke of a dictatorial danger connected to the secret circles of power that, between the end of the 1970s and the beginning of the 1980s, had fueled a bloodbath in Italy:

“There is an announcement, a warning behind Lima's murder, something that leads us to talk of authoritarian, even dictatorial, dangers; however, being Cossiga and Andreotti [the two most influential Christian Democrats] the men at the center of a power which was not formed in the space of a single day, instead of denouncing abstract dangers they should, once and for all, put the Italian people in the condition to understand the mechanisms of this power. (...) They have never done this, right from the unpunished massacres [another reference to those committed by neo-Fascist groups between the 1970s and 1980s]. Now, instead of through warnings or soothsaying that nobody can really understand, they should speak clearly. (...) It is way too simple to reduce Lima's homicide to Mafia payback. It has always emerged in one way or another, in delicate periods of transition, a strategy of tension in which secret forces, which are from time to time P2, deviated intelligence agencies, the Mafia, or all these put together, commit crimes, and they do so always with the same objective, an authoritarian regression. (...) That of Lima is not simply a Mafia crime; it is, rather, the first step in a new strategy of tension. The Mafia does not expose its victims, as this would not be intelligent.”<sup>381</sup>

Other left-wing politicians and left-wing newspapers immediately backed Occhetto after his public accusations. On March 16, the newspaper *l'Unità* spoke of an “all-out civil war taking place within the leading class of the country,” “a strategy of tension that has just started again” as suggested by the “undeniable affinity between the Lima and Moro cases.”<sup>382</sup> Two days later, in an editorial published by *l'Unità*, the Left Democrat MP Luciano Violante interpreted Lima's homicide “as a blow against the prime minister [Andreotti],” who, “in a recent interview, has made two sinister statements.”<sup>383</sup> Violante, too, alluded to a connection between the murder and a subversive strategy (“there is someone who wants to create the conditions for something”) and also put Lima's murder in relation to Andreotti's candidacy for the Presidency of the Republic, which “would be a terrible way to conduct the political fight.”<sup>384</sup>

Encouraged by the realization of his prophecies, Ciolini sent another letter to Grassi:

“Object: Ref. Letter date 4/3/1992. Dear Doctor, it is not by chance that my information was, unfortunately, correct. In the course of the meeting they spoke English; I had to make quite an effort to remember it, which is

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<sup>381</sup> *Il Corriere della Sera*, 16/3/1992.

<sup>382</sup> *l'Unità*, 16/3/1992.

<sup>383</sup> *l'Unità*, 18/3/1992.

<sup>384</sup> *Ibid.*

why I am writing you only today. Now we must expect an act of terrorism against the Socialist Party, directed at an influent personality.”<sup>385</sup>

Questioned on the same day by the Carabinieri, the Italian military police, Ciolini handed them another cryptic note announcing a soon-to-come terrorist action against foremost politicians and repeated the existence of a subversive plot that he had come to know of while attending a meeting of the international neo-Fascist right in Sissak, a small city not far from Zagreb in the former Yugoslavia:

Strategy of tension, March–July ’92

Matrix: Freemason–political–Mafia = Siderno Group Montreal-Cosa Nostra-Catania-Roma (DC – ANDREOTTI) – ANDREOTTI – via – D’ACQUISTO – LIMA

Sissak

Agreement future Croatian government (TUDJMAN) Freemason to – protect heroin refineries – cocaine transit – exchange – Restoration of Croatian economy and recognition of Croatian Republic – Investment planned \$1000 million ... [an illegible section follows]

Sissak –

Deal between extremist groups for a right-wing policy in commercial Europe Austria-Germany-France-Italy-Spain-Portugal-Greece NOTE: Italian says ‘Europa commerciale-Austria’ (etc) with ‘commercial’ as part of country group

(...) trafficking of heroin-cocaine-via [illegible word] Sicily-Yugoslavia (provenience of heroin, Turkey)

DC [Christian Democracy] protection by Mr D’ACQUISTO and LIMA – future forecast

ANDREOTTI presidency –

DC demands votes to the *Cupola* [the governing body of the Sicilian Mafia] for new elections

Left faction of Christian Democracy does not agree with Mafia vote

ANDREOTTI, according to developments in left and right politics, a bit [another illegible word] reticent

Lima justifies himself to put pressure on ANDREOTTI

A presidential republic is also forecast, with the support of the Socialist Party

ANDREOTTI.

*Cupole* [Mafia governing bodies] – Pressure on Andreotti [two more illegible words, probably *also because* or *so that*] new developments, political agenda, leagues etc., make the situation of the Mafia in Sicily difficult

Strategy\

Intimidate those State officials and institutions (police forces, etc.) so that they will not be willing to do it and divert the attention of public opinion away from the fight against the Mafia with a danger different and more serious than the Mafia (...).<sup>386</sup>

Scotti received the note on the very same day that Ciolini handed it to the Carabinieri, and

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<sup>385</sup> *Sistemi Criminali*, p. 85.

<sup>386</sup> *Ibid.*, pp. 86-87.

again he warned all prefects around the nation. The following day, a conspiracy to destabilize democracy and the consequent possibility of new emergency laws to be passed in order to face an authoritarian turn were front-page news in all the press.<sup>387</sup> Most interestingly, all the press connected the alleged coup to a Mafia fury of which Lima's homicide would be just the first in a long series.<sup>388</sup> However, in a traditional pattern of Italian politics, as the stone was thrown the hand was hidden. Upon learning of the minister's source, the next day the press drastically scaled down the alarm, now groundless since Ciolini, already known for having steered a bunch of investigations on previous terrorist attacks, lacked any credibility. The case remained headline news in all newspapers and television news, although the approach was opposite than the previous day: "Bullshit."<sup>389</sup> The President of the Republic, Francesco Cossiga, the Prime Minister, Giulio Andreotti, and the Minister of Justice, Claudio Martelli, all retracted their previous statements and distanced themselves from the equation "Mafia = terrorism" and from denouncements of an attempted coup, and invited those believing in such conspiracies (the very same conspiracy that, just a few hours before, they had been the first ones to denounce or to hint at) to clearly say who would be behind it. Cossiga and Andreotti even labeled the Minister of the Interior, Scotti, as a "*pizzaiolo*" (pizza maker) and "*pataccaro*:" ("bullshitter").<sup>390</sup> The turnaround was followed by the parliament, which accused Scotti of alarmism, sensationalism, and of putting the credibility of state institutions at risk in the court of public opinion.<sup>391</sup> However, later events demonstrated how serious and opportune Scotti's warning was, and in a book published 20 years later Scotti claimed responsibility for his behavior and expressed all his bitterness for an alarm labeled as "bullshit" that was anything but "bullshit."<sup>392</sup>

The sudden backpedaling of some government ministers, however, did not interrupt the denouncements of an ongoing conspiracy by other politicians. Most of these denouncements came from leaders of opposition parties, but some even by politicians of the parliamentary majority. In an interview given to the newspaper *La Stampa*, Vittorio Sbardella, a Christian Democrat MP close to Andreotti, spoke of a destabilizing desire shared by a branch of Freemasonry and some influent American circles of power to hamper Italian politics and favor an authoritarian turn, as the Lima homicide may not have been "the simple Mafia's answer to

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<sup>387</sup> See, for example, *Il Corriere della Sera*, 19/3/1992; *la Repubblica*, 19/3/1992; *l'Unità*, 19/3/1992; *La Stampa*, 19/3/1992.

<sup>388</sup> *Il Corriere della Sera*, 19/3/1992.

<sup>389</sup> *la Repubblica*, 20/3/1992; *Il Corriere della Sera*, 20/3/1992.

<sup>390</sup> *Ibid.*

<sup>391</sup> See the accusations launched against Scotti by senators Gualteri, Serri and Teodori, which can be found in *845° resoconto, seduta del 20 marzo 1992*, respectively on p. 9, 13, 18.

<sup>392</sup> V. Scotti, *Pax mafiosa o guerra? A venti anni dalle stragi di Palermo*, Eurolink, Rome, 2012, p. 205.

the antimafia laws decided by the government” but also have served to “destabilize Italian democracy.”<sup>393</sup> According to Sbardella, an ongoing “concentric attack” on the Christian Democracy was under way with the “aim of crushing the political geography of this country into several small parties or, even worse, increase the absentee vote in order to create the worst possible conditions for governing: and, when government action is not effective, someone could easily replace the parties and make attempts an authoritarian turn.”<sup>394</sup> Sbardella went on claiming that behind Lima’s homicide were “those who do not want Europe: the Americans and a few industrial groups, which do not feel ready for one such change, this is the purpose of the ongoing destabilization.”<sup>395</sup> As in the years of terror, the only possible remedy could be *national solidarity*, that is “a government comprising all the main parties, the only one that could cope with such a difficult phase.”<sup>396</sup> In short, Sbardella denounced that Italy was facing a new period of tension put forward by certain international Masonic circles with the support of some industrial and financial groups, even American, that now felt the lack of adequate political representation. Even after the US embassy responded to these assertions claiming that destabilizing was not in American interest, Sbardella continued to claim that “Americans and Freemasons want chaos.”<sup>397</sup> However, Vittorio Sbardella was not the only politician who was not from the Left to resume the alarm. Even the secretary of the Radical Party, Marco Pannella, publicly admitted to believing in a coup, although he attributed it to Cossiga’s authoritarian temptations; and the President of the Senate too, Giovanni Spadolini, could not help noting “something that is not in the traditional style of the Mafia.”<sup>398</sup>

In the days following, *Repubblica* published two articles that connected Lima’s homicide to a new political separatism aiming at an authoritarian turn. *Repubblica* was a press agency directed by one Ugo Dell’Amico, whose father, Lando, had founded it before being arrested in 1974 for the neo-Fascist Piazza Fontana bombing, which took place in 1969 inside a Milan bank killing 17 and wounding 88. According to DIA investigators, the agency had received subsidies from SISDE, the domestic intelligence agency whose heads were affiliated with Gelli’s P2 since the early 1970s.<sup>399</sup> The first article, signed by Sbardella and entitled *An IRA for Lima? Sicily as Mediterranean Singapore*, was published on March 19. In this article,

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<sup>393</sup> *La Stampa*, 19/3/1992.

<sup>394</sup> *Ibid.*

<sup>395</sup> *Ibid.*

<sup>396</sup> *Ibid.*

<sup>397</sup> *l’Unità*, 20/3/1992.

<sup>398</sup> *Ibid.*

<sup>399</sup> *Sistemi criminali*, p. 13.

Sbardella interprets Lima's homicide "within the framework of a separatist and autonomist logic, even if never explicitly declared."<sup>400</sup> The Mafia, with her "military control" of Sicily, has "powerful, self-financing channels that could be compared only to some strongly compromised situations of Latin America;" in addition, in order to become a State itself, "it would be enough for her to conquer an administrative-regulatory autonomy that would transform Sicily into a new tax haven in the middle of the Mediterranean, taking to the extreme the Mafia's offshore and commercial trafficking techniques, which now would no longer be illegal, with the intent of challenging duties and customs of the bordering countries."<sup>401</sup> The attack against the mediation of traditional parties would have "as an immediate effect both the fragmentation of consensus (which would increase the *mafioso* power to condition the electorate) and the exacerbation of the North/South divide."<sup>402</sup> In this situation, "to a counter-reaction by Italian civil society would correspond an increased power of the organized crime groups of southern Italy, which would have, as a consequence, that civil society would want to distance itself from an apparently uncontrollable South."<sup>403</sup> The two "equal and opposite" forces would provoke "strong internal tensions and break the institutional system irreversibly."<sup>404</sup> Crucial to this plan was the "regionalization" of the vote at the expense of the main traditional parties, which would "have as a first, destabilizing consequence their geographic ghettoization and the nullifying of the traditional parties' power of representation and mediation of general interest."<sup>405</sup>

In short, according to Sbardella, someone who was not even difficult to identify had the objective of wiping out the old party system. Since "it is not imaginable" – wrote Sbardella – "that the Mafia, so keen on high finance because of the maintenance and development of money laundering channels that need the competence and the enlistment of specialists, underestimates the conditions and the implications of such an anti-unitary split," it is necessary "to predispose a frame of general compatibility in relation to the international schemes within which such project would be implemented."<sup>406</sup> Although written in an elliptical style, the conclusions of the article are quite clear and important to highlight:

Paradoxically, in this picture, it would be in northern federalism's best interests to foment southern federalism as a tax haven free from any form of control (...). Still today, many denounce the responsibilities of those who are

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<sup>400</sup> *Ibid.*, pp. 89-92.

<sup>401</sup> *Ibid.*

<sup>402</sup> *Ibid.*

<sup>403</sup> *Ibid.*

<sup>404</sup> *Ibid.*

<sup>405</sup> *Ibid.*

<sup>406</sup> *Ibid.*

capable of organizing such complex operations. In so doing, they forget that we are facing globalization processes that nobody, no matter how great his power, would ever be able to control from just one power center. The existing multi-polarity, with its “physiological” specializations, cannot tolerate (at the risk of the impoverishment of the overall system) neither reductive simplifications nor a hetero-direction, given that a power center able to govern the immense, unpredictable variables at stake, whose dynamic equilibrium depends on time and degree of knowledge gained up until that moment, does not exist.<sup>407</sup>

After Sbardella’s, denouncements of an ongoing conspiracy seemed to fuel each other. While returning to insist upon the existence of a secret plan, the left-wing leader Achille Occhetto again talked of plots typical of moments of transition made in order to destabilize the political order. Similarly to Occhetto, the President of the Chamber of Deputies, Nilde Iotti, spoke of secret forces that, taking advantage of “a grave moment of deterioration in political life” in which “the destiny of the country is at stake, work behind the scenes to the detriment of our democracy.”<sup>408</sup> Yet, the most interesting public intervention came again from Andreotti. While minimizing the existence of a conspiracy, Andreotti launched a mysterious, cryptic message: “Now that they are not scared of Communism anymore, they think they can put us in a corner.”<sup>409</sup> In short, Andreotti, the politician most adept at understanding the secret inner plots of power, first said that there was an ongoing conspiracy; then, forgetting or pretending to forget that he had been the first one to denounce it, attacked whoever was alluding at plots; and lastly, though implicitly, returned to drop hints of a conspiracy and one even grander than that he had previously denounced (“now that they are not scared anymore of Communism, they think well of doing without us”). The most credible interpretation of this ambiguous conduct seems to be that he was willing to send a message to someone to let him or let them know that he had perfectly grasped what going on.

In conclusion, since the very first of a long series of violent facts, leading Italian politicians, depending on the case and the moment, publicly (and not in the impenetrable corridors of the halls of power) denounced, or hinted at, the existence of a subversive plot attempting to destabilize democracy. To the extent that was possible in the lack of any concrete investigative result, they attributed the responsibility of this plot to a still-active part of P2, the subversive right, deviant branches of the secret services, a few big industrial and financial groups and even some undefined American group: all circles of power that could be traced to Gelli, and precisely the same groups that were planning to break the country in three

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<sup>407</sup> *Ibid.*

<sup>408</sup> *Il Corriere della Sera*, 20/3/1992.

<sup>409</sup> *Ibid.*

macro-regions and that, but only months later, were investigated by the DIA for being behind the Mafia in the 1992-1993 bombings. And it is also quite interesting to note that the interpretation that politicians of all parties gave in the hot-blooded moment after the very first of a series of attacks (Lima's murder) coincides with that which was later provided by Mafia witnesses. According to quite a few of them, in fact, "it was not just a matter of killing Lima and break with the past [the Christian Democracy], but also one of delegitimizing Andreotti," who "had always been supported by Sicily in the sense that, in Sicily, the Mafia had always fostered consensus for the Christian Democracy, and in particular for Andreotti's faction of the party."<sup>410</sup> But Andreotti had "done nothing or not enough for the Maxi Trial to reach a different outcome and, regardless, cultivated the highest political ambitions, such as that of being elected president of the Republic in the first place."<sup>411</sup> In this light, Lima's homicide was not merely Mafia revenge for the Maxi Trial but also the first step towards a possible authoritarian overturn of government. Thus, a good amount of circumstantial evidence makes it at least possible to suggest that Andreotti was hit in his ambition to become the president of the Republic possibly as an attempt to force him to support the separatist parties towards which, after initial support, he had become colder. In this perspective, Lima's assassination could also be viewed as an oblique message to Andreotti, and the whole Christian Democracy, that a criminal system of which Cosa Nostra was only one part was now heading in another direction. Killing Lima did not just mean to retaliate against him for not having fixed the trial, but also closing a historical phase in the relationship between the Mafia and political power while settling the conditions for the opening of a new one.

If we credit the interpretation of the murder provided by quite a few Mafia turncoats, the strike against Andreotti was quite an effective one, especially as the electoral campaign for the presidency of the Republic was already under way and Andreotti was one of the favorite candidates for the office. In this respect, it seems important the testimony of Gaspare Mutolo. Mutolo began to collaborate in 1992, even before a comprehensive witness protection program was introduced in Italy (this was introduced only in the summer of 1992 as we shall see in the next pages). Right after Lima's murder, Mutolo described how Mafia boss Salvatore Montalto, on occasion of a meeting in the corridor behind the prison colloquy rooms, commented on Lima's homicide saying, "Finally they have started." While saying these words, Montalto made an eloquent gesture with his hands alluding to a "program of attacks"

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<sup>410</sup> *Sistemi criminali*, p. 54.

<sup>411</sup> *Ibid.*

of which Lima's murder would be just the first.<sup>412</sup>

### 3.5 Capaci

On March 18, 1992, a police operation carried out by Criminalpol, the Italian criminal police, led to the arrest of 26 charged with international trafficking of weapons, drugs, and money laundering. The masterminds of the group were an Austrian engineer, Ulrich Bahl, and one Giovanni Lo Cascio, a heroin trafficker and also a Freemason. Thanks to the complicity of Austrian notaries, Sicilian lawyers and German bankers, in just 40 days the group had laundered more than 500 billion liras through Bolivian government bonds and Russian rubles purchased on the black market (and used in turn to buy blocks of the economy of the former Soviet Union) and through the printing of counterfeit dollars and treasury bills. In two of the tapped phone calls, Gelli sent his greetings to a Mafia boss. In another, one Saverio Randisi reassured Lo Cascio about certain businesses because Bahl had just told him “that some common friends, such as Licio Gelli, are involved in tomorrow's [financial] operation.”<sup>413</sup> Although neglected by both historiography and the overabundant literature on the subject, the Mafia rubles case seems worthy to mention, as it confirms the system of relationships that nourished Cosa Nostra. One such system had already emerged in 1986, when, while investigating Lo Cascio, Falcone discovered the existence of a secret Masonic lodge by the undercover name of *Centro Sociologico Italiano*. Located on Via Roma 391 at Palermo, the lodge turned out to be the venue of six other Scottish-rite Masonic lodges. On that occasion, Falcone also discovered that among the 2000 names affiliated with one of these six groups, known as *Crimea*, were, in addition to Masonic brothers and *mafiosi*, some of Palermo's most illustrious surnames including the cousins Ignazio and Nino Salvo, major Sicilian businessmen who were for many years Sicily's main tax collectors, the former editor-in-chief of the newspaper *Il Giornale di Sicilia* Federico Ardizzone, Michele Sindona's doctor and also a P2 associate Joseph Miceli Crimi, Giacomo Vitale the brother-in-law of Palermo Mafia boss Stefano Bontade, and Vito Guarrasi, the Sicilian lawyer who, on September 3, 1943 was in Cassibile, Sicily, assisting Pietro Badoglio while signing the armistice that stipulated the

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<sup>412</sup> *Ibid.*, p. 82.

<sup>413</sup> *Il Corriere della Sera*, 19/3/92.

surrender of Italy to the Allies during the Second World War.<sup>414</sup> Although unknown to most people even in Sicily, Guarrasi is so defined by the Parliamentary Antimafia Commission:

He is always in the right place, at the right time, with the right people; (...) in the aftermath of the Second World War he began to penetrate the mechanisms of Sicilian politics and economy establishing relationships with all political parties and becoming the real mastermind of any important business operation in Sicily. We find him, from time to time, president or board member of more than 30 of Sicily's most important companies. His influence is decisive wherever there is the smell of sulfur, oil, or in any important decision. His name has been repeatedly linked to those of some of the most important Mafia bosses.<sup>415</sup>

Simply put, and though a single person, according to the Italian parliament Guarrasi was for many years one of the most powerful "Sicilian lobbies and centers of power."<sup>416</sup>

As the case of the Mafia rubles hit the headlines of newspapers, although without shaking much the Italian people, on April 5 the national political elections took place. The results saw a considerable recession of the parties forming the coalition supporting the government (Christian Democrats, Socialists, Republicans, Liberals, and Social Democrats). In particular, support for the so-called CAF (the alliance between the Christian Democrats and the Socialists named after the initials of the parties' leaders, the socialist Craxi and the Christian Democrats Andreotti and Forlani), reached an all-time low (yet, it was confirmed as staying in power). The recession, however, did not correspond with any significant advance of the Left; instead, the Northern League did really well, while the League of the Leagues, the party created to open the path to the breaking up of Italy into three macro-regions, obtained just 0.56% of votes, doing even worse than the Partito dei Pensionati (the party of the retirees), which gained 0.61%.<sup>417</sup> Although it was the very first electoral test for the new party, it was already evident how unrealistic it was the attempt to reproduce the experience of the Northern League outside of northern Italy. The situation in Italian politics became more complicated in the turn of a few days, as the scarce electoral success of the parties in power, and the consequent expectations for another weak government, induced the President of the Republic Cossiga to resign before the natural ending of his mandate, which was scheduled in July. Cossiga's decision opened a phase of constitutional stalemate, since the new government

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<sup>414</sup> *Il Corriere della Sera*, 20/3/92; *la Repubblica*, 19/8/92. Concerning Guarrasi see *Atti commissione parlamentare antimafia, rapporto dell'8 marzo 1971, doc. 858*.

<sup>415</sup> See *Senato della Repubblica - Camera dei Deputati, Legislatura VI, Commissione d'inchiesta sulla mafia, 20 dicembre 1962 - 4 luglio 1976, Parte seconda, relazione del senatore Pisanò*, pp. 76-72.

<sup>416</sup> *la Repubblica*, 20/1/1988.

<sup>417</sup> See *Ministero dell'Interno, archivio storico delle elezioni*: <http://elezionistorico.interno.it/index.php?tpel=C&dtel=05/04/1992&tpa=I&tpe=A&lev0=0&levsut0=0&es0=S&ms=S> (accessed June 2014).

could be formed only after parliament had elected the new president. On May 21 and 22, as the voting operations were in progress, the press agency *Repubblica* published two anonymous articles, which were later discovered to be written by Sbardella, the same author of those that the agency had published a few days earlier. The first article announced a strategy of tension aiming to exclude Andreotti from the presidential race. The article also warned of the possibility “that someone trots out again the typical national temptation for the big score [a *coup d'état*].”<sup>418</sup> The argument was so motivated:

(...) Strategies of tension are, in this country, a recurring method in situations of political stalemate. In the past, when ‘national solidarity’ failed and the political system appeared to be blocked, we had the kidnapping of Aldo Moro and the massacre of his armed escort. We would rather not experience this again: certainly, not in order to find Andreotti managing the immobilism of the system (considering that the times have changed and Andreotti is politically dead), but, most likely, to have either Spadolini or Scalfaro elected as president of the Republic.<sup>419</sup>

In the second article, titled *Forlani Resigns: The Grand Maneuver Is Not in the Christian Democracy*, Sbardella wrote that the mastermind behind this coup, which, he predicted, was to materialize soon in an “external blow,” is someone “powered by certain financial oligarchies and not a member of the Christian Democracy.”<sup>420</sup> someone who appears to be a single person, a single mind capable of coagulating many others into a new strategy of tension. Sbardella continues with:

Something dramatically extraordinary is still lacking for the election of this candidate of the ‘oblique party.’ In other words, the parties, without a strategy of tension that with an external blow – as in the days of Moro – would justify a vote of emergency, could never accept their self-delegitimization. Luckily, the red and black brigades [Communist and neo-Fascist terrorist groups] do not exist anymore. And, anyway, the powers of the State have the necessary experience and a quite good degree of professionalism.<sup>421</sup>

On May 23, just two days after the second article was published, the “external blow” predicted by the anonymous voice of Sbardella came for real. An explosion on the highway between Capaci and Palermo killed Giovanni Falcone, his wife, and three of the policemen of their armed escort: Vito Schifani, Rocco Di Cillo, and Antonio Montinaro. In the hours that followed the explosion, a mysterious organization called Armed Phalanx, which in the days preceding the bombing had announced the killing of some politicians (the one the anonymous

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<sup>418</sup> *Sistemi criminali*, pp. 94-96.

<sup>419</sup> *Ibid.*, p. 96.

<sup>420</sup> *Ibid.*, p. 97.

<sup>421</sup> *Ibid.*

voice referred to was the Christian Democrat MP and former President of the Region of Sicily, Mario D'Acquisto), claimed responsibility for the attack. With regard to Sbardella's premonitory articles, the investigators could only sarcastically conclude that "either he had extraordinary, almost divine skills of political analysis, or he had come into possession of confidential information regarding the subversive plan that was being implemented."<sup>422</sup>

On May 25, while during the funeral held for the victims of the bombing a ferocious protest by the people of Palermo nearly ended in violence and Italian television broadcast images of the crowd attempting to break through the protective cordon to lynch the politicians attending the event, the parliament in plenary session elected the president of the Republic. As predicted by Sbardella, the parties converged not on the name of Andreotti – although not yet indicted for collusion with the Mafia, rumors about Andreotti's alleged ties to organized crime were already circulating, which was the main reason why his candidacy was dropped. According to the prosecutors who investigated on the bombing, "the external blow had a decisive influence upon the election, since, on the basis of revelations by Mafia informers, it can be considered ascertained that objective of Cosa Nostra with the Capaci bombing was also that of influencing the presidential election by blocking Andreotti's candidacy."<sup>423</sup> As Mafia informer Giovanni Brusca told investigating magistrates, by murdering Falcone Cosa Nostra "would have killed two birds with one stone: on one side, we would have eliminated Falcone; on the other, Andreotti would not be elected."<sup>424</sup>

The objective of destabilizing the political system – which appears incompatible, or at least difficult to reconcile with the absence of an external prompter – also emerges from the testimony of the former mayor of Palermo and also former *mafioso* Vito Ciancimino. According to Ciancimino, behind the attacks was "an 'architect' trying to implement a political plan that, through the homicide of Lima, and most importantly through the much more striking murder of Falcone, pursued the objective of 'deranging the parliament' in order to favor the election of a president of the Republic different from Andreotti."<sup>425</sup> In the same way as Sbardella, Ciancimino, too, seemed to allude to a single person rather than a collective entity: a single person bearing collective interests, a single mind able to coagulate many and conceive and put into practice a plan that would exploit Cosa Nostra's resentment over the Maxi Trial in order to "make Italy tremble" and "clog the party system."<sup>426</sup> Even Lima's

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<sup>422</sup> *Sistemi criminali*, p. 98.

<sup>423</sup> *Ibid.*

<sup>424</sup> *Ibid.*, p. 100.

<sup>425</sup> *Ibid.*, p. 101.

<sup>426</sup> *Ibid.*, p. 102.

assassination, in Ciancimino's account, "must be attributed to an attempt to block Andreotti, as since the project had not been successful it was necessary to eliminate Falcone in such a blatant way."<sup>427</sup> With regard to the objective of blocking Andreotti, all the revelations made by Mafia turncoats, not solely from Cosa Nostra but also belonging to other mafias, were convergent and considered as reliable by prosecutors. To validate such assumption is also one aspect of the dynamic of the attack that is worth underlining. Falcone could have been killed much more easily and with much less clamor in Rome, where he often wandered the city's alleys without protection. However, the *mafiosi* who were in Rome preparing his murder received the order to return to Palermo, because it was there that the assassination had to be committed.<sup>428</sup>

In conclusion, and for all the reasons so far analyzed, the Palermo prosecutors who investigated on the Mafia violence of 1992-93 concluded that there was total convergence in the revelations made by Mafia turncoats on the following points, and their reconstruction can be considered as valid to the purposes of historiography as it complies with quite an amount of circumstantial evidence:

- 1) The objectives of the destabilizing strategy: the breakdown of the old party system in order to create new political representatives – even through the secession of Sicily from Italy;
- 2) The "historic" factors of such a strategic choice: the "crisis" of the relationships between Cosa Nostra and the traditional political parties;
- 3) The ways of putting forward the criminal plan: favoring the destabilization of the political climate through attacks on public figures and terrorist actions which traditionally were not part of Cosa Nostra's code of conduct;
- 4) The leading role of the Corleonesi did not exclude with the involvement of all the main Cosa Nostra Families including the one of Catania (which all Mafia informers indicate to be under the leadership of Nitto Santapaola, Aldo Ercolano, and Eugenio Galea, who all supported the terrorist strategy) and those controlled by Mafia boss Giuseppe Madonia (thus confirming Mafia informer Leonardo Messina's revelations on this specific point);
- 5) Identification of the same territory, the central area of Sicily near the city of Enna, as the place where the meetings were to be hold in 1991-1992 in order to decide where the attack would take place;
- 6) Existence of "external prompters" in deciding the terrorist strategy.<sup>429</sup>

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<sup>427</sup> *Ibid.*

<sup>428</sup> See *la Repubblica*, Palermo edition, 24/11/2014; *la Repubblica*, Florence edition, 20/1/2015; see also M. Pinotti, L. Tesaroli, *Colletti sporchi*, *op. cit.*, pp. 58-59.

<sup>429</sup> *Sistemi criminali*, p. 40.

### 3.6 Hinting again to a conspiracy

Even in the aftermath of the Capaci bombing it re-emerged, through the public statements of politicians, the same conspiracy that was denounced after Lima's homicide. A few weeks after the bombing, on occasion of a State visit to Germany, Giuliano Amato, who had just succeeded Andreotti as prime minister, told the journalists attending his press conference that "Falcone was killed in Palermo but his homicide was decided somewhere else."<sup>430</sup> The Mafia – the prime minister seemed to allude – just executed a decision made "somewhere else." Once again, we are confronted with an interpretation of the attacks as the consequence of a conspiracy going beyond Cosa Nostra, and once again, according to a style quite tried and true among Italian politicians, the following day Amato retracted his statement.<sup>431</sup>

Among the multitude of evidence available to document denouncements of this conspiracy we choose three that, because of the profile and the authority of the sources, give credibility to a version of the story that seems more plausible than the official one. The first is a 2009 declaration by former Palermo Chief Prosecutor and National Antimafia Chief Prosecutor, Pietro Grasso. In a hearing before the Parliamentary Antimafia Commission of Inquiry, Grasso spoke of "an external entity behind Capaci" and of a "strategy of tension" that "has never abandoned Italy."<sup>432</sup> The second is a statement by another former National Antimafia Chief Prosecutor, Pierluigi Vigna. Right before his death in 2012, Vigna said that "Cosa Nostra was just a piece of a wider mosaic made of criminal entrepreneurship, powerful politicians, and deviant Masonic lodges."<sup>433</sup> The third is by an authoritative member of the Parliamentary Antimafia Commission, the Left Democrat Massimo Brutti. According to Brutti, in 1992-1993 there was "a subversive plot that took place on two levels: a military one, with the Mafia bombings, and a political one, since the balance of power was changing and someone understood that, with the break of the old system, new spaces were opening up: we should not forget that "in that period there was a resumption of Gelli's political activism."<sup>434</sup>

The opposite thesis, according to which Falcone was killed solely to eliminate "the spearhead of law enforcement in the belief that the consequent terror would paralyze any

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<sup>430</sup> *l'Unità*, 8/7/1992.

<sup>431</sup> *Ibid.*

<sup>432</sup> *la Repubblica*, 27/10/2009; *la Repubblica*, Palermo edition, 8/3/2012.

<sup>433</sup> G. Fasanella, *Una lunga trattativa*, *op. cit.*, p. 202.

<sup>434</sup> *Ibid.*, p. 203.

repressive action”<sup>435</sup> does not seem convincing. First of all, it conflicts with a court verdict in which the judges established that “the season of the bombings was finalized to induce the State to come to a deal with Cosa Nostra in order to make a political change possible that could guarantee, as in the past, the complicities necessary for the Mafia; it had the aim of conditioning the existing power assets and influencing the formation of new ones through new politicians who could guarantee benefits to the Mafia and modify the current legislation against organized crime.”<sup>436</sup> The aforementioned sentence also refers to “the existence of possible, not improbable secret instigators who remain in the background of the attack and are the main enigma of this trial, which has not been able to provide a convincing and exhaustive answer on this point.”<sup>437</sup> Thus, the judges claimed the necessity of further investigating the following aspects: “the interests, converging with those of Cosa Nostra, of those whom, at that time, were in a relationship of reciprocal exchange with her; whether, and to what extent, there may have been a connection between the Mafia bombings and the “Clean Hands” investigations in Milan; and the links and reciprocal influences of the bombing with the political events of those years.”<sup>438</sup> Another weakness of the opposite thesis is the consideration that even when, between the end of the 1970s and the beginning of the 1980s Cosa Nostra’s escalating violence hit representatives of the State such as judges, politicians, and law enforcement agents, the repression of the government, instead of attenuating or paralyzing, intensified (and, in fact, ushered in the Maxi Trial). Therefore, the consequences of a new, louder wave of violence should have been easily predictable by the Mafia bosses, who consequently should have been guaranteed that long-term advantages would compensate for short-term disadvantages.

To put the Capaci bombing in relation with the far-right violence of the years of tension of the period 1969-1984, and thus give the Mafia’s wave of violence of 1992-1993 some sort of wider political connotation, are also the names of those identified as the culprits. Two of the *mafiosi* involved in the attack, Pietro Rampulla and Pippo Calò, were in relation with right-wing terrorist groups.<sup>439</sup> The very one person who prepared the explosive, Rampulla was affiliated with both the Cosa Nostra’s family of Catania and *Ordine Nuovo*, a far-right organization involved in the bloodshed of the 1970s-80s. He was also in close relationship with Rosario Cattafi (he, too, a member of *Ordine Nuovo* and in relation with the Mafia), who

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<sup>435</sup> See S. Lupo, *La mafia non ha vinto*, op. cit., p. 22

<sup>436</sup> *Sentenza N.11/2000, Reg. Sent, N. 13/98 + 9/99, Reg. Gen., N. 2111/93 + 1243/96, Reg. N.R. al Proc. N. 13/98 R.G. C.A.A. – N. 2111/93 R.G.N.R.*, p. 947 and p. 966.

<sup>437</sup> *Ibid.*

<sup>438</sup> *Ibid.*

<sup>439</sup> See sentence ruling of the Italian Supreme Court no. 18845/03 released on 31/5/2002.

in the years subsequent was arrested for international trafficking of weapons, was investigated for being one of the instigators or accomplices of the Mafia in the 1992-3 Mafia bombings, and was confiscated assets totaling seven million Euros. The DIA investigations also demonstrated Rampulla's contacts with other right-wing extremists close to Delle Chiaie and Gelli in the period between the end of 1991 and the beginning of 1992.<sup>440</sup> Pippo Calò was the boss of Porta Nuova, one of the most powerful Mafia Families of Palermo. He had links to the Banda della Magliana, a Rome-based criminal organization, bosses of the Neapolitan Camorra, a bunch of far-right terrorist organizations, and Gelli.<sup>441</sup>

Among the evidence that led to the assumption that Cosa Nostra's killers were not acting alone is also a note found at Capaci on the spot where the *mafiosi* pushed the button on the remote control that detonated the explosive, which reported the cellular phone number of a secret agent by the name of Lorenzo Narracci. It also remains unanswered the question how could the *mafiosi* have the top-secret information that Falcone on that day was coming to Sicily, given that the decision was made spontaneously by the magistrate the very night before. And it should also be mentioned the account of the case provided by Mafia turncoat Tommaso Buscetta, which can be synthesized in the way in which one day, after one of his many interrogations, he greeted the prosecutor in charge of the investigations on the bombing, saying, "Doctor, I am with you and I hope to see, one day before I die, Falcone's assassins condemned; but I do not think that for some of them this will ever be possible."<sup>442</sup>

On May 31, 2002 the fifth section of the Supreme court issued its verdict on the Capaci bombing. The sentence confirmed 24 of the convictions given in the appeal trial and ruled over the opening of another trial for 13 of the defendants. On April 22, 2006, the Catania's Court of Appeal confirmed the convictions for those 13 defendants as well, and on September 18, 2008 the Supreme court confirmed such verdict. As predicted by Buscetta, none of the instigators or accomplices of Cosa Nostra were ever condemned.

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<sup>440</sup> *Sistemi Criminali*, pp. 17-20.

<sup>441</sup> See *procedimento penale a carico di Michele Greco + 18*, and the sentence ruling released by the Florence Court of Appeal on 25/2/1989.

<sup>442</sup> *la Repubblica*, 28/5/1992; F. Pinotti, L. Tescaroli, *Colletti sporchi*, *op. cit.*, p. 87.

### 3.7 Politics and the judiciary

A few days after Capaci, the Minister of the Interior Vincenzo Scotti proposed the candidacy of Paolo Borsellino as head of the DNA, the National Antimafia Prosecution Office introduced the previous year.<sup>443</sup> The proposal was welcomed with a mixture of worry and disgust by Borsellino, mostly because of the overexposure in the media that it implied (“they have just put the bone in front of the dogs,”<sup>444</sup> was his first comment), and partly because of the way it was made, since the announcement came on the occasion of a public debate, bypassing Borsellino, and after the deadline to apply for the office had expired (thus, the nomination was technically impossible, and in fact the proposal was rejected by the CSM, the governing council of the Italian judiciary).<sup>445</sup> Borsellino formalized his refusal with a letter to the minister; however, his overexposure in the media was by then a matter of fact.<sup>446</sup> For reasons that will become clearer in the next pages, it should be added that this was not the only reason why in the days after Capaci Borsellino’s name ended up quite often in the press or on television news. His public interventions became more numerous – quite unusual for a magistrate obliged by his office, and driven by such a reserved personality, to observe a greater amount of discretion. Most of these interventions concerned Falcone’s death, which had already become the main subject of his final investigations.<sup>447</sup>

On June 8, the government finally approved the decree with the new antimafia measures. The decree perfected the hard prison regime, limited the amount of special permits for Mafia detainees, introduced new and more effective systems of protections for Mafia informers, extended the time period for preliminary investigations, and increased number of personnel in charge of detainee surveillance by 2000 agents.<sup>448</sup> Right after it was approved, someone called the Palermo office of ANSA, the Italian associated press. The anonymous caller said, “Those of the *Falange Armata* [the “Armed Phalanx” that had claimed

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<sup>443</sup> *la Repubblica*, 29/5/92; *Il Corriere della Sera*, 31/5/92.

<sup>444</sup> Testimony released by Carmelo Canale in the course of the *Borsellino-bis* trial reported in *Antimafia 2000*, February 2003, p. 12.

<sup>445</sup> *Il Corriere della Sera*, 3/6/92.

<sup>446</sup> See G. Lo Bianco, S. Rizza, *L’agenda rossa di Paolo Borsellino*, Chiarelettere, Milan, 2007, p. 65.

<sup>447</sup> Concerning these numerous public interventions see S. Lupo, in S. Lupo, G. Fiandaca, *La mafia non ha vinto*, *op. cit.*, pp. 26-2

<sup>448</sup> See *Testo del decreto-legge 8 giugno 1992, n. 306 riguardante modifiche urgenti al nuovo codice di procedura penale e provvedimenti di contrasto alla criminalità mafiosa* (in *Gazzetta Ufficiale - serie generale - n. 133 dell’8 giugno 1992, avviso di rettifica ed errata-corrige in Gazzetta Ufficiale - serie generale - n. 134 del 9 giugno 1992*), converted into Law no. 356 on 7/8/1992 (which can be found in *Gazzetta Ufficiale - serie generale - n. 185 del 7 agosto 1992*).

responsibility for Falcone's murder] and the politicians have obtained what they wanted; we have not."<sup>449</sup> To the reply of the journalist who asked the speaker to identify himself, the caller replied: "Now you will all understand: since certain things have not been respected, we will not respect their interests any longer."<sup>450</sup> The voice added that the prison regime "should not be touched for any reason" and also sent threatening messages to four prison directors.

Initially, investigators did not place much importance on the call. However, the prison restrictions were already Cosa Nostra's primary concern and potentially the main reason why her violence could be manipulated, fomented, and channeled. What was the anonymous caller referring to when he alluded to the "things" that "had not been respected"? What deal was he hinting at? Who made this deal? Who promised, and to whom, that the prison regime would not be "touched" and that, after Capaci, no harsher prison regime would be implemented? Who was behind the Armed Phalanx? The historiography that denies the *trattativa* refuses to confront these questions, reducing everything to the "metaphysic" perversion of some conspirator journalist or magistrate. Such questions, instead, deserve answers, or, at least, consideration.

The decree, which had to be converted into law by a parliamentary vote within two months in order to go into effect, was part of a government strategy intended to break the emergency response until then typical of antimafia legislation. This strategy was based on six points, some of which had already been implemented or partly implemented despite a parliament vote was technically still needed: the hard prison regime for the *mafioso*, a comprehensive witness protection program, the establishment of the DIA (a police body for the fight against the Mafia) and the DNA (the National Antimafia Prosecution Office), changes to the penal code in order to speed up criminal trials, policies that would allow the dissolution of bonds that tied the Mafia to politics and business, and finally, methods that would favor more effective investigations of criminal organizations' money-laundering activities.<sup>451</sup> As the parliament passed the decree, the magistrates' criticisms of it became more open and bitter. Palermo prosecutor Roberto Scarpinato said that these new measures were "dirty with blood," and that "slamming 30, 40 or 50 people into jail" was just like "trying to empty the ocean with a bucket: on one side of the scale there is our life, on the other there should be something worth the risking on it, but I do not see, in this new set of laws, any real commitment by the government; I do not see anything extraordinary regarding the hunt

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<sup>449</sup> *L'agenda rossa di Paolo Borsellino, op. cit.*, p. 83.

<sup>450</sup> *Ibid.*

<sup>451</sup> *Testo del decreto-legge 8 giugno 1992, n. 306, op.cit.*

and capture of big fugitives.”<sup>452</sup> The comments made by Mario Cicala, vice president of the *Associazione Nazionale Magistrati* or ANM, one of the Italian national association of magistrates, were similar to those made by Scarpinato both for their content and tone – “the hasty elaboration by the government of a set of measures to show off on television after blatant Mafia killings is not enough”<sup>453</sup> – as similar were those made by Giuseppe Di Lello, a Palermo GIP (in the Italian order, the judge in charge of preliminary investigations), who criticized the government because “increasing repression is not the solution, as the problem is not simple repression; after each wave of repression, *mafiosi* have always come back stronger than before.”<sup>454</sup>

After the Capaci bombing, quite a number of magistrates took a stand and accused the government of worsening, instead of improving, their working conditions. They were becoming aware of being the primary target of Mafia retaliation, and for this reason felt the need to publicly proclaim their dread and their distrust of politicians whom they considered responsible for their dangers. Whatever the reason – corruption, lack of competence, inefficiency, or a mix of these three factors – the main target of these magistrates’ accusations was not the Mafia but the government. As we shall see, these complaints were destined to continue uninterrupted for years.

### **3.8 The beginning of the *trattativa***

At the end of May 1992, the Head of the Italian Police Vincenzo Parisi sent a confidential note to the minister of the Interior warning of the serious danger of a “strategy based on massacres.”<sup>455</sup> The note identified the next possible targets in two government ministers, both from Sicily and both rumored to have ties to the Mafia: Calogero Mannino and Carlo Vizzini. In the list of the possible targets were also other politicians: the Treasurer of the Region of Sicily Sebastiano Purpura, Salvo Andò (also from Sicily), who later became minister of Defense, the Minister of Justice Claudio Martelli, and Nicola Mancino, the Christian Democrat who just a few weeks later was to be appointed as minister of the Interior.<sup>456</sup>

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<sup>452</sup> *la Repubblica*, 10/6/1992.

<sup>453</sup> *Ibid.*

<sup>454</sup> *Ibid.*

<sup>455</sup> *la Repubblica*, 16/10/2011.

<sup>456</sup> *Ibid.*

According to Palermo prosecutors, Mannino had promised the Cosa Nostra bosses to satisfy some of their requests in return for the end of violence, and in order to reach this objective he had approached Giuliano Guazzelli, a marshal from ROS, the Carabinieri unit in charge of the fight against organized crime, who was shot dead by Cosa Nostra killers right after.<sup>457</sup> It was after this assassination that, through their officials Giuseppe De Donno and Mario Mori, the ROS began a series of dialogues with the Mafia bosses through former Corleonese *mafioso* and Palermo Mayor Vito Ciancimino, who at that moment was under house arrest in Rome.<sup>458</sup> A fragment of the sentence that on October 5, 2011 condemned to life in prison Mafia boss Francesco Tagliavia for the 1993 bombings reads, “A negotiation there undoubtedly was and, at least initially, was based on a *do ut des*; the initiative was taken by State officials, and not by men of the Mafia.”<sup>459</sup>

On those same days, a negotiation based on the recovery by *mafiosi* of some stolen artworks in exchange for house arrests to be granted to some Mafia boss was also under way. Its terminals were Mafia boss Antonino Gioè and a Carabinieri marshal by the name of Roberto Tempesta. The link between the two was one Paolo Bellini, an illegitimate art dealer who had contacts with some secret service agents as well as with subversive far-right-wing groups. What magistrates could prove of these borderline dialogues was that Tempesta had approached his superior Mori to bring the requests of the Mafia to his attention, but such requests were judged as “inadmissible” by the ROS officials since those for whom the house arrests were demanded were some of Cosa Nostra’s top bosses who had already been condemned to life in prison. It could also be proved that to this refusal Gioè had reacted by threatening an attack on Italian artistic heritage sites, even hinting at blowing up the Leaning Tower of Pisa.<sup>460</sup> According to the court verdict for the 1993 bombings the events that led to the bombings were, by now, “logically inferable:”

There is no doubt about what is really relevant: the existence and temporal development of the *trattativa* and subjects who put the negotiation forward. All the other passages (leading to the bombings) can be logically inferred and do not need to be sought in the words of Mafia witnesses. The State’s interest in recovering stolen artworks was transformed into the desire of not losing other artworks already in its possession; the possibility for the *mafiosi* of obtaining benefits by recovering artwork led to their conviction of obtaining an exchange by threatening the destruction of monuments of Italian artistic heritage; the menace, in fact, is more credible if its

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<sup>457</sup> *Proc. N. 11719/12 R.G.N.R.DDA, Memoria, op. cit., p. 17.*

<sup>458</sup> *Decreto di rinvio a giudizio nei confronti di Bagarella + 9, 7/3/2013 – Tribunale di Palermo, Sezione dei giudici preliminari, giudice Piergiorgio Morosini, pp. 10 and following.*

<sup>459</sup> Sentence ruling to Mafia boss Tagliavia released on 5/10/2011, reported in *XV legislatura, Camera dei deputati, Proposta di inchiesta parlamentare presentata il 29 marzo 2012, Doc. 22, N. 34.*

<sup>460</sup> *Il Corriere della Sera, 29/7/1992.*

author demonstrates to be effectively ready to do harm. At this point, since a bombing campaign had already started, there were all the conditions for one such campaign to be resumed, and not in a random part of the country but in Tuscany, the region on which the protagonists of such aborted negotiation had already turned their attention. It was here, in fact, that the first bomb of 1993 exploded.<sup>461</sup>

Although aborted, this negotiation deserves attention, as it demonstrates what the immediate objective of the Mafia was – the solution to her prison problems – and how she intended to reach such an objective: either with a deal, or through terrorist actions.

The other dialogues, those between the ROS officials and Ciancimino, went through. Of these contacts, neither the head of the Carabinieri nor any prosecutor were ever informed, while, instead, they were known by ROS General Commander, Antonio Subranni, and by the Minister of Justice Claudio Martelli, who, upon learning of them, complained with the ROS officials since all Mafia matters were now supposed to be the task of DIA, which had been introduced just a few months earlier precisely to avoid the overlapping of police bodies in such delicate investigations. Martelli admitted having ordered the Carabinieri to inform Borsellino of these ongoing dialogues, which may have happened on occasion of a meeting between Borsellino and ROS officials Mori and De Donno that took place inside a Palermo police barrack on June 25.<sup>462</sup> Of this meeting, however, we only have the Carabinieri's account, as Borsellino died without the opportunity to give his version of the story. Questioned years later by the prosecutors, Mori and De Donno always denied any possible talk with Borsellino about their contacts with the Mafia bosses. According to Mori, the subject of the discussion was finding a way to meet Borsellino's request for aid in order to continue the *Mafia e appalti* investigation, since Ciancimino had not still accepted to act as an intermediary between the two sides. But De Donno's testimony disproved Mori's, as he argued that he had informed Martelli two days before meeting with Borsellino and admitted that, by then, Ciancimino had already accepted his role as mediator. This version of facts is also supported by one of Provenzano's *pizzini* (the notes seized by the police in his hiding place after his arrest in 2006) sent by Provenzano to Ciancimino, which reads as following:<sup>463</sup>

My dear Engineer [Ciancimino], I was told that you gave the results of my medical analysis to the doctor. If you

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<sup>461</sup> *Corte di Assise di Firenze, Sentenza n. 3/1998*, reported in *Tribunale di Palermo Sezione dei Giudici per le indagini preliminari Decreto di rinvio a giudizio nei confronti di Leoluca Bagarella + 9*, 3/3/2013.

<sup>462</sup> On this subject see A. Caruso, *Milano ordina uccidete Borsellino*, cit., p. 141; *la Repubblica*, Palermo edition, 20/12/2011; *Mafia, Lumia (PD) presenta interrogazione su figlia generale Subranni*, in *Agora Magazine*, 5/8/2009; "Borsellino: assediato da vipere e traditori," in *Gazzetta del Sud*, 9/3/2012; see also *Il Sole 24 Ore*, 9/3/2012. See also *Il Fatto Quotidiano*, 13/12/2010.

<sup>463</sup> M. Travaglio, *E' stato la mafia*, op. cit., pp. 34-35.

believe that I can go see him, please let me know, and let me know how I should meet with him. Also, if you think that dialoguing with these people can benefit us, please go on. M. told me that we may meet on the 16<sup>th</sup> or the 17<sup>th</sup>. Wednesday would be better for me. Let me know.<sup>464</sup>

“M.” would be Ciancimino’s son, Massimo; “these people,” the Carabinieri. Provenzano and Ciancimino make the appointment for Wednesday, June 17, and on the third week of June a second meeting between De Donno and Ciancimino took place.<sup>465</sup> Even regarding this meeting Mori and De Donno’s accounts are different. According to Mori, the Carabinieri ordered Cosa Nostra’s bosses to surrender in exchange for good treatment of themselves and their families; according to De Donno, the conversation was aimed “at finding a compromise, a terrain for a dialogue in order to obtain the immediate cessation of the Mafia’s attack on the State.”<sup>466</sup> In 2018, the two of them were condemned with the charge of conspiracy against the State.<sup>467</sup> The ROS’s responsibilities, however, had already been confirmed by the 1998 verdict released by the Florence Court of Assizes for the 1993 bombings:

The witnesses have explicitly declared that on the Mafia’s side negotiations were conducted by the Corleonese and more precisely by their boss, Riina. Brusca [a Mafia turncoat of the Corleone Family] confirmed that Riina in person had talked to him about the *trattativa* (...) which, as all Mafia witnesses have stated, began after the Capaci bombing; ROS colonel Mario Mori came in after the Via D’Amelio bombing (...). The initiative of the ROS officials had all the characteristics of appearing as a ‘negotiation’; its primary effect was convincing the Mafia bosses that the bombings would bring them benefits. There cannot be any doubt about this, not simply because such a “negotiation,” or “dialogue,” has been expressly talked of by ROS Captain Giuseppe De Donno (General Mori, more careful of his words, has always avoided these two terms), but, most importantly, because the proposal of approaching the Mafia bosses in order to explore what they wanted in exchange for the end of the bloodshed cannot be defined in any other way, regardless of whatever its intentions were (buy time, have Ciancimino expose himself, or whatever other reason). This is so evident that does not need to be explained. (...) One cannot comprehend how could the State – to use General Mori’s own words, “on its knees” in 1992 – approach Cosa Nostra’s bosses and demand their surrender; one cannot comprehend how could Ciancimino – until October 10, 1992 the mediator in such a negotiation – become a confidant of the Carabinieri in the turn of a few days; and one cannot comprehend how could General Mori and Captain De Donno be surprised by a

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<sup>464</sup> *Tribunale di Palermo, Iva sezione collegiale, Proc. Pen. N. 1760/08, udienza del 08/02/2010, p. 11.*

<sup>465</sup> Since in 1992 there were three months in which one of the days between 16 and 17 was a Wednesday: June 17, September 16, December 16 and at the end of 1992 Ciancimino was arrested. Such note should be interpreted in combination with another, reported later in this chapter, which was written after however before July 12: therefore, there can be little doubt that Ciancimino and Provenzano set up their appointment for Wednesday, June 17.

<sup>466</sup> M. Travaglio, *E’ stato la mafia, op. cit.*, pp. 31-33.

<sup>467</sup> Precisely, the charge against them was “threat against a body of the State,” an offense regulated by article 238 of the Italian penal code.

“showdown” request, which, moreover, as it is logical to believe, came late.<sup>468</sup>

Regarding this crucial point, a contradiction of the opposite thesis cannot go unnoticed. The interlocutor of the ROS officials was Riina, precisely the man who, according to Mori, should surrender together with other *mafiosi* in exchange for good treatment for them and their families and for a fair trial. The hardly convincing coincidence between the object and the subject of the negotiation (Riina) seems to discredit to quite a good extent the account of those who deny the *trattativa*. To this, it should be added that the Carabinieri’s requests, as presented by Mori in his account, were evidently inadmissible by the Mafia bosses: if they were to simply surrender to the State, what would be the point of negotiating?<sup>469</sup>

Sinister, ambiguous facts were to continue. In the period between the Capaci and Via D’Amelio bombings a letter was sent to the Palermo Prosecution Office and other 38 recipients including editors of newspapers, chief prosecutors, heads of police, magistrates, political leaders, high State officials such as the vice president of CSM and the presidents of both chambers of parliament. A copy of the letter was also sent to the president of the Republic. In the intentions of whoever drafted it, upon receiving the letter there would be no more justification for the receivers in pretending not to know. The letter spoke of a political group attempting to “escalate power” that, in order to achieve this objective, was launching an attack on Andreotti, which had begun before the elections with the killing of Lima, who had been murdered also because he had remained politically close to Andreotti.<sup>470</sup> The letter also said that Riina did not agree with his accomplices on the killing of Falcone, as “he considered such a homicide counterproductive to his cause,” and revealed that a meeting between Riina and Calogero Mannino had taken place in the sacristy of San Giuseppe Jato, a small village near Corleone.<sup>471</sup> In charge of the investigations on the content and the authors of the letter were both Borsellino and ROS officials. However, even discussions about this event were denied by Mori and De Donno as they were questioned by public prosecutors upon their meeting with Borsellino on June 25. Allegations that the subject of the discussion during the meeting was different from what reported by the two ROS officials also derived from the fact that on that same day, June 25, Borsellino made his last public appearance, in which he said, “Besides being a magistrate I am also a witness, having gathered, as one of his friends, more or less as others did, many of Falcone’s confidences.” Borsellino also made his intention clear

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<sup>468</sup> See the previously mentioned sentence ruling of the Florence Court also reported in *Decreto di rinvio a giudizio nei confronti di Bagarella + 9, op. cit.*, p. 31.

<sup>469</sup> Concerning the opposite thesis, see S. Lupo, *La mafia non ha vinto, op. cit.*, pp. 29-36.

<sup>470</sup> *la Repubblica*, 2/7/92.

<sup>471</sup> *Ibid.*

“to report such confidences to the judiciary authority, the only one that can judge whether these things that I have come to know may be useful or not to the reconstruction of Falcone’s death.”<sup>472</sup>

On June 28, the new government headed by Giuliano Amato came into office, with Mancino replacing Scotti as minister of the Interior. The replacement has been seen by those claiming the existence of the *trattativa* as due to the fact that the new minister was much more suitable to a compromise than the previous one, and thus would be a much better guarantor of the pact. To some extent, this account may be validated by the fact that some 20 years later Scotti published a book in which he admitted receiving several “unmotivated” attacks on his person while serving as minister, as well as numerous suggestions by his colleagues and other State officials to be “more cautious” and “less severe” in his antimafia action.<sup>473</sup> Scotti also wrote that he was convinced that the government’s decision to substitute him was for any reason a way to “make general interests prevail.” He also said that he never understood the reasons of a replacement that came at such a delicate moment when the Mafia offensive, now at its peak, suggested an opposite attitude by the State, that is, his confirmation of office.<sup>474</sup> In 1998, during a hearing of the trial for the Via D’Amelio bombing, Scotti answered to the prosecutor who asked him about his replacement with Mancino by not saying a word, merely offering an odd, sarcastic smile, which appeared to the judges as the implicit admission of his conviction that the real reason of his removal was to favor the ongoing negotiation between the State and the Mafia, as the only thing that the judges could put on record regarding Scotti’s answer to their question was that “expressions, sometimes, are stronger than words.”<sup>475</sup>

The testimonies made by Scotti and other State officials, as well as the facts that followed the season of Mafia violence, seem to prove the minister’s real commitment to fighting against the Mafia. On September 2, 1991, right before the beginning of the wave of violence (Scotti had just been nominated minister), the newspaper *Il Corriere della Sera* published a front page six-column interview with Scotti in which he exposed the line against the organized crime that the government intended to follow. Scotti said that he was “tired of being the imaginary scapegoat for public opinion” and “of that typically Italian schizophrenia for which, when someone gets killed, we always hear the same refrain: ‘What’s the government waiting for to do something, why is the State absent, or the State just does not

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<sup>472</sup> See “I giorni di Giuda. L’ultimo intervento di Paolo Borsellino,” in *Micromega*, 18/7/2012.

<sup>473</sup> V. Scotti, *Pax mafiosa o guerra*, op. cit., p. 68.

<sup>474</sup> *Ibid.*, p. 239, 241, 250, 256.

<sup>475</sup> *Esame di Scotti al processo per la strage di Via D’Amelio, giovedì 16 luglio 1998*, pp. 55-57.

exist,' and so on;” the interview ended with an ultimatum to his government: “Either they give me the instruments to fight this war, or I may leave my office tomorrow morning; it wouldn’t be a problem on my side.”<sup>476</sup> Such good intentions were confirmed in a 1992 audition before the Antimafia Commission, in which Scotti said that “if the Italian democracy wants to save itself from the growing influence of organized crime we must all be ready to face a painful calvary, even at the cost of extremely serious consequences.”<sup>477</sup>

Scotti’s removal also implied his separation from Martelli, and thus the break of that “wired couple” which, according to the press, “had broken with the old antimafia tradition of emergency laws, exceptional committees, and the pure and simple hardening of punishments.”<sup>478</sup> Instead, the converging action of the two ministers “has relied on the experience and the advice of Giovanni Falcone, thus choosing the way of ordinariness instead of extraordinariness, and improving both the quality and quantity of government response,” which now “extends to an international level for its attempt at committing the European Community, the UN, and the government of the United States to share the fight against organized crime.”<sup>479</sup> In his private diary, Gerardo Chiaromonte, the then president of the Parliamentary Antimafia Commission, noted that “when Scotti became minister and his willingness to collaborate with Martelli became evident, as did their mutual desire to work in strict conjunction with the Parliamentary Antimafia Commission, I immediately realized, even visually, the many changes in the attitude of many State officials all around the nation: it was as if everyone had become, all of a sudden, more courageous and brave, less bureaucratic and cautious, and more attentive to what going on in their offices.”<sup>480</sup> There are many indicators, therefore, that the replacement of the minister with another was inopportune both in time and in substance.

As the new minister was inaugurating his office, on July 1, Borsellino was in a Rome DIA barrack questioning Mafia turncoat Gaspare Mutolo. Mutolo had just revealed him that Bruno Contrada, one of the bosses<sup>481</sup> of the domestic intelligence agency SISDE and the former head of the Palermo police flying squad, was a *mafioso*, when Borsellino received a phone call inviting him to appear before the newly appointed minister of the Interior.<sup>482</sup> Upon

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<sup>476</sup> *Il Corriere della Sera*, 2/9/1991.

<sup>477</sup> Reported in *Commissione parlamentare d’inchiesta, resoconto stenografico n. 57 della seduta del 28/10/2010*, p. 7.

<sup>478</sup> *la Repubblica*, 21/6/1992.

<sup>479</sup> *Ibid.*

<sup>480</sup> V. Scotti, *Pax mafiosa o guerra*, *op. cit.*, p. 47.

<sup>481</sup> Precisely, he was the third-in-command.

<sup>482</sup> Contrada was later condemned to ten years in prison for collusion with the Mafia in 2006; in 2015, the European Court of Human Rights convicted him for acts that at that time were not a crime, in violation of the

stepping foot inside the minister's office, Borsellino found Contrada sitting next to Mancino. Questioned years later on the fact, Mancino at first denied meeting Borsellino on that day. Once he was shown Borsellino's agenda by the prosecutors in which there was proof that the meeting had taken place, he admitted to having possibly saluted Borsellino – "one of the many hands shaken on that special day" – but denied remembering about the fact as he still did not know what Borsellino's face looked like, although Borsellino had, by that time, already appeared many times both in the press and on television news.<sup>483</sup> To leave suspicions on Mancino's conduct is also Mutolo's testimony that, upon returning to him, Borsellino was so upset that he put two cigarettes in his mouth without realizing that he was smoking both at the same time, perhaps – it has been hinted – because during the meeting he was advised to take a step back in his investigations as a negotiation was already under way between the ROS Carabinieri and Cosa Nostra's bosses in order to bring an end to Mafia violence.<sup>484</sup>

Towards the end of June 1992, Riina gave Ciancimino a document – the so-called *papello* – with his requests to end the bloodshed. Such note remained unknown until 2009, when it was handed to the Palermo prosecutors by Ciancimino's son, Massimo. In 2005, while searching Massimo's house, the Carabinieri failed to find the *papello*, although this was inside a safe in plain sight. Interrogated by public prosecutors, the Carabinieri marshal who led the search said that he had asked one of his collaborators to make a photocopy of the documentation that was inside the safe before putting it back but was ordered by his superior to leave everything inside because those documents had already been registered.<sup>485</sup> Since the record of the search made no reference to the safe, which was photographed by investigators in 2009, this Carabinieri captain was indicted for favoring the Mafia. After a long, controversial trial, he was acquitted of the criminal charges against him and assigned to another office with no disciplinary punishment ever being meted out. However, the *papello* existed for real and read like this:

- 1) Revision of the Maxi Trial;
- 2) Annulment of article 41-*bis* (the hard prison regime);
- 3) Revision of the main antimafia law, the 416-*bis*<sup>486</sup> article of the penal code;

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principle of non-retroactivity of criminal law *nulla poena sine lege*; in 2017, the Supreme Court definitively annulled his guilty verdict. See *Il Corriere della Sera*, 26/2/2006.

<sup>483</sup> M. Travaglio, *E' Stato la mafia*, *op. cit.*, pp. 37-40.

<sup>484</sup> *Ibid.*

<sup>485</sup> *Il Corriere della Sera*, 30/10/2010; *Liberio*, 29/10/2010. The order would have come by Mori's superior, colonel Sottili.

<sup>486</sup> The antimafia law passed in 1982. The text of this law can be found in [http://www.camera.it/\\_bicamerale/leg15/commbicantimafia/files/pdf/Art\\_416bis.pdf](http://www.camera.it/_bicamerale/leg15/commbicantimafia/files/pdf/Art_416bis.pdf) (accessed July 2014).

- 4) Reform of the witness protection program;
- 5) Benefits for those condemned for Mafia who announced their dissociation from the organization with a formal statement;
- 6) House arrests for those older than 70;
- 7) Closure of the high-security prisons [in particular the prisons located on the islands of Pianosa and Asinara, where the 41-*bis* harsh regime was heavier];
- 8) Prison for *mafiosi* to be served close to their families' abode;
- 9) No censorship on prison mail sent by relatives of incarcerated *mafiosi*;
- 10) Preventive measures – relationship with families;<sup>487</sup>
- 11) Possibility of arrest only in *flagrante delicto*;<sup>488</sup>
- 12) Abolition of the tax on gas.<sup>489</sup>

This document would specify what the terms of the deal for the Mafia were and dictate the conditions that present and future governments should satisfy in order for Cosa Nostra to end its violence against State officials, further demonstrating that the objective of the negotiation was not the “surrender” of Cosa Nostra but the renewal of the coexistence between the Mafia and the State.<sup>490</sup>

As the *papello* was handed in to the Carabinieri, the ongoing dialogues between Riina and the ROS officials were closely followed by Riina's second-in-command, Bernardo Provenzano, as emerged from another note seized in Provenzano's shack after his arrest in 2006. Written in a cryptic language typical of Mafia style, the *pizzino* reads as following:

My dear engineer, I was told that you collected the prescription from the dear doctor... I believe that this is the moment for all of us to make a combined effort, as we already discussed in our last meeting; our friend has so much pressure on him, let's just hope that the reply comes soon, [it would be ideal] if there were time to discuss it together. I know, because you once told me, that you habitually go to the cemetery to visit your father on the day of his birthday; we may meet there to pray God or, like we did last time, if it is more convenient for you, [we may meet] at our friend's (name omitted); I need to know, because we need time to make arrangements.<sup>491</sup>

The “dear doctor” would be Antonino Cinà, indicated by Mafia turncoats as the mediator between Riina and Provenzano; the “prescription” the *papello*; the “effort” the lessening of the requests listed in the *papello*, regarded as “inadmissible.” Provenzano seems to be in favor of a deal (“I believe that this is the moment for all of us to make a combined effort”), and hoping

<sup>487</sup> It means the exclusion of wives and children from the preventive measures.

<sup>488</sup> The correct Italian word is *flagranza*. It was a grammatical mistake made by whoever wrote the note.

<sup>489</sup> Such measure would be a demagogical strategy made by Cosa Nostra in order to gain consensus. The document was published even by the press, see for example *L'Espresso*, 15/10/2009.

<sup>490</sup> For a criticism of this interpretation see S. Lupo, *La mafia non ha vinto, op. cit.*, pp. 43 and following.

<sup>491</sup> *Decreto di rinvio a giudizio nei confronti di Bagarella + 9, op. cit.*, pp. 10 and following.

for a quick reply from the other side before Riina (“our friend”), under “so much pressure” by someone who is pushing for another attack (that he, Provenzano, considers counterproductive), orders further violence. Fundamental is the time frame indicated by the note: Ciancimino’s father’s birthday was July 12, thus before the Via D’Amelio bombing (July 19). But what seems most important in the note is the striking evidence emerging from the Mafia’s most sincere voice – the *pizzini* seized by the investigators – of the existence of someone – who could only be external to Cosa Nostra, as at that moment Riina was the unquestioned boss – who was putting “so much pressure” on Riina in order to perpetrate another attack.<sup>492</sup>

Cosa Nostra’s diktats, however, were initially regarded as inadmissible and rejected by the Carabinieri, and upon Provenzano’s mandate Ciancimino prepared a second *papello* softening the requests of the first one. This second version demanded the abolition of the 416-*bis* law, preventive detention in prison, State monopoly over tobacco, a revision of the Maxi Trial (such revision was to be the task of the European Court of Human Rights at Strasbourg), a reform of the judiciary based on the American model, and – particularly important to our reconstruction as it perfectly matches the picture outlined in the previous pages – the launch of a “Party of the South” capable of satisfying the interests of Cosa Nostra. Those who deny the *trattativa* claim that the requests outlined in the second *papello* were not in the least more moderate than those put down in the first.<sup>493</sup> Instead, it may be assumed that, in Mafia mentality, so they were. Involving the European Court of Human Rights in Strasbourg and introducing a reform of the Judiciary American-style, in fact, seem to indicate that moderation laid rather in the *methods* than in the *objectives*. In this respect, the second *papello* seems to point a different path to reaching the same destination: what the Cosa Nostra bosses wanted had to be obtained with more of a groveling approach, whatever the time frame necessary, and through new political referents (whom, at that moment, were still identified in the “Party of the South”) that could support the Mafia’s interests.<sup>494</sup>

One last consideration should be on the issue of the second *papello*’s authenticity,

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<sup>492</sup> Concerning such aspect, the most convincing interpretation seems to be that of V. Vasile who writes: “(...) rather than “external instigators” overriding the Mafia, it seems that they were some quite demanding accomplishes, with their ideas and strategies, authoritative and inscrutable, whom, in such delicate phase, was convenient to follow or to obey by the Corleonesi bosses. They, the secret accomplishes of Cosa Nostra, together with the Mafia bosses, wanted a strategy of tension: which there was, accompanied by a bloodshed,” in V. Vasile, “Il delirio stragista di Cosa Nostra e la “trattativa” con lo Stato. (In margine alla strage di Firenze),” in G.C. Marino (edited by), *La Sicilia delle stragi. La storia e le storie della violenza al potere: dagli eccidi dell’Ottocento al terrorismo mafioso un lungo percorso di repressione e di sangue*, Newton Compton Editori, Rome, 2007, pp. 409-427.

<sup>493</sup> See S. Lupo, *La mafia non ha vinto, op. cit.*, p. 38.

<sup>494</sup> *Il Corriere della Sera*, 17/10/2009.

which, according to investigators, was effectively written by the hand of Vito Ciancimino. This makes the issue of who wrote the first *papello* – whether it was Riina or one of his men – less significant, as the existence of an authentic second *papello* reduces the importance of the authenticity and the authorship of the first one, as for the Mafia bosses those were, and remained, the terms of the negotiation.

### 3.9 Via D’Amelio

The Carabinieri’s refusal to continue the dialogue on the basis of the conditions listed in the first *papello* interrupted the negotiation with the Cosa Nostra bosses. Yet, the initiative taken by ROS officials had by now convinced Riina of the opportunity of another attack that could raise the price of the deal: the more violence, the more chances to obtain what the Mafia wanted. According to the verdict of the 1993 bombings released by the Florence Court of Appeal in 1998, the interruption of the dialogue acted as the “detonator” for the bomb that on June 19, 1992 killed Borsellino and four policemen of his armed escort. The attack came on the day before Borsellino was scheduled to appear before public prosecutors at Caltanissetta for his deposition on Falcone’s death, as he had announced a few days earlier. A passage of the aforementioned verdict reads as following:

This story [the *trattativa*] is interesting because it allows an understanding of how the Mafia bosses reinforced their belief that the bombing would pay. (...) This belief also represents the most poisonous consequence of the initiative we are commenting on [the *trattativa*], which, in spite of its good intentions, had surely a harmful effect on the institutions, as one such initiative confirmed the Mafia bosses’ delirium of omnipotence, and, at the same time, exposed the impotence of the State. (...) It must be said, therefore, that by the end of 1992 the three essential conditions for the subsequent explosion of violence of the following months were already in place, since method, object, and finalities were already present with sufficient precision in the minds of the Mafia bosses. The disillusionment consequent to the standstill of the *trattativa* as well as Riina’s arrest acted as the detonator of an already prepared and packed explosive mix.<sup>495</sup>

Right after the bombing, controversy arose over the inadequate protection of the points where an attack against Borsellino may have taken place. When it emerged that on Via D’Amelio, a place much frequented by Borsellino, there was not even a railing to protect his mother’s

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<sup>495</sup> See the sentence ruling of the 1993 bombings released on 6/6/98, Chapter 5, *Le valutazioni della corte*, pp. 954 and following.

house from car access, the usual flurry began of accusations and exchange of responsibilities. The Palermo prosecutors accused the government and their boss Pietro Gianmanco of “having let Borsellino die.”<sup>496</sup> As emotions escalated and the entire body the Palermo prosecutors Office submitted their resignation, Gianmanco presented a medical certificate to avoid confronting them. Worsening the situation was the news that a note sent by the police warning of an imminent attack on Borsellino had reached the prosecution office only after the bombing. Borsellino’s family spoke of an “announced death” and refused State funerals: in spite of all this, the Minister of the Interior Mancino spoke publicly of a “super-protected” Borsellino.<sup>497</sup> However, the government somehow admitted its own responsibilities as in the heated days after the massacre Palermo Superintendent Vito Plantone, Palermo Prefect Mario Iovine, and the Head of the Prosecution Office Gianmanco were all removed from their offices and given other duties.

One crucial aspect on which investigations on the bombing focused was the unnatural acceleration in the attack’s execution. The decree approved on June 8 contained measures that posed the most serious danger to Cosa Nostra, the same measures whose cancellation Riina’s *papello* demanded. However, having been passed on by government to parliament for its final approval, the decree was still stationary and the *mafiosi* had quite good chances that the parliament would not vote in time for its conversion into law, in which case everything should have started from scratch, with considerable advantage to Cosa Nostra and good odds for her bosses that even this decree would end up withering in the cumbersome desert of Italian State bureaucracy. How conflicted the parliament was in making its decision emerges from the perplexing debates that took place in the various commissions and sub-commissions of the two chambers in order to reach consensus on the decree’s final version before its conversion, as reported by an article of the newspaper *Il Corriere della Sera* of July 8, 1992. We read in the article that the Christian Democrat senator Paolo Cabras “has positively evaluated the decree, but suggests a few modifications such as changing article n. 4, which concerns the police investigations, and, in particular, how long they should last before the police can inform the judiciary authority;” another Christian Democrat senator, Mino Martinazzoli, criticized the restrictions that the decree introduced to weapons trade and hunting practices, “activities that in Italy have not been yet outlawed;” a socialist senator, Anna Cappiello, suggested making “a few adjustments to find an equilibrium between the protection of the citizen and that of the community,” as well as “improvements to the regulations on the gathering of proof, police

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<sup>496</sup> See *Il Corriere della Sera*, 22,23/7/1992, *la Repubblica* 22,23/7/1992.

<sup>497</sup> *la Repubblica*, 21/7/1992.

investigations, and the penitentiary system, which, considering the seriousness of the crimes that the new measures regulate, may be partly modified,”<sup>498</sup> although quite favorable to the conversion of the decree into law, Romano Misserville, a senator from the right-wing Italian Social Movement party, believed that “the harshness of the norms proposed should not be limited to the traditional offenses of organized crime, as a criminal background exists which interlaces profoundly with the political world and deserves equally severe treatment;”<sup>499</sup> a negative opinion to the measures that were being discussed for approval came from the Fondazione dei Verdi (a green party at that time on the rise in Italy but that disappeared shortly after), since “it is a matter of fact that these new measures may compromise the right to a fair trial” because “they empty the role of defense, give excessive powers to the police, offer too many benefits to Mafia turncoats, and risk to increase considerably the number of judicial errors and to send to prison some innocent without really hitting the Mafia.”<sup>500</sup> Among those who voiced their criticism were also the criminal lawyers. The day before the debate, they staged a protest by not showing up to the hearings, announcing that the following day they would organize a general assembly in Rome to demand the political parties not convert the decree into law because “it takes the Italian judiciary back to the age of prehistoric judiciary, since no emergency does exist that justifies such a trampling of the principle of legality, and it is inadmissible to sustain that the decree is a measure destined exclusively to fight Mafia-related crimes, while, in reality, by completely distorting the entire new code of penal procedure, it would affect every type of trial.”<sup>501</sup> The lawyers’ complaints pertained, in particular, to “the elimination of the principles of orality and contradictory opinion which would be substantially annulled by the introduction of ‘pre-constituted proof’ in court hearings because the police forces are not obliged to immediately inform the judiciary of their investigations, extending enormously investigations terms.”<sup>502</sup> As it appears clear, the parliament was far from reaching the necessary unanimity to convert the decree into law in a timely manner, and it is hardly possible to imagine that the *mafiosi* were not aware of, or not able to sense this. Moreover, about 20 years later, the then-Minister of the Interior Scotti admitted that, if it hadn’t been for the Via D’Amelio bombing, the decree would never have been converted into law (thus, also admitting implicitly the failure of his intention to put an end to the emergency pattern of antimafia legislation). Therefore, there seems to be little

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<sup>498</sup> *Il Corriere della Sera*, 9/7/1992.

<sup>499</sup> *Ibid.*

<sup>500</sup> *Ibid.*

<sup>501</sup> *Ibid.*

<sup>502</sup> *Ibid.*

doubt, if any at all, that the wave of emotions that the bloodshed would have inevitably elicited could only result in the parliament, even one as farraginous as the Italian, to convert a decree that contained measures that put the very existence of Cosa Nostra at risk.<sup>503</sup> And there seems to be little doubt, if any at all, that such a boomerang effect was considered by Riina, the one who ordered the slaughter, as highlighted in one of the DIA disclosure released two years later as investigations progressed:

In such a delicate moment, just two months after the Capaci bombing, the execution of a second, extremely serious homicide, the urgency of which appears to be without motivation, does not seem to be explained merely by Cosa Nostra's short-term interests. The Mafia, used to deliberate accurately each of her moves, had to consider the very strong impact that the attack would have had on public opinion and the consequent pressure on the government to introduce new, more severe measures against organized crime. As a matter of fact, with the murder of Borsellino, the government was much less uncertain regarding the introduction of the new antimafia measures, which, in fact, were made even harsher. The apparent discrepancy of such a decision can be explained solely by interpreting Cosa Nostra's conduct as the awareness to pursue goals different from those logically attributable solely to the criminal organization such as postponing a trial or preventing a magistrate from continuing an investigation or simply executing revenge.<sup>504</sup>

Those who deny the *trattativa* sustain that Cosa Nostra's strategy was simply one of "hit, and hit again."<sup>505</sup> Yet, again, it is quite difficult to believe the Mafia bosses to be so naive as not to consider such an obvious repercussion, especially since in the recent past the Mafia had already experienced how counterproductive such an effect was, as even the wave of violence of the end of the 1970s and the early 1980s was followed by a harsh repression that eventually led to the Maxi Trial. As the DIA investigators pointed out, the unnatural acceleration of the Borsellino murder seems rather another factor confirming the existence and the influence upon Cosa Nostra of an external prompter, whether this being a single person or a collective entity, that could guarantee that the immediate, unavoidable negative consequences of the attack would be later compensated with higher gains. The verdict of the Caltanissetta Court of Appeal, in charge of ruling over the Via D'Amelio bombing, identified the following three factors as the causes of such acceleration:<sup>506</sup>

- 1) Borsellino's interview with French reporters Fabrizio Calvi and Jean Pierre

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<sup>503</sup> For this reason, it was a danger also for the other criminal organizations which, as we have seen in the previous chapter, according to the *Sistemi Criminali* inquiry were in strict relation with Cosa Nostra in that period. Concerning this see F. Calvi, *L'Europa dei Padrini*, Mondadori, Milan, 1994, p. 164).

<sup>504</sup> Informative by the DIA n. 4222/94 of 4/3/1994.

<sup>505</sup> See S. Lupo, *La mafia non ha vinto*, *op. cit.*, p. 22.

<sup>506</sup> See Chapter 5 of the sentence ruling to the 1993 bombings, *op. cit.*, pp. 732 and following.

Moscardo, released on May 21, 1992, in which Borsellino talked about Cosa Nostra's money laundering channels in northern Italy:

'At the beginning of the 1970s, Cosa Nostra began to transform into a company, in the sense that through her increased role in drug-trafficking, which soon became a monopoly, it began to manage large quantities of capital, for which it was natural to search for new ways to invest it. This capital was, in part, exported or deposited abroad, which explains the Mafia's proximity to some financiers in charge of taking care of this money. At the same time, there was the problem of deciding what investments to make with this capital. For this reason, Cosa Nostra began to follow a parallel path at times crossing that of some big financial assets of northern Italy, or to use this capital in order to make profits.'

'You mean that Cosa Nostra had an interest in Berlusconi?'

"It is normal that those who have large sums of money search for channels to employ it, to launder it, and to make it generate profits. Naturally, this need that the Mafia had led her to search for industrial and commercial tools in order to find new solutions to invest capital; thus, it is not surprising at all that, at a certain point in their history, *mafiosi* entered into a relationship with such industrial assets.'<sup>507</sup>

## 2) The *trattativa* that Borsellino tried to oppose:

'(...) There is no evidence on whether, how, and when Borsellino knew about the negotiation that had been initiated [such evidence came many years later, after the trial verdict was released]. However, that there was an ongoing negotiation was confirmed by General Mori and Captain De Donno. The fact that Riina was planning his attacks on the basis of such negotiation was revealed by Brusca [the Corleonese Mafia turncoat](...) Carabinieri captain De Donno has explained that the final objective was to have Ciancimino formally collaborate with the State, but the initial proposal was he to have him act as a go-between, on behalf of the Carabinieri, with the Cosa Nostra's bosses in order to establish a dialogue aiming to immediately end the bloodshed. (...) In any case, this has influenced the decision-making of the attack. In spite of the Carabinieri's good intentions, whoever decided the attack had to consider the significance of that move made by representatives of the State; and the significance that was attributed to such move, in the complex game that was started, was that a bidding war may have been rewarding.

## 3) The real possibility that Borsellino would be soon nominated the head of DNA, the newly-established National Antimafia Prosecution Office:

The third interpretation of the 'anomaly' and 'pathology' in the timing of the bombing is connected to the proposal made to Borsellino after Giovanni Falcone's death to be the next candidate for the office of head of the National Antimafia Prosecution Office.<sup>508</sup>

In 1999, the judges of the Caltanissetta Court of Appeal wrote that one of the causes of the

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<sup>507</sup> See the sentence ruling to the *Borsellino-bis* trial, released on 18/3/2002, p. 576. See also *L'Espresso*, 8/4/1994 and the interview to Borsellino by Gianluca Di Feo in which Borsellino defines the Milanese business manager Pino Lottusi as "the manager of the most important criminal business of the 1980s," in *Il Corriere della Sera*, 30/6/1992.

<sup>508</sup> See the sentence ruling to the *Borsellino-bis* trial, released on 18/3/2002, p. 576. and pp. 765-6.

attack was “to put strong pressure on the government, which had implemented an intense policy against organized crime, much more effective than in the past, and induce those among Cosa Nostra’s possible [political] referents to come forward and take care of her interests; for this reason, the *mafiosi* would have not ended their attacks until their goal was achieved, that is until all the laws that allowed for a stronger repression by the law enforcement agencies were modified and made much less effective than they were, even though this may have cost a period of sacrifices.”<sup>509</sup> This – it should be noted – is precisely the conclusion that those who deny the *trattativa* attribute to the “conspiracy” of “extremist” journalists or prosecutors.<sup>510</sup> In explaining the reasons for the bombing, the judges, in fact, connected the attack made at Via D’Amelio with the fact that Borsellino’s last investigations included not just *mafiosi* but also their accomplices in the worlds of business and finance; with the objective of Cosa Nostra of favoring the escalation to power by someone they could rely on; and with the ongoing “negotiations” between her and the Carabinieri, which also may explain the “unnatural” precipitation of the situation.

In plain continuity with a centuries-long history in which key documents and witnesses always disappear in crucial moments, Borsellino’s red agenda, a sort of notebook where he jotted down all his investigative clues, was never found (only a black agenda used to write down his appointments was found, which allowed for a precise reconstruction of his final days). In the frenzied moments following the bombing, an official, later identified as a Carabinieri colonel by the name of Giovanni Arcangioli, retrieved the magistrate’s bag from the flaming car. After a long, controversial trial, Arcangioli was acquitted of the charge of stealing the agenda upon allegations that there was no evidence that the agenda was inside the bag at the time of the explosion. Although Borsellino’s family members had put on record that, just an hour before the bombing, Borsellino had the agenda with him, the court eventually gave more credit to a defendant who in the course of the trial gave different, conflicting versions of the story: first, accusing two magistrates of taking the bag (the two were later cleared as they were not even present on via D’Amelio right after the explosion); then, claiming to have taken the bag, opened it in the presence of a Palermo prosecutor, yet not finding anything inside it.<sup>511</sup> In rejection of this verdict, considered as unfair, a movement committed to fighting for a more just justice than the official one regarding the Via D’Amelio bombing was spontaneously formed in the years subsequent. Called the *Movimento delle*

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<sup>509</sup> Tribunale di Caltanissetta, ufficio del giudice per le indagini preliminari, Decreto di archiviazione nei confronti di Berlusconi Silvio e Dell’Utri Marcello, N. 1370/98 R.G.N.R., N. 908/99 R.G.I.P., p. 10.

<sup>510</sup> *Il Corriere della Sera*, 15/6/2010.

<sup>511</sup> See *proc. n. 22543/08, sent. n. 389, C.C. 17/2/2009*, p. 2. See also *L’Espresso*, 18/7/2013.

*Agende Rosse* (literally, Movement of the Red Agendas) by the way in which its members conducted their protest brandishing a red book, the movement was started by Borsellino's family and some antimafia associations and was soon joined by a part of public opinion. Assuming that Borsellino was going to denounce the ongoing negotiation with ROS – perhaps he would have done it before the Caltanissetta prosecutors the day after the massacre, which would also explain the haste with which his homicide was carried out – supporters of the *Agende Rosse* never ceased claiming that in that agenda there must have been proof that Borsellino was murdered for opposing the *trattativa*.<sup>512</sup> According to one of the most authoritative of the movement's supporters, the Palermo prosecutor Antonio Ingroia, in the agenda must be “the key to the bombing; it is unlikely that it was destroyed; it is more logical to assume that it is now in the hands of someone who may use it as a means for blackmail.”<sup>513</sup> According to another magistrate, Sergio Lari, who served as chief prosecutor at Caltanissetta and, as such, was in charge of the investigations on the 1992 bombings, “It cannot be excluded that the agenda held Borsellino's notes on possible negotiation between the State and the Mafia in order to put an end to the bloodshed.”<sup>514</sup>

More obscure aspects behind the bombing were highlighted by one investigative journalist who closely followed the case:

On that afternoon of July 19, 1992, Bruno Contrada, an agent of the SISDE domestic intelligence agency, was on a boat offshore Palermo. With him were another SISDE agent, Lorenzo Narracci [the one whose cell phone number was found in the spot at Capaci where the remote control that blew up Falcone and his entourage was activated], and the proprietor of the boat, one Gianni Valentino, a bridalwear merchant who resulted to be in contact with Raffaele Ganci, one of the bosses later condemned for the 1992 bombings. Contrada claims that Valentino received a call from his daughter telling him that there had been an attack in Palermo and a bomb had exploded. After the call, according to Contrada, ‘Narracci called the SISDE headquarters in Palermo from his or my cell phone in order to get more precise information.’ Upon being told that a bomb had exploded at Via D’Amelio, Contrada asked to be taken ashore, then made a quick stop at his house before heading to Via D’Amelio. However, there is something wrong in all this. The exact moment of the explosion was fixed by the Palermo Geoseismic Observatory at 4:58:20 p.m., exactly 100 seconds before Contrada's call to SISDE. However, in those 100 seconds there was at least one other call: the one advising Valentino of the bomb. Hence, in just 100 seconds the following facts occurred: the explosion; a mysterious informer (in Contrada's version of the story, his friend's daughter) called Valentino from a landline telephone (as such, not identifiable by phone printouts) telling him what had happened; Contrada, in turn, got his phone, called the SISDE offices usually closed on Sundays but coincidentally open that Sunday, and obtained such an effectual answer in such a short

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<sup>512</sup> A criticism of these positions can be found in S. Lupo, *La mafia non ha vinto, op. cit.*, pp. 45-47.

<sup>513</sup> *Il Fatto Quotidiano*, 19/11/2009.

<sup>514</sup> *Ibid.*

period of time. All this in just 100 seconds. But how could Valentino's daughter know, just a few seconds after the explosion, that there had been an attack if the first police squads arrived at Via D'Amelio 10-15 minutes after the explosion? And how could the agents in the SISDE office know, merely an instant after the explosion, that a bomb had exploded at Via D'Amelio? Moreover, the outburst brought down the telephone lines in the entire neighborhood. Yet, after just a few seconds, from his boat in the middle of the sea, Contrada and his friends already knew everything: there had been an attack at Via D'Amelio.

Excluding the possibility that Valentino's daughter and the SISDE agents were fortune tellers, the doubt arises that warning the three men on the boat was the one who had committed the attack – or who had made sure, live, that it was successful – and who was, in this way, passing it on to those concerned. Especially since Valentino had relations with Ganci and since SISDE had undercover headquarters at Utveglio Castle, right at the top of Via D'Amelio, from where it was possible to perfectly monitor the street; in addition, those headquarters were in phone contact with another *mafioso* involved in the 1992 massacres by the name of Gaetano Scotto.

In short, the trip of the three 'seamen' may have had a totally different meaning. But what? The investigations on Contrada and Narracci, conducted by the Caltanissetta Prosecution Office under the codename of "external instigators," did not find any evidence and were dismissed. And the phone call that alerted Contrada and Narracci did not leave any trace, as it was made from a landline phone (whether it was a house, an office, or a public phone). And, meanwhile, Valentino has died.<sup>515</sup>

The endless series of trials for the bombing – nine overall, plus another opened in 2013 after the evidence of the previous ones was proved false – was due to what was defined as the biggest sidetracking of an inquiry in the entire history of the Mafia.<sup>516</sup> Since the very beginning, investigations on the Via D'Amelio case developed around the revelations of three low-level hoodlums by the names of Luciano Valenti, Salvatore Candura, and Francesco Andriotta. The three men named another low-level outlaw, one Vincenzo Scarantino, who confessed having stolen the car used for the attack and then charged it with explosives. Scarantino's statements, later proved to be false, were the basis upon which all the previous trials were founded (three trials, each with three degrees of judgment, for a total of nine). In 2009, a Mafia turncoat by the name of Gaspare Spatuzza confessed having been he the one who stole the car used for the bombing, for which reason a further trial, the tenth, had to be staged. However, Scarantino's unreliability had already appeared evident to various magistrates, who, in fact (and in vain), had denounced it since the early days of the first trial.<sup>517</sup> In 2010, the head of the Caltanissetta Prosecution Office admitted that "for sure there was a colossal misdirection of the investigations (...), after 18 years we are still trying to understand why the entire case was reconstructed on the basis of such low-level crooks as

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<sup>515</sup> M. Travaglio, *E' Stato la mafia, op. cit.*, pp. 44-46.

<sup>516</sup> *Il Fatto Quotidiano*, 15/11/2019.

<sup>517</sup> *Antimafia 2000*, 21/1/2014.

Candura, Scarantino, and Andriotta, subjects who could never be admitted into a high-profile criminal context.”<sup>518</sup>

Both investigations and trials were thus deliberately misdirected towards the bottom of the criminal underworld. This was made either in good faith in order to bring some culprits to justice as quickly as possible in a period of great institutional uncertainty, or, much more plausibly, to sidetrack the investigations on the concealed instigators of the bombings, which by that time had already started, and cover up the ongoing negotiations between the Mafia and the ROS Carabinieri in order to prevent further massacres. Whatever the reason, in the years following those magistrates and officials who credited the version provided by the three fake informers made advancements in their careers, while those who denounced its unreliability faced professional humiliation and, in certain cases, even lost their job. A prosecutor in the first trial for the bombing who was later accused by the fake informer Scarantino of “having fabricated everything,” Anna Maria Palma became the head of cabinet for the President of the Senate, Renato Schifani, in the Second Berlusconi Government (2001-2006). Police computer expert Giocchino Genchi, instead, faced several massive instances of humiliation before eventually being fired from the police only to be readmitted after six years without salary.<sup>519</sup> During the period Genchi was suspended from office, he published a book in which he revealed that the head of the Palermo police flying squad, Arnaldo La Barbera, told him that had the two of them credited the false version of the story, they both would be promoted: he as superintendent, and Genchi on grounds of special merits. Upon Genchi’s incredulous reaction, La Barbera kept on repeating the proposal until Genchi left the room “slamming the door” to abandon forever, the following morning, the team in charge of the investigations on the 1992 bombings.<sup>520</sup>

In the late 1990s, both Berlusconi and Marcello Dell’Utri were investigated for being the hidden prompters of the Via D’Amelio and Capaci bombings. Their cases were soon dismissed and no trial was ever opened (in 2019, Berlusconi was investigated again for being one of the prompters of the 1992-1993 Mafia bombings, and in 2013, while serving prison time after being condemned for collusion with the Mafia, his associate Marcello Dell’Utri became a defendant in the State-Mafia Trial – in this trial Dell’Utri was condemned to 12 years in prison for conspiracy against the State). Before telling the story of the dismissal,

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<sup>518</sup> *Il Fatto Quotidiano*, 21/7/2010. See also the *Relazione di congedo del magistrato Ilda Boccassini* released on 10/10/1994, in which Boccassini expresses her disappointment for the way in which the investigations on the Via D’Amelio bombing had been conducted.

<sup>519</sup> *International Business Times*, 21/11/2013; *Il Fatto Quotidiano*, 8/12/2009.

<sup>520</sup> *Il Fatto Quotidiano*, 8/12/2009.

which is quite interesting for reasons that will soon become clear, it is worth highlighting the main judiciary outcomes related to the 1992 bombings, because they provide an interesting historicization of our facts:

Angelo Siino [the informer and Freemason who in the 1980s was in charge of the public contracts on behalf of Cosa Nostra] revealed that he had been informed by Nino Gargano and Giuseppe Madonia [two *mafiosi*] that in the early 1990s Bernardo Provenzano was trying to ‘hook up’ Berlusconi through Craxi. Antonino Gioè [the Mafia boss died in 1993 in mysterious circumstances] had told Siino that the Corleone boss Leoluca Bagarella, through an agent of the *Guardia di Finanza* [Italy’s Financial Police] was trying to hook an influential person close to the socialist leader Bettino Craxi and that it was necessary to ‘be as loud as possible’ in order to allow this influential person to settle ‘the situation of Italy’ in a way that was favorable to Cosa Nostra. In short, it was necessary to make war first to make peace after.

Salvatore Cancemi [one of the *mafiosi* condemned for the 1992 bombings] at the trial for the Capaci bombing revealed that Riina, before the attack, met with ‘important people who, he told him, were Dell’Utri and Berlusconi. Riina also told him that members of Fininvest, Berlusconi’s financial company, were paying 200 million liras to Cosa Nostra periodically. Cancemi also said that since 1990-1991 Riina had tried to control directly the relations with the board of Fininvest through Craxi, avoiding the mediation of Vittorio Mangano [the *mafioso* hired in the 1970s by Berlusconi officially as a stable hand in his villa]. Cancemi, however, was not able to explain in detail whether, and how, had Riina been able to get direct control of this relationship, yet he connected the bombings to one such shift between Riina and Mangano. He added that in 1991 Riina had told him that Berlusconi and Dell’Utri were interested in ‘purchasing the old area of Palermo’ and that he, Riina, was in charge for such a negotiation since Berlusconi and Dell’Utri were, by then, ‘in his hands.’ In the years afterwards, other Mafia turncoats (Francesco Paolo Anzelmo, Aurelio Neri, Giovan Battista Ferrante, Antonino Galliano, and Calogero Ganci) as well as police investigations confirmed that money was granted periodically from Berlusconi to the Cosa Nostra’s bosses. According to the testimony of Giovanni Brusca, Berlusconi ‘used to donate something as a gift, a contribution, an extortion’ to Ignazio Pullarà [Giovanni Brusca’s cousin, also a *mafioso*]. Between 1981 and 1983, Pullarà received the money via the mediation of two other *mafiosi*, Contorno<sup>521</sup> and Zanga. According to Salvatore Cancemi, on occasion of a meeting that took place about 20 days before Capaci, Riina talked of deals with Berlusconi and Dell’Utri in order to have a series of laws passed that were favorable to Cosa Nostra and to be guaranteed that the negative consequences of the bombing would be therefore counterbalanced. Cancemi also talked of contacts, both before and after Riina’s arrest, between the Mafia bosses and subjects who had the power to draft laws in favor of the Mafia. He mentioned a meeting of *mafiosi*, also attended by Raffaele Ganci and Salvatore Biondino [two other *mafiosi*], held to celebrate the successful attack at Capaci and make the final decision regarding the one at Via D’Amelio. During this meeting Riina is reported to have said, ‘The responsibility is mine,’ and confirmed that he had been reassured by ‘important people’ who, he told the other *mafiosi*, were Berlusconi and Dell’Utri, who had committed to to satisfy the Cosa Nostra’s requests which included the substantial abolition of the witness protection program, of

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<sup>521</sup> Homonym of Salvatore Contorno, one of the two main Mafia turncoats in the Maxi Trial together with Buscetta.

the life prison sentence, and of the law allowing the government to seize and confiscate Mafia assets. In short, Riina guaranteed that, in spite of the blatant attack, everything was soon to be settled in favor of the Cosa Nostra. According to Cancemi, on that occasion Riina also said that he “was putting everything on this” including “his own teeth,” and that we “all could sleep well at night” because “this is such a good thing for us as these people will bring us something good, and so we have to guarantee them now and even more so in the future.”

Giovanni Brusca said that he also had come to know of a negotiation conducted by Riina in the period between the Capaci and the Via D’Amelio bombings in order for Cosa Nostra to obtain benefits regarding the revision of trials, the seizure of money and properties, the laws regulating Mafia witnesses, etc. After the attack at Via D’Amelio, in order to facilitate the resumption and the resolution of the negotiation, Riina had demanded further killings of State personalities whom he, Riina, identified either as Alfonso Giordano, the main judge for the Maxi Trial, or another magistrate, Pietro Grasso. According to Brusca, once Salvo Lima was eliminated, Cosa Nostra “was looking for new contacts” in the political world (...). The first time, 10-15 days before Via D’Amelio, Riina replied that the important people he was talking to “wanted this Bossi” [the leader of the Northern League] whom Riina considered crazy and on whom he was not interested at all. The second time, one or two weeks before the bombing at Via D’Amelio, Riina had told him that “they have sent us a signal.” Three or four months later, through Salvatore Biondino [a *mafioso* involved in the 1992 bombings who was arrested together with Riina on January 15, 1993], while referring to the interruption of the dialogues with the Carabinieri, Riina told Brusca that “they have stopped, we gotta resume the attack,” and thus Brusca was ordered to prepare the murder of Pietro Grasso. Riina also told him that he gave his interlocutors a list – the ‘*papello*’ – with all his requests. At that point, Brusca had no idea who these interlocutors were, but upon solicitation by the magistrate interrogating him he made a few deductions on the basis of facts that he had experienced and came to the conclusion that they could only be Antonino Cinà, a man of honor from San Lorenzo, the Mafia Family closer to both Berlusconi and Dell’Utri, and Vito Ciancimino.<sup>522</sup>

It is interesting to note that the main prosecutor in charge of the investigations on the Capaci bombing, Luca Tescaroli, admitted to having encountered the greatest collaboration from his colleagues and other State officials as far as the investigations dealt with the material executors of the slaughters, the *mafiosi* who detonated the bombs or ordered the murder of politicians, while his commitment to the search for higher level responsibilities made him the target of “numerous unjust attacks from politically oriented media, which induced me to sue various journalists for slander, who were later found guilty of deliberately offending me and my work” and “made the already difficult task I was carrying out more complicated, forcing me to face the odd situation of having to provide public explanations regarding the reasons and the correctness of the investigations I was conducting.”<sup>523</sup>

A further indicator of this ostracism by State institutions and officials towards the magistrates more committed to getting to the bottom of the truth is the story of the request to

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<sup>522</sup> F. Pinotti, L. Tescaroli, *Colletti sporchi*, *op. cit.*, pp. 151-153.

<sup>523</sup> *Ibid.*, pp. 149-150.

dismiss investigations on Berlusconi and Dell'Utri. The draft presented by Tescaroli considered Brusca's and Cancemi's revelations to be converging and complementary to the extent of rising the conjecture that the two founders of Forza Italia, Berlusconi and Dell'Utri, could have somehow contributed to ideating or approving the bombing. However, on the basis of an alleged lack of convergence between the statements of these two witnesses, the Head of the Caltanissetta Prosecution Office, Giovanni Tinebra, rewrote the request in his own hand, eliminating any inconvenient reference to Berlusconi and Dell'Utri. When this happened, at the end of 2000, Berlusconi was the head of the parliamentary opposition and Dell'Utri an MP in both the Italian and European parliaments. The two conflicting requests generated contention between the two magistrates that was solved by the Caltanissetta Court of Appeal with the verdict of June 23, 2001. The verdict acknowledged the testimonies of Brusca and Cancemi as converging, hence the dismissal requests did not clear once and for all Berlusconi and Dell'Utri of possible complicity in deciding the Mafia bombings. The case outlined demonstrates how different the attitude of magistrates could be and how the magistrates themselves are often the very first ones, in such delicate situations, to ascertain the implications of the interlacing of historical and judiciary judgments on which we focused our attention in Chapter 2. It also demonstrates that Tescaroli's assumption that "on the basis of the assumption that anyone is equal by law investigations should be made without distinction depending on those investigated" was not equally shared by all magistrates – the theme of the equality of all citizens by law remained at the core of the Italian political debate in the years between 1994 and the first decade of the following century.

In relation to the presence of secret instigators, it should be said that in the case of the Via D'Amelio bombing this presence is not solely ascertained by official documents such as trial verdicts, DIA reports and reports by the Parliamentary Antimafia Commission, but is also confirmed by the victim himself. In the final days before being killed, Borsellino confessed to his wife that he felt betrayed by the State institutions as he had discovered that his boss, Piero Gianmanco, had not told him of a note warning that he was the target of an imminent attack, for which he had asked, in vain, for the reinforcement of the security measures to protect him. Borsellino also confessed to his wife that the Mafia would kill him "only when others will permit her to."<sup>524</sup> Not even this last, dignified cry whispered to his woman by a man now certain of his death to the extent of abandoning the police agents of his armed escort whenever possible in the hope of being killed alone, seems to be worthy the attention of those who deny

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<sup>524</sup> *la Repubblica*, Florence edition, 9/12/2014; *Il Corriere della Sera*, 11/11/2011.

the *trattativa*.

### **3.10 Via D'Amelio from the perspective of magistrates and politicians**

Now certain to be the primary target of Mafia violence, after Via D'Amelio prosecutors added a sense of powerlessness and defeat to their discontent. This sense of defeat emerges clearly from the words of one of them awaiting to be transferred from Trapani, a city on the western coast of Sicily, to a new destination:

“I, Luca Pistorelli, am not the Italian Republic; I am just the smallest piece of the Italian State. To fight against the Mafia in these conditions, alone as we are, is just a desperate choice: a choice that, by now, bears to our physical elimination. (...) I feel mortified by the bad faith of the government in dealing with the judiciary and by their absolute inability to give us even the basic judiciary tools that we need. For he who does our job, risking life is a matter of fact, and one may even accept it, but only if it is the State as a whole that conducts this fight and not just, as it always happens, a single person. We are isolated, also because we lack means. (...) Our forces are inadequate, both numerically and professionally. Those among us capable of certain investigations can be counted on the fingers of one hand. And there is also the issue of the tools necessary to do our job. Can you see that computer on the table? I literally ‘stole’ it, after I had been promised one for more than a year. We asked for a certain number of computers, and the government sent us an armored car. ‘Better than nothing,’ was their reply. We do lack everything: from the bugs for the wiretaps to access to the few available databases useful for investigating such as the tax registry, fundamental to penetrate the world of criminal organizations. (...) This is a medieval city; to be born here equates to suicide, the quality of life is just tragic. (...) To fight the Mafia, alone, in these conditions, is desperate. Everything here is corrupt. Even the public administration, which is polluted in its own and by the Mafia. Our situation as magistrates is dramatically serious. Besides many of my Sicilian colleagues who have always done their part with dignity and competence, there are many others who are corrupt and cowards, who just work as post office employees. (...) This is an abandoned land, let me tell you.”<sup>525</sup>

What seems more important to our analysis is the fact that, for as much as they could in the lack of definitive findings in the investigations, even after Via D'Amelio politicians from all parties publicly hinted at an ongoing conspiracy once again put in place by a still-active component of P2, the same that was at the center of the investigations made by DIA and handed in to the Palermo prosecutors in the form of a report titled *Sistemi Criminali* in the late

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<sup>525</sup> *Il Corriere della Sera*, 5/8/92.

1990s (in 2001, the Palermo Prosecution Office ruled not to proceed against such a “criminal system” made of *mafiosi*, Freemasons and right-wing terrorists, since it could not be demonstrated that in 1992-1993 the Cosa Nostra’s bosses were suggested or ordered to execute murders and bombings; in short, the inquiry was dismissed as there was no evidence of coordination in deciding the attacks between the Mafia and her allies; the charge for which such a criminal system was investigated was subversive terrorism, an offense regulated by article 270 of the Italian penal code).

After Borsellino and four of his armed escort were killed at Via D’Amelio, the first to imply that the blame should not be put solely on Cosa Nostra were those more exposed to the retaliation of the Mafia, the magistrates, although the first public intervention from one of them came from a Milan and not a Palermo prosecutor. In the very hours after the explosion, Francesco Saverio Borrelli hinted at a possible link between the bombing and the ongoing Milanese investigations of which he was in charge. Such a statement implied the convergence of Cosa Nostra’s interests (and motives for the attack) with the corrupt world unveiled by the Milanese inquiries. The next to launch an accusation that insinuated the existence of a conspiracy was the former Palermo Chief Prosecutor, Antonino Caponnetto, who said that the Italian State “has not just underestimated the Mafia, it is also an accomplice of it.”<sup>526</sup> Caponnetto’s words were followed by the threats of the mysterious organization that identified itself as the Armed Phalanx, which had already claimed responsibility for this attack mere hours after it had taken place. The mysterious voice that a few days after the Via D’Amelio bombing made another phone call to the Associated Press labeled the Minister of Justice Martelli a “spoiled, impudent, and arrogant kid who takes ghastly delight in fighting a war of cards with lead toy soldiers” and “has pulled a fast one on Caponnetto and his family.”<sup>527</sup>

Contrary to what had happened after the murders of Lima and Falcone, this time politicians waited a little longer to release their statements, giving the impression that their reaction was much more calculated and less emotional than in the case of the previous attacks as the element of surprise had by now gone. Perhaps they had now a better understanding, or at least sensed better, what was going on. The first to speak was Giovanni Spadolini, president of the Senate. Three weeks after the bombing, Spadolini re-sounded the alarm of an ongoing destabilization against Italian democracy put in place by the turbid alliance between the Mafia and P2. In his words, “the goal of the *mafioso* criminality seems to coincide with that of

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<sup>526</sup> *Il Corriere della Sera*, 6/8/1992.

<sup>527</sup> *Il Corriere della Sera*, 2/8/1992.

terrorism during its peak years of the 1970s, that is, it aims at overwhelming the democratic State with the objective of delegitimizing it by breaking the pact of confidence between citizens and the State; in one word, opposing the State with the anti-State.”<sup>528</sup> Spadolini concluded by saying that “the scene of 11 or 12 years ago is returning,” and that “the dangers of political conspiracy circles such as P2 are permanent in Italian democratic life and there is a part of P2 that still survives; ever since the Sindona case, Mafia and P2 are connected.”<sup>529</sup>

This alarm was echoed by the President of the Chamber of Deputies and former Head of the Parliamentary Antimafia Commission, Luciano Violante, and by Tina Anselmi, a senator who was also the most authoritative expert on P2 having she served in the previous years as president of the Parliamentary Antiterrorism Commission called to investigate it. Both Violante and Anselmi agreed with Spadolini’s fears about the ongoing threats to Italian democratic life carried out by some circles of power and primarily P2. Voicing her worries into reporters’ microphones, Anselmi warned that “Gelli’s ‘Plan for a Democratic Rebirth’<sup>530</sup> [his subversive political plan made in 1976] is perfectly applicable to 1992, because there is today, as there was then, an unstable political situation that bears someone’s aspiration to seize power; today, there are some who call for reforms as those that Gelli wanted.”<sup>531</sup> If Anselmi’s words resonated in the media, Violante’s statements had an even greater impact. Not only did Violante allude to an ongoing conspiracy, but, while speaking of “a process to render Sicily as autonomous as possible, even in consideration of its possible military use in relation to new models of defense,” he clearly defined it by connecting the bombings to the separatist plan elaborated by members of deviated Freemason lodges together with neo-Fascist terrorist groups analysed in the beginning of this chapter.<sup>532</sup> Even though, with the end of Communism and global political bipolarity “some of the key national and international references previously indispensable to P2 do not exist anymore,” there could be now “a project newer than the ‘Plan for a Democratic Rebirth’ because the pillars of the political system are changing,” with “Gelli possibly representing the transition between the old and the new.”<sup>533</sup>

Denouncements of this kind were to continue in the next days, as if they were supplying power to one another. On August 12, Anselmi warned that “we should all be very alert” as

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<sup>528</sup> *Il Corriere della Sera*, 9/8/1992.

<sup>529</sup> *Ibid.*

<sup>530</sup> When searching Licio Gelli’s villa in 1982, police found a document entitled ‘Plan for Democratic Rebirth’, which called for a consolidation of the media, suppression of trade unions, and the rewriting of the Italian Constitution. The plan was meant to give an authoritarian turn to the country.

<sup>531</sup> *la Repubblica*, 11/8/1992.

<sup>532</sup> *l’Unità*, 10/8/1992.

<sup>533</sup> *Ibid.*

“the conditions are ripe for a serious plot against democracy” since “the weakness of the political system has opened spaces that someone may attempt to fill;” in such a situation, “Gelli’s old ‘Plan for a Democratic Rebirth’ really scares, as it is being fully put into effect.”<sup>534</sup> As we see, Anselmi openly put Cosa Nostra’s bombs in relation to Gelli’s ‘Plan for a Democratic Rebirth’: “the empty space left by the political system and the crisis of the traditional parties may be filled by something different that may operate in strict conjunction with the Mafia,” which “has been quicker than industrial groups and is already investing hundreds of billions of drug money into Eastern economies.”<sup>535</sup> A conspiracy even larger than the one hinted by Anselmi was soon after denounced by Ciriaco De Mita, one of the leaders of the Christian Democracy, who referred to a plot involving “an unimaginable role of international Freemasonry.”<sup>536</sup> Perhaps, the same plot that Ciolini had hinted at before the outburst of violence.

Another source attributing a political role to the attacks launched by Cosa Nostra was the first bi-annual report on the security of the nation presented to parliament by the prime minister on August 13, 1992. In the report we read that “the Mafia has used terrorist methods in order to intimidate and alienate the consensus of people from the institutions and provoke sentiments of discouragement, abandonment, and defeat.”<sup>537</sup> Two days after the report was handed to parliament, during a public assembly the Minister of the Interior Mancino called again attention to Gelli as “it seems absurd that he has the possibility of making bank transactions in the value of 500 million liras each with nobody checking on such transactions.”<sup>538</sup> On that same day, the newspaper *l’Indipendente* published an interview with Gelli in which the former Freemason Grand Master stated that the search of his assets and properties made on March 19, 1981, which had led to the discovery of the list of P2 affiliates, was illegitimate. In the interview, Gelli admitted to being “a banker without license” having he recently moved something like 17,000 billion liras.<sup>539</sup> He concluded by tracing a sinister parallelism between financial capital and dynamite: “Financial capital is like an explosive charge: if the one who handles it is competent, serious, and reliable, it behaves meekly; otherwise, it explodes in his own hands – and I know how to handle financial capital.”<sup>540</sup> Less than a month later, Gelli released one more interview, this time with the popular weekly

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<sup>534</sup> *l’Unità*, 10/8/1992.

<sup>535</sup> *Ibid.*

<sup>536</sup> *Ibid.*

<sup>537</sup> *Il Corriere della Sera*, 14/08/1992.

<sup>538</sup> *l’Unità*, 17/8/1992.

<sup>539</sup> *L’Indipendente*, 17/08/1992; *Il Corriere della Sera*, 17/08/1992.

<sup>540</sup> *Ibid.*

magazine *L'Espresso*. In this other interview, he expressed his contempt for the political class calling politicians “thugs who are robbing us,” lamented the lack of military forces capable of a *coup d'état* of which – he said – “there would be now all the conditions,” indicated in Bossi and his Northern League the only possible remedy to an incompetent political class, and affirmed his intention to support the tax strike recently proposed by the Northern League as the first step towards secession of the North from the rest of the nation.<sup>541</sup>

On September 17, 1992, the mysterious Armed Phalanx resurfaced launching threats to the Minister of Justice Martelli, the Director of Penitentiary Administration Nicolò Amato, and the Minister of the Interior Nicola Mancino.<sup>542</sup> Such threats corresponded with the resumption of accusations against Gelli and P2 by politicians. On that same day, in fact, Giuseppe Ayala, a former antimafia prosecutor now an MP for the Radical Party, spoke of “dangerous relations between the Mafia and P2,” and Mancino warned that “Gelli’s past should alert us also about his present, if we really want to avoid certain plots become stronger and the country, once again, be the victim of them.”<sup>543</sup> Two more days later the newspaper *Il Corriere della Sera* published a sort of follow-up to an article that had appeared just a few days before in the weekly Catholic magazine *Il Sabato* on the relations between Church and Freemasonry. The article published by *Il Corriere della Sera* talked of the “growing influence of P2 even within the Church.”<sup>544</sup> Such growing influence was favored by the fact that “after the attempt to kill Pope John Paul II and the sudden deaths of the archbishops of Florence and Bologna, respectively Giovanni Benelli (dead in 1982) and Enrico Manfredini (dead in 1983), it was as if the Lord had permitted that any resistance to P2 culture was eliminated and that such culture could penetrate Church institutions.”<sup>545</sup> On September 21, *Il Corriere della Sera* published a few previews of the inquest on Gelli’s financial operations in which shares of the two banks Banca Nazionale del Lavoro and Mediobanca were used as a guarantee for Mafia financial operations. The day before, the subject of the relations between the Mafia and P2 had been at the center of a debate between the former Head of Police, Gianni Di Gennaro, and the Vice President of CSM (the judiciary governing council) Giovanni Galloni.<sup>546</sup> In those very same hours, *Il Corriere della Sera* published an interview with Flaminio Piccoli, the former secretary of the Christian Democracy, who again brought attention on Gelli and a possible conspiracy by linking Cosa Nostra’s attacks to a “new Fascism” pursued by a still-active part

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<sup>541</sup> *Sistemi Criminali*, p. 128.

<sup>542</sup> *Il Corriere della Sera*, 18/8/1992.

<sup>543</sup> *Il Corriere della Sera*, 18/8/1992 and 19/8/1992.

<sup>544</sup> *Ibid.*

<sup>545</sup> *Ibid.*

<sup>546</sup> *Il Corriere della Sera* 21/8/1992.

of P2, a “vast machine” that had blown up Falcone and Borsellino, which – Piccoli predicted – would soon strike in Rome and Milan.<sup>547</sup> Less than one year later, these predictions – quite difficult to make in 1992, as until then the Mafia had never attacked so blatantly outside of Sicily – came true: in 1993, as we shall see in the next chapter, Cosa Nostra launched her attacks outside of Sicily, and precisely in Rome and Milan. The danger of possible new attacks, however, had been outlined to the parliament by the minister of the Interior two weeks before. At a Senate hearing, Mancino had warned that “several sources, even from abroad, have reported on the interest of subversive circles to destabilize our institutions,” although the presence of these “hidden, illicit circles of subversion, which is logically deducible from the events, cannot, in the current state, be proved.”<sup>548</sup> One week later, Mancino talked again of “sinister relations” between the Mafia and undercover Masonic lodges of which – he repeated – there is no proof, but that still “impose the vigilance of the State, of the minister of the Interior, and of the whole magistrature.”<sup>549</sup> As we see, that of a conspiracy is far from being the invention of “extremist” journalists or magistrates.<sup>550</sup>

### 3.11 Conclusions

The analysis made in this chapter has highlighted that, between 1990 and 1992, the Mafia backed the separatist plan ideated by certain Masonic and Neo-Fascist groups. This plan consisted of three parts. The first was the constitution of a series of regional leagues; the second their merging into a single political unit (the Southern League or the Lega delle Leghe) that in southern and central Italy would present itself as the equivalent, and the antagonist at the same time, of the Northern League; then, had all these macro-leagues obtained a similar electoral success to that of the Northern League, the traditional parties would disappear or succumb to a subordinate role, leaving the country in the hands of a new political class controlled by the Mafia and her allies through the *leghe* type of parties. Through the division of the country into federal states, and thanks to the regionalization of the vote and the introduction of an uninominal electoral system easily controllable by the *mafiosi* by means of

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<sup>547</sup> *la Repubblica*, 21/8/1992 (the interview is in the magazine *Il Sabato*, which was sold exclusively together with the newspaper on Saturdays). For the interview of Gava see *Il Mattino*, 23/8/1992.

<sup>548</sup> *Il Corriere della Sera* 8/9/1992.

<sup>549</sup> *Il Corriere della Sera*, 16/9/1992.

<sup>550</sup> See S. Lupo, see *Storia della mafia, op. cit.*, p. 268; also see *La mafia non ha vinto, op. cit.*, p. 58.

their power of intimidation, the Mafia would have had the entire South of Italy under her direct control.<sup>551</sup> However, a first significant obstacle to this project came in early 1992, when the Lega delle Leghe did so poorly at the national elections that even had to change its name. The architects of this political plan were subjects involved in the money laundering activities of Cosa Nostra and were the link between the Mafia and some of the most important companies and financial companies in the country. In particular, former P2 boss Licio Gelli had a central role in masterminding the separatist plan meant to divide Italy in three parts and in keeping connected together circles of power that were of different type but somehow kindred – some Masonic lodges, the five mafias (Cosa Nostra, the Camorra, the ‘Ndrangheta, the Banda della Magliana and the Sacra Corona Unita), and some neo-Fascist groups.

Although there is no direct judiciary evidence that the architects of this plan ordered, co-decided, or suggested the targets of the violence to Riina and his associates, a good amount of circumstantial evidence suggests that they may have manipulated Mafia violence towards their political aim of dividing the country, even taking advantage of the old political class’ complicity with the Mafia in order to favor the collapse of the old political order (as in the case of the Capaci bombing, which, according to Mafia turncoats, was carried out not just to kill Falcone but also to block the candidacy of Andreotti for the office of president of the Republic, as the bomb exploded at the very moment when the parliament was reunited to elect the new president). It is also possible that these circles of power with which the Mafia was connected were interested in eliminating Falcone and Borsellino, whose investigations were beginning to target the Mafia’s money laundering activities much more consistently than in the past.

What could be demonstrated and seems to be more interesting is that the conspiracy that those who deny the *trattativa* attribute to some “extremist”<sup>552</sup> magistrates and journalists emerges, in the very first instance, from quite a number of public statements of politicians and representatives of the State of the highest ranks. It is also quite interesting that such statements became less emotional and more calculated as the wave of violence progressed, hinting at a much clear understanding of what was effectively going on. Putting aside any factional spirit, leading Italian politicians publicly denounced a conspiracy based on the plot between the Mafia and some undercover Masonic lodges revolving around Gelli’s P2 or a still active part of P2: exactly the same plot that was the core of the *Criminal Systems* report released by the DIA. However, such report was released only years after the Mafia’s bombing campaign, and

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<sup>551</sup> *Sistemi Criminali*, pp. 9-16 and 126-129.

<sup>552</sup> *Ibid.*

when politicians were releasing their statements (coinciding with each of the Mafia's attacks) denouncing an existing plot between the Mafia, P2, and other circles of power, there was no judiciary or investigative evidence upon which they could base their own analysis. Quite interestingly, they anticipated the results of the investigations. In its entirety, the whole Italian political class gave the impression of having a clear picture of what was going on while seeming powerless in defending itself from an attack of which it perceived to be the real target (in spite of violence hitting public prosecutors), quite possibly because Italian politicians knew quite well how dangerous, and powerful, the forces behind such attack were.

## Chapter 4

### The 1993 bombings and the end of the First Republic

Between May 1993 and the beginning of 1994, quite a few attacks were committed in various parts of the country, all of which, except one, were car bombs made with the same type of explosive hidden inside a stolen vehicle. The first attack was on May 14, 1993 on Via Fauro, in Rome; its target was the journalist Maurizio Costanzo, who was wounded together with 23 others as the explosion damaged the pavement and several buildings on the street where it took place; the second bomb exploded on May 27, 1993 on Via De' Georgofili in Florence: five were killed and 38 injured, and several buildings and historic sites were either destroyed or damaged, including the Uffizi Gallery. The third attack came on July 27, 1993 in Milan: a bomb exploded next to the Pavilion of Contemporary Art killing five, injuring 12, and damaging several buildings; the fourth and fifth bombs exploded in Rome on July 28, 1993 only five minutes apart; their targets were the Archbasilica of Saint John Lateran and the San Giorgio in Velabro Church: 22 were wounded and the churches themselves were damaged together with numerous other buildings nearby. The sixth bomb was supposed to explode near the Olympic Stadium in Rome between the end of 1993 and the beginning of 1994; it did not explode because of a faulty remote control; the seventh bomb was on April 14, 1994 also in Rome: an explosive charge placed in a drainage ditch along a street, meant to blow up Mafia turncoat Salvatore Contorno, was discovered by accident and defused by a bomb squad. The explosion, however, seriously damaged the surrounding buildings.<sup>553</sup>

Although there is a strict historical continuity with that of the previous year, Cosa Nostra's violence in 1993 made a quantum leap forward, because for the first time it took place outside of Sicily hitting targets that were unconventional for the Mafia to the point that they appeared immediately too refined to be conceived solely by the crude Mafia bosses. While the wave of violence of 1992 seemed to be due to different, however converging reasons – that of retaliation against the Maxi Trial, the cutting of relations with old political referents, and the routing of law enforcement by eliminating their more dangerous elements – the violence of 1993 appears as primarily due to the interests of the *mafiosi* in terms of judiciary policies (in the very first instance, the loosening or cancellation of the hard prison regime and the witness protection program). The DIA investigations of the mid-1990s highlighted how the chronology of the 1993 bombings was not accidental but perfectly calibrated with government decisions on judiciary policy, as each of the attacks coincided with debates on measures regarding the extension of the hard prison regime for Mafia bosses who were behind bars (regulated by the article 41-*bis* of the penal code, which before its stabilization in 2000 had to

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<sup>553</sup> *Corte Suprema di Cassazione, Prima Sezione Penale, Udienza Pubblica del 6/5/2002, Sentenza N. 433/02*, pp. 4-5.

be renewed every six months).<sup>554</sup> In early 1993, only a few months since the antimafia decree had come into force, it was already clear to the *mafiosi* that the effects of the aforementioned new measures would put Cosa Nostra's very existence at risk. Hence, the bosses urgently had to find new political forces that would limit, or cancel, the effects of these laws. However, these bosses quickly understood that such measures presented the same weakness as previous ones: that of responding primarily, if not solely, to an emergency approach that the government had put forward in response to the outrage provoked by the previous bombings. Consequently, once the emergency was over, even this legislation could possibly be disempowered, although this would be more complicated and time-consuming than in the past. Since, by the end of 1992, it was already evident how counterproductive were the bombings for the Mafia, it appears logical that in deciding the attacks of 1993 the Cosa Nostra bosses had to consider that further negative consequences in terms of State repression were to be counterbalanced by greater future political convenience. In June 1993, at the first round of administrative elections, the separatist parties in which they had put all their hopes did poorly, while the heirs to the Communist Party, still perceived by Cosa Nostra and her allies as the principal enemy even though the Cold War was over, obtained solid majorities in several important cities around Italy. The elections, therefore, confirmed the electorate's lack of faith in the new separatism devised by the "criminal system" that had already emerged on occasion of the elections of the previous year. Now more than ever, the most credible alternative to the Left had to be something other than the *leghe*, the only reliable option available being Berlusconi, who at the end of that year broke the tie and announced his intention to enter politics with a new party standing as candidate for its leadership as well as for that of the coalition of which this party was a part, which meant standing as a candidate for presidency of the government. Coinciding with this announcement, Mafia violence – at least in its most blatant forms – ended. Most importantly, quite a good amount of circumstantial evidence suggests that even the 1993 Mafia bombings should be framed within interests that go beyond those solely of Cosa Nostra.

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<sup>554</sup> See *Senato della Repubblica – Camera dei deputati, commissione parlamentare d'inchiesta sul fenomeno della criminalità mafiosa o similare, XIV Legislatura, XXIII no. 16-bis, relazione conclusiva di minoranza, 20/1/2006, relatore onorevole Lumia*, pp. 145-150.

## 4.1 Amid bombs and government decisions

Regardless of the new laws introduced after Via D'Amelio, Mafia violence went on even into the late summer and the early fall weeks of 1992. Riina felt that it was necessary to raise the stakes and continue with the bloodshed in order to induce the State to come to a deal after dialogues were interrupted in late June. In September, Mafia killers executed Ignazio Salvo, an entrepreneur and politician in the ranks of the Christian Democracy who, together with Lima, had been for many years the link between Cosa Nostra and a political party to which the Mafia, as well as history, was now turning its back. After killing Salvo, Riina ordered the preparation of a further attempt against the magistrate Pietro Grasso, who at that time was serving as an adviser to the director of Penal Affairs, the office created for Falcone, who had lobbied for Grasso's nomination before being killed at Capaci. However, the attack, planned for the fall of 1992, never took place.<sup>555</sup> According to Palermo prosecutors, it was this Riina's iron will to persist with violence against institutional figures that marked his ousting from the *trattativa* in favor of the other Cosa Nostra boss, Provenzano, whose personality, more prone to compromise, appeared more suitable to the task of taking the ongoing negotiation further. Moreover, Provenzano was closer to Ciancimino than Riina, and Ciancimino at that moment was still mediating negotiations between the Carabinieri and the Mafia bosses.

In that fall of 1992, Mori, the ROS official who had approached the *mafiosi*, put pressure on the President of the Parliamentary Antimafia Commission, Luciano Violante, to meet privately with Ciancimino, but Violante declined the request and demanded an audience of Ciancimino before the Antimafia Commission. Such audience, in Violante's account, was refused by Mori as unsuitable for "something political:" a version that was never confirmed by Mori.<sup>556</sup> Whatever version of the story is true, the commission never convened Ciancimino, and Violante never informed the Palermo Prosecution Office of the strange requests he had received. At the end of 1992, Ciancimino, who was under house arrest, was sent back to prison in order to finish serving a prison sentence. According to Palermo prosecutors, this was the beginning of a second phase in the *trattativa*, in which terminals switched from Riina to Provenzano and from Ciancimino to Marcello Dell'Utri, Berlusconi's associate and co-founder of Forza Italia, the party that shortly after won the elections).<sup>557</sup>

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<sup>555</sup> *la Repubblica*, 23/1/2014.

<sup>556</sup> *Il Fatto Quotidiano*, 28/10/2014; *la Repubblica*, 30/10/2014.

<sup>557</sup> Amid the evidence supporting this hypothesis is a note written by Ciancimino while in prison: in "full

Once Ciancimino was taken out of the picture, in Rome officials from DAP, the Department of Penitentiary Administration in charge of all decisions regarding prison life, began to discuss whether and how to extend the possibility of dissociation from terrorists to *mafiosi*.<sup>558</sup> Of all the points listed in the *papello*, this would be the most convenient for the Mafia bosses, as nothing would be demanded in return from them if they were to declare themselves “dissociated” from Cosa Nostra: without giving any information on their peers or on their criminal activities they would receive all the benefits as any Mafia turncoat, solving the Mafia’s problems of witnesses, life prison sentence, and hard prison regime in one fell swoop.

The suspicious timing and circumstances of Riina’s arrest add to the already large amount of circumstantial evidence that demonstrates how contrived the official version of the story was. On December 12, just five days before Ciancimino’s arrest, the Minister of the Interior Mancino declared that Riina was now on the ropes.<sup>559</sup> He repeated it on January 10, 1993, and five days later Riina was effectively arrested by the ROS Carabinieri led by Mario Mori in circumstances that made many believe the arrest had been staged. A few days earlier, in fact, in Borgomanero, a small town in northern Italy, a *mafioso* by the name of Balduccio di Maggio, who was Riina’s former driver and had escaped Sicily after Riina had condemned him to death, was arrested for illegally carrying firearms. To such an unusual and futile motive for arresting such a high-ranking *mafioso* it must be added the strange request that Di Maggio made to be consigned to Francesco Delfino, a Carabinieri General who had quite an ambiguous resume (known as the “shark of Italian secrets” for being involved in some obscure events of political violence that took place in Italy during the 1970s and 1980s, Delfino was accused of misdirection and covering for terrorists in the 1980 Bologna massacre; according to some Mafia informers, he was contiguous to the ’Ndrangheta, the Calabrian mafia; he was also condemned for defrauding the family of a businessman who was first kidnapped and then freed by members of an organized crime group).<sup>560</sup> The circumstances in which Delfino took over Di Maggio were far from clear, as Delfino did not respect the

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conscience I shared with Berlusconi and Dell’Utri that we are sons of a same system,” but “I had been treated differently only because of ‘geographical’ reasons.” Already in the early 1980s, Milan’s Interpol, the International Criminal Police Organization, had “largely ascertained Dell’Utri’s proximity and direct relations with some notorious *mafiosi*,” see M. Travaglio, *Quelle larghe intese fra Stato e mafia*, in *Micromega*, <http://temi.repubblica.it/micromega-online/quelle-larghe-intese-tra-lo-stato-e-la-mafia/?printpage=undefined> (accessed July 2016).

<sup>558</sup> As revealed in 2011 to Palermo prosecutors by the then number two of DAP, the Department of the Penitentiary Administration, Edoardo Fazioli.

<sup>559</sup> *Il Corriere della Sera*, 12/12/1992.

<sup>560</sup> *L’Espresso*, 2/9/2014. *Il Corriere della Sera*, 17/10/1993.

procedure foreseen by the law, bypassing the magistrate who, in fact, issued a formal complaint for such an improper conduct. As it turned out, Di Maggio was the spy who identified Riina, giving the government a trophy to show off to a public opinion that was still waiting for a response to the bloodshed of the previous year (according to some Mafia informers, Riina was simply handed over by Provenzano in order to continue the ongoing negotiations with the Carabinieri).<sup>561</sup>

On January 15, the exact same day Riina was arrested, Giancarlo Caselli took office as Palermo chief prosecutor. A magistrate known for his professional rigor that propelled him to success in the fight against Italian terrorism in the 1970s and early 1980s, ever since his arrival in Palermo Caselli realized that he now had to cope with a much more treacherous climate than he was used to when he was investigating terrorism in northern Italy. After Riina's arrest, the Palermo Prosecution Office and the Carabinieri of the territorial division (another Carabinieri body different to the ROS) pushed to search Riina's den, but ROS officials convinced the prosecution office to wait because, they said, this might give them the chance to arrest more *mafiosi*. Caselli agreed, provided that constant surveillance of the apartment where Riina was hiding was maintained. However, the ROS agents in charge of the surveillance had received the order to return to their base, leaving the apartment unattended, and a Carabinieri press officer revealed to the press the location of the den, giving a local television the possibility to broadcast images of the apartment complex where Riina spent his last days in hiding already the day after his arrest.<sup>562</sup> Only 19 days later did Caselli discover that his order had been disobeyed, and controversies inevitably arose as *mafiosi* were able to enter the den, remove any possible compromising traces, and even repaint the walls. In the years following, ROS officials Mori and De Donno were indicted for such negligence and had to defend themselves in a trial from the charge of favoring the Mafia, only to be acquitted in 2006. Although acknowledging the "undoubted advantage" received by Cosa Nostra, the final verdict refused to acknowledge the two officials' intention to help Cosa Nostra, only suggesting that "disciplinary responsibility" was advisable. However, neither Mori nor De Caprio were ever disciplined, and, instead, achieved advancements in their careers: in 2001, Mori was nominated prefect and director of SISDE (the domestic intelligence agency of Italy),

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<sup>561</sup> This interpretation can be found in G.C. Marino, *Storia della mafia, op. cit.*, p 342; concerning the publications on the subject of journalist type, see G. Lo Bianco, S. Rizza, *Ipotesi su Provenzano*, Editori Riuniti, Rome, 2006, pp. 80-85; A. Caruso, *Da cosa nasce cosa. Storia della mafia dal 1943 a oggi, op. cit.*, pp. 530-549; N. Biondo, S. Ranucci, *Il patto, op. cit.*, pp- 75-100; and P. Gomez, L. Abbate, *I Complici, op. cit.*, 197-203. *la Repubblica*, 14/4/1998.

<sup>562</sup> As confirmed by a sentence of the Palermo Tribunal which also established the "impossibility of ascertaining for what reason, with what goals, and under the orders of whom the information was delivered to the press:" see Sentence ruling of the Tribunal of Palermo n. 514/06 del 20/2/2006, pp. 100-101.

and in 2000 De Caprio became the vice chief of NOE, the special body of Carabinieri in charge of environmental investigations:<sup>563</sup> the aid to Cosa Nostra, deliberate or not, did not preclude career promotions, and, as a matter of fact, favored the two officials (at least until 2018, when Mori was condemned in the State-Mafia Deal Trial together with ROS official Giuseppe De Donno and Carabinieri General Antonio Subranni for the crime of “threat against a body of the State,” an offense regulated by article 338 of the Italian penal code; in this trial, Mori and Subranni were condemned to 12 years in prison, De Caprio to eight).

With Riina out of the picture, the Minister of Justice Martelli was forced to resign because of his alleged involvement in a \$7 million bribe paid to his party into a Swiss bank account in the name of one Silvano Larini. The order for the payment came through Gelli, who together with Larini was now leaking Martelli’s name to the prosecutors. Martelli was replaced by Giovanni Conso, a jurist and academic with no previous experience neither in politics nor in Mafia cases. After the nomination, on occasion of a meeting of the Committee for Public Order and Security, the Head of the Police Vincenzo Parisi addressed the problem of what he considered to be the “excessive” severity of the hard prison regime. In the very same days the mysterious Armed Phalanx resumed its activity sending threatening letters to the president of the Republic, the minister of the Interior, and – it only emerged 20 years later – the President of the Chamber of Deputies, Giorgio Napolitano.<sup>564</sup> And just five days after the committee met, relatives of some of the *mafiosi* detained in high-security prisons, such as those on the islands of Pianosa and Asinara, sent another letter more or less to the same recipients: the president of the Republic, the minister of the Interior, and the minister of Justice, asking for an end to alleged abuses suffered by some relatives of *mafiosi* under the hard prison regime.<sup>565</sup>

As the collapse of the old political order known as the First Republic accelerated in the early months of 1993 with arrest warrants handed out to politicians and businessmen alike on an almost daily basis, for the first time in the history of the country the president of the Republic assigned the task of forming a new government to a group of extra-parliamentary experts without holding a new election. Led by the economist Carlo Azeglio Ciampi, the new government took the reins on April 28. Of all its ministers, only one was not a “technician,” i.e., an expert in his field without official bonds to political parties: Nicola Mancino, who was confirmed as minister of Justice. The only other minister from the previous government to be

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<sup>563</sup> *Ibid.*, p. 107.

<sup>564</sup> *la Repubblica*, 13/11/2010, 16/10/2014.

<sup>565</sup> *la Repubblica*, 17/11/2011.

confirmed was that of Justice, Giovanni Conso. In the hypothesis of the Palermo prosecutors, both confirmations were meant to favor the prosecution of the ongoing negotiation between the State and Cosa Nostra.

On March 27, the Palermo Prosecution Office indicted the seven-time Prime Minister of Italy Giulio Andreotti for colluding with the Mafia. Accused by six informers of favoring Cosa Nostra, Andreotti also had another trial in which he had to defend himself against the criminal charge of instigating the murder of Mino Pecorelli, a journalist killed by the Mafia seemingly because he was about to release information that would have seriously damaged Andreotti. Meanwhile, other illustrious State officials were also put on trial for collusion with the Mafia. A judge in the Italian Supreme court, Corrado Carnavale was indicted just a few days after Andreotti on grounds that, while acting in conjunction with Andreotti, he had unfairly rejected many guilty verdicts for Mafia bosses and was the judge upon whom the *mafiosi* could rely whenever a trial needed to be fixed.<sup>566</sup> Even a government minister, the Sicilian Calogero Mannino, who had already been investigated two years earlier for his alleged ties to organized crime, and a secret service official of the highest ranking, Bruno Contrada, were put on trial with the charge of colluding with the Mafia.<sup>567</sup> And on April 6, 1993 a group of Christian Democrat MP to the national parliament were indicted in Naples with the criminal charge of exchanging favors, supports, votes, and money with decisions favorable for the Camorra, the Neapolitan mafia. Such indictments all matched the demand for higher morals in politics by a consistent part of public opinion and were in harmony with the widespread perception that a renewal of the political class was necessary.<sup>568</sup>

It was in such a climate, and with the local elections scheduled in June approaching, that Cosa Nostra resumed her bombing campaign. The first attack was in Rome on May 14: one person was killed and several others wounded (the victim was an old woman who died of a heart attack triggered by fear caused by the explosion 21 days later, too many to be remembered by history as a victim of the Mafia). The target of the bomb was Maurizio Costanzo, a television journalist and also a former associate of Gelli's P2. At that point, Costanzo was one of Berlusconi's closest collaborators and had expressed his objection to his boss' political adventure, advising him to give up on such idea. Although even in this case a definitive truth was never established, one of the hypotheses made by the investigators on the

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<sup>566</sup> An analysis of the rapport between Andreotti and the Mafia and of the Andreotti trial can be found in S. Lupo, *Processo Andreotti e dintorni*, in S. Lupo, *Che cos'è la mafia*, *op. cit.*, pp. 37-70, and G.C. Marino, *Storia della mafia*, *op. cit.*, pp. 375-382.

<sup>567</sup> *la Repubblica*, 4/11/2015; *La Stampa*, 7/7/2016.

<sup>568</sup> *Il Corriere della Sera*, 8/5/1993. See also M. Travaglio, S. Lodato, *Intoccabili. Perché la mafia è al potere. Dai processi Andreotti, Dell'Utri & C. alla normalizzazione*, BUR, Rizzoli, Milan, 2005.

basis of witnesses' confessions was that the explosion was only meant to scare Costanzo and persuade him not to obstruct Berlusconi from entering politics.<sup>569</sup> The second bomb exploded outside the Georgofili Library in Florence on May 27, killing five, including an 11-month-old girl, wounding many others, and seriously damaging the city's artistic heritage including the Uffizi Gallery and the Vasari Corridor. As with the previous bombings, the Armed Phalanx claimed responsibility.<sup>570</sup> A third bomb was meant to detonate on June 2, the feast day of the Italian Republic. However, this time drama was avoided as Carabinieri discovered the charge inside a car parked right near Palazzo Chigi, the government headquarters, along the route that the prime minister and the president of the Republic were supposed to take on their way to Piazza Venezia, where the ceremony for the 47<sup>th</sup> anniversary of the Italian Republic was to take place. Two days later, without any notice and after 11 years of service, Niccolò Amato, head of D.A.P, and his vice, Edoardo Fazioli, were removed from office.<sup>571</sup> According to Amato, the motive for the dismissal was that "negotiations with the Mafia could continue undisturbed,"<sup>572</sup> his uncompromising attitude towards a firm application of the hard prison regime being an obstacle to the negotiation. The decision to fire Amato was made by the president of the Republic upon advice of the minister of Justice and on recommendation of the head of the Police. As evidence of this misconduct, Amato showed a series of documents demonstrating that his successor had proposed that the government lift the hard prison sentence. He added that, in the space of just a few months, the number of defendants subject to the hard prison regime dropped from 1,300 to 436 and referred to a "sinister" note sent to the minister of Justice by DAP, the Department of Penitentiary Administration, on July 29, 1993 (two days after the attacks in Rome and Milan), demanding the 41-*bis* be lifted since the bombings had created a "delicate situation that forces us not to needlessly exacerbate the climate in the prisons:"<sup>573</sup> precisely the opposite than one would expect from a government after such an attack. Amato also mentioned the "odd" fact that after the death of Gabriele

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<sup>569</sup> According to the revelations of Mafia informers. See the sentence ruling for the 1993 Florence bombing of 6/6/98, p. 988. Costanzo, however, was also "guilty" of having dedicated some episodes of his popular television talk show to the Mafia, hardly attacking the *mafiosi* in one to the point of wishing they would all die of cancer.

<sup>570</sup> See also *Commissione parlamentare di inchiesta sul fenomeno della mafia e sulle altre associazioni criminali, anche straniere, Comunicazioni del Presidente Sen. Giuseppe Pisanu, 30/6/2010, I grandi delitti e le stragi di mafia 1992-'93*. Mafia informers revealed that, right after the Florence attack, Provenzano had reassured his subordinates on future improvements in the hard prison regime by telling them "things are moving ahead in a positive way for us." (Statements by Cancemi Salvatore in the hearing of 29/6/1999 of the trial "Borsellino-ter," p. 69 and following, also reported in *Proc. N. 1595/08, R.G.N.G., Mod. 21*, p. 91).

<sup>571</sup> *Il corriere della Sera*, 5/6/1993.

<sup>572</sup> *N. Amato: mi hanno cacciato per trattare con la mafia*, in *panorama.it*, <http://archivio.panorama.it/italia/Nicolo-Amato-mi-hanno-cacciato-per-trattare-con-la-mafia> (accessed July 2017).

<sup>573</sup> *Ibid.*

Chelazzi, the prosecutor in charge of the investigations on the 1993 bombings, the investigations were stopped, and, “quite surprisingly, since then nobody has continued them in spite of documents proving that there was a negotiation with the Mafia going on.”<sup>574</sup> The accusation was quite straightforward, as Amato said that he “could not know whether *mafiosi* and government officials sat around a table in order to discuss, however such discussion was not necessary at all, as the terms of the negotiation were obvious and the final deal implicit, since each part knew perfectly well what the other wanted.”<sup>575</sup> Amato’s statements sound more sinister if we consider the circumstances of Chelazzi’s death in April 2003. Chelazzi died of a heart attack in a Roman barrack the very day before he was to question ROS General Mario Mori on his contacts with *mafiosi*. On his body, no autopsy was ever performed, although Chelazzi publicly admitted, in more than one occasion, that he feared for his life.<sup>576</sup> In a hearing by the Parliamentary Antimafia Commission, Chelazzi had defined his inquest as something “unique and unrepeatable, at least in the history of the Italian Republic, because of its subversive purpose,” adding that he was soon to hand over the papers that would allow a trial to be staged in order “to demonstrate a truth that, up until now, has not been possible to demonstrate.”<sup>577</sup> Before dying he left a letter, a sort of testament, in which he expressed all his disappointment for the lack of attention, almost contempt, against him by his bosses of the Florence Prosecution Office on what was emerging from his investigations.<sup>578</sup>

At the top of the Department of Penitentiary Administration Amato and Fazioli were replaced respectively by Adalberto Capriotti, who became the new head, and Francesco Di Maggio, who was nominated as vice director. Neither of them had previous experience in prison administration. The former was a Catholic close to the Vatican,<sup>579</sup> the latter a Sicilian former member of the Alto Commissario Antimafia – from 1982 until its replacement with the DIA and DNA in late 1991 the main government body in charge of the fight against the Mafia – who was close to Bruno Contrada and in good relations with the ROS and other government intelligence agencies. A document released by the Antimafia Commission of Inquiry reads as following:

The President of the Republic Scalfaro was influenced in his choice of DAP’s new head by two priests who knew

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<sup>574</sup> N. Amato: *mi hanno cacciato per trattare con la mafia*, *op. cit.*

<sup>575</sup> *Ibid.*; *la Repubblica*, 13/11/2010; *Huffington Post*, 11/11/2014; G. Fasanella, *Una lunga trattativa*, *op. cit.*, p. 197.

<sup>576</sup> According to some commentators, even Chelazzi’s death is quite a suspicious one. See, for example, *l’Unità*, 19/4/2003.

<sup>577</sup> *Il Fatto Quotidiano*, 2/6/2010.

<sup>578</sup> *Il Corriere della Sera*, 22/5/2003.

<sup>579</sup> See G. Fasanella, *Una lunga trattativa*, *op. cit.*, pp. 198-199.

the prison world very well, Monsignor Cesare Curioni and Father Fabio Fabbri, respectively General Inspector of the prison chaplains and his secretary. It was they who suggested Capriotti to the minister of Justice as an eligible, devoted, and trustable candidate for the office. Capriotti accepted Di Maggio as his vice director, although the choice was not his, having he renounced the prerogative attributed by law to the director of DAP according to which the vice director had to be nominated by the minister under the proposal of the general director; instead, Capriotti was not even consulted and was bypassed by his vice, who made decisions autonomously and personally interacted with the minister.<sup>580</sup>

Since Di Maggio did not have the seniority requested to run for the office, a special decree by the president of the Republic had to be made. Such decree was not written, as required by the constitution, by the president of the Republic but was drafted by Di Maggio himself. The replacement of Amato with Capriotti was greeted by the mysterious Armed Phalanx as their own victory.<sup>581</sup>

Under the direction of Capriotti and Di Maggio the policy of DAP changed drastically. Just a few days after their nominations were made official, the DAP issued a request to the government for a 10% reduction in prisoners under the hard regime, of which 373 were *mafiosi*, and proposed to limit the application period of the hard prison sentence (after which a renewal would be necessary) to six months instead of one year. Although initially the government did not take any action, two witnesses' accounts, also reported by a parliamentary report, add to the evidence that softening the hard prison regime was seen as necessary by some representatives of the State in order to halt Mafia violence. The first account is the testimony of Di Maggio's driver, according to whom the DAP was under steady pressure by the Minister Mannino not to renew the hard regime for some important *mafiosi* "in order to foster a more positive climate."<sup>582</sup> The second is the testimony of an informer by the name of Rosario Cattafi (a Mafia boss defined by the parliamentary inquiry as one of the links between the Mafia, politics, and deviated intelligence services), who revealed that Di Maggio had confided him that in order to stop the bloodshed it was necessary to grant prison benefits to Mafia bosses.<sup>583</sup>

On June 6, 1993 local political elections took place in some of the most important cities and municipalities around the country. These elections saw a clear victory of the left-wing

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<sup>580</sup> *Camera dei deputati, Senato della Repubblica, XVI legislatura, Commissione parlamentare di inchiesta sul fenomeno della mafia e sulle altre associazioni criminali, anche straniere, Doc. XXIII, n. 16, Tomo I, pp. 353-354.*

<sup>581</sup> *Antimafia 2000, 2/11/2014.*

<sup>582</sup> *Camera dei deputati, Senato della Repubblica, XVI legislatura, Commissione parlamentare di inchiesta sul fenomeno della mafia e sulle altre associazioni criminali, anche straniere, Doc. XXIII, op. cit., p. 355.*

<sup>583</sup> *Ibid.*

parties, heirs to the Communist Party. Less involved in the ongoing judiciary inquiries that were mostly taking place in Milan and that were leading to the collapse of the First Republic, the Left Democrats obtained quite good results even in areas where the electorate tended to vote for other parties. The Northern League obtained another clear victory in the North, especially in the regions of Lombardy and Veneto, while the results were so disappointing for the Christian Democracy that the party was dealt the final blow. On July 26, right after Di Maggio and Mori had met to discuss the *mafioso* prison situation and whether or not to lift the application of the hard prison for some Mafia boss, the party that had been in power without interruption since 1948 dissolved to disappear forever from the scene of Italian politics.<sup>584</sup> The elections confirmed the total failure of the separatist parties: their political offer had remained incapable, outside northern Italy, of intercepting the consensus of the moderate electorate to which it was trying to appeal.

It was in this picture that Cosa Nostra resumed her attack on the State in the summer of 1993. On July 27, the very day after the Christian Democracy had ceased to exist, a bomb detonated in Milan right outside the art space *Padiglione di Arte Contemporanea* killing five: three firemen who were trying to extinguish the fire burning in the car where the charge was placed, a municipal police agent who was with them, and a Moroccan immigrant who was passing by. A few hours later, in Rome, two more explosions damaged the Archbasilica of Saint John Lateran and the San Giorgio in Velabro Church, both near the Vatican, which shared their names – Giorgio and Giovanni – with those of the presidents of the chambers of parliament (Giorgio Napolitano and Giovanni Spadolini): just chance, or a coded message from a certain Freemasonry that, in the same way as the Mafia, wanted to wipe away the old political party system?

Sinister happenings, however, were to continue. Two days after the bombings in Milan and Rome, Mafia boss Antonino Gioè was found dead in his jail cell at the Rebibbia prison in Rome. Officially, Gioè's death was a suicide, as he was found hanged by the jailers who opened his doors after not receiving any answer to their calls. But not even in this case the official version of facts was unanimously believed. Among the quite few who suspected that Gioè's suicide was staged and that instead it was a homicide were two investigative reporters who, in the following years, brought forward convincing arguments that discredited, to quite a

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<sup>584</sup> An analysis of the 1993 administrative elections can be found in G. Di Franco and R. Gritti, "La 'Rivoluzione' nelle urne. Un'analisi dei risultati delle elezioni amministrative del 6 e del 20 giugno 1993," in *Sociologia e Ricerca Sociale*, no. 42, 1993, pp. 118-168.

good extent, the official version.<sup>585</sup> On Gioè's table, in fact, investigators found three handwritten notes. On one of these notes it was scribbled, "Tonight I have rediscovered the peace and serenity that I lost 17 years ago."<sup>586</sup> For the Roman prosecutors who led the investigations, the meaning of this note was simply the farewell message of a man who intended to pass away in the space of a few seconds. However, the two journalists suggested a different interpretation. Gioè was a key figure in the ongoing negotiation between the Mafia and the State, not just because he was the cousin of Francesco di Carlo (a Mafia turncoat who revealed that, while serving a prison sentence in London, he was visited by two secret agents speaking both English and Italian, after which he had turned them over to Gioè), but also for his meetings with right-wing extremist and terrorist Paolo Bellini, the one who suggested the Mafia bosses to trade the revocation of the hard prison with the recovery of stolen artworks. The two journalists also recalled how even Loris D'Ambrosio, a magistrate and counselor to the president of the Republic, had revealed his suspicion that Gioè did not commit suicide but was killed, and pointed out that D'Ambrosio was reported to have confessed to the Minister of the Interior Mancino that Gioè's death was "just one more secret that is burdening us ... this thing is not really clear to me" (in his 2012 letter of resignation to the president of the Republic, D'Ambrosio also wrote that he was living "in the fear of being considered a humble scribe used as a shield for unmentionable deals").<sup>587</sup>

Finally, some consideration should be made regarding how the political turmoil going on throughout the country was seen by one of the closest allies of Italy since the end of Second World War, the United States. In the late spring of 1993, as Mafia bombings were resuming, US President Bill Clinton hastily nominated as American ambassador in Rome his most experienced diplomat, Reginald Bartholomew. So abrupt and unexpected was this nomination that it left Bartholomew himself, who was about to take office as US ambassador in Tel Aviv, astonished and surprised. Interviewed a few years later by an Italian journalist, the situation of Italy having now calmed down and become more stable with the advent of the Second Republic, Bartholomew revealed that Clinton's sudden decision was due to the urgency of the US government to "update the relations between Italy and the United States and adapt them to the new situation" and to the necessity of "stabilizing the political and economic asset of Italy" at a moment when "it appeared evident that the central structure of the system was collapsing" and "there was the perception that the entire political geography of

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<sup>585</sup> *Antimafia 2000*, 27/10/2013.

<sup>586</sup> *Ibid.*

<sup>587</sup> *Ibid.*

the country was changing.”<sup>588</sup> After 1989, said Bartholomew, “paradoxically the role of Italy had become even more important to America and its contribution to international security appeared essential, for which a stabilized Italy was a primary strategic interests of the United States and NATO; my job was not that of guaranteeing continuity, but helping to reconstruct an equilibrium based on new forces.”<sup>589</sup> That behind the bombings of 1993 was not solely the Mafia and that those bombings could also be meant to favor a new “stabilization” seems confirmed also by the way in which the US government regarded the Italian situation.

## 4.2 Is a “Grand Conspiracy” really “inscrutable”?

With reasons more valid than the previous year considering how unusual the targets of the bombings were, in 1993 too Italian politicians publicly hinted at a conspiracy of which the Mafia was only one of the pieces. In his speech to the parliament given the day after the Milan and Rome bombings, Prime Minister Carlo Azeglio Ciampi did not even use the word Mafia but talked straightforwardly of a *coup d'état* put in place by “a turbid alliance of forces aiming at both political destabilization and common criminality” in order to impede “the concrete possibility of a renewed State.”<sup>590</sup> In 2010, Ciampi released an interview in which he admitted having feared, that night of July 27 1993, a coup d'etat, as all the phone lines of the government palace had been interrupted, something for which Cosa Nostra could never be held as responsible.<sup>591</sup>

The day after the bombings, the leader of the Socialist Party, Bettino Craxi, launched the alarm of an ongoing conspiracy declaring that the meaning of the bombs was purely political and connected to a coup attempt. Craxi said that the bombs aimed to “create a climate of fear” and that “rather than overthrowing something they mean to pave the way to something new, since the political power has already been overthrown, or kind of.”<sup>592</sup> Tracing a line of continuity with the bloodshed of the previous year, Craxi said to be convinced that behind the attacks was the hand of “professionals of terror” who were trying to impose “a coup

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<sup>588</sup> G. Fasanella, *Una lunga trattativa*, op. cit., p. 206 and p. 208.

<sup>589</sup> *Ibid.*

<sup>590</sup> *la Repubblica*, 3/8/2009. On the role of Cosa Nostra in the attempted *coup d'état* that took place in Italy from 1964 to 1984 see V. Basile, *Il delirio di Cosa Nostra e la “trattativa” con lo Stato*, in G.C. Marino, *La Sicilia delle stragi. La storia e le storie della violenza al potere: dagli eccidi dell'Ottocento al terrorismo mafioso un lungo percorso di repressione e di sangue*, Newton Compton Editore, Rome, 2007, pp. 412-413.

<sup>591</sup> *la Repubblica*, 19/5/2010.

<sup>592</sup> *L'Unità*, 30/7/1993.

perspective,” which, he said, had already begun to emerge from the “obscure and indecipherable aspects that have succeeded each other since the murder of Falcone.”<sup>593</sup>

In the very same days, the President of the Senate, Giovanni Spadolini, accused again Gelli’s P2 of being allied to Cosa Nostra and talked of “international links” between the Mafia and a “planetary finance.”<sup>594</sup> Spadolini said that “P2 has been a destabilizing element of Italian political life and one of the most polluting and corrupting centers of power ever existed in Italian history,” and that “it is impossible to trace a dividing line between P2 and terrorism and between P2 and Mafia.”<sup>595</sup> In his opinion, it was “necessary to understand through and through what the current responsibilities of P2 are.”<sup>596</sup> He added that, in 1981, while serving as prime minister, he himself had found “the secret services compromised to such an extent that I had to renew their boards of directorship since P2 had conquered them all,” and that “the expansion of the Mafia in Italian, and not just Sicilian or southern Italian society, would be inconceivable without any adequate assessment of the importance and power that political and business conspiracy centers such as P2 have had in polluting our democracy.”<sup>597</sup>

Spadolini's words closely recalled those pronounced by Tina Anselmi in the course of the previous summer right after the bombing at Via D'Amelio. Anselmi was the former president of the parliamentary inquest on P2, and in 1992-3 she was a senator. It is worth reporting her words as they seem to trace a line of continuity between the 1992 and 1993 bombings and the political violence of the years between 1969 and 1984:

“We must be careful, very careful ... I have recently spoken of Gelli’s old Plan for Democratic Rebirth, and if I read it today it makes me shudder: it is in full execution! Who has great means and much money, somehow, is always involved in politics, both nationally and internationally. These last few days I was talking to an important politician who knows quite well the world of finance. You know what he told me? That the Mafia has been quicker than the industrials and is already investing hundreds of billions made with drug-trafficking in Eastern countries: they [the *mafiosi*] are even buying newspapers and private televisions, industries, and hotels ... These investments will then transform into political actions that will affect all of us. It was also for this reason that the FBI came to Sicily to investigate after the bombings at Palermo: they well knew of these colossal investments made regularly through the banks.”<sup>598</sup>

A few days after the attacks in Milan and Rome, the DIA sent a note to the government and

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<sup>593</sup> *Il Corriere della Sera*, 29,30/7/1993.

<sup>594</sup> *la Repubblica*, 20/7/1992

<sup>595</sup> *Il Corriere della Sera*, 28/12/1992.

<sup>596</sup> *Ibid.*

<sup>597</sup> *Ibid.*

<sup>598</sup> *L'Unità*, 12/8/1992.

the president of the Antimafia Commission that interpreted the bombings as part of an ongoing negotiation. A passage of the note read that,

It is obvious that a possible, even just partial lifting of the decrees regulating the application of the hard prison regime may represent the first concrete subsidence of the State intimidated by the bombs.<sup>599</sup>

On the very day following the attacks in Milan and Rome, a boss from the Neapolitan Camorra, Francesco Schiavone, had sent a letter to the president of the Republic demanding the lifting of his hard prison regime sentence. He obtained it quite quickly, on October 17.

It was in the summer of 1993 that the term “*trattativa*” appeared for the first time in an official document, a reserved note dating September 1993 sent to the Antimafia Commission by SCO, the national police office coordinating all the flying squads around the country in charge of investigating organized crime. The note coincided with the return of Mafia violence to Sicily, as, when it was put down on the tables of the congressmen of the Antimafia Commission, Cosa Nostra had just murdered a priest, Don Pino Puglisi, renowned in the city of Palermo for his commitment against the *mafiosi*. Such an unusual target was, in all probability, not merely Cosa Nostra’s retaliation against the poor priest of a Mafia-controlled neighborhood, but also the oblique message to the Church intended as an institution, which the *mafiosi* considered guilty of not committing itself enough to campaigning against a hard prison regime which they considered “inhuman.” Perhaps, it was also the answer, in Mafia-style, to Pope John Paul II, who, on May 9, 1993, had spoken out against the Mafia on occasion of a visit to Sicily. A key document in the State-Mafia Deal case, the note read as following:

The objective of the *mafioso* bombing strategy would be that of reaching a sort of negotiation with the State in order to find a solution to the main problems currently afflicting the Mafia: the hard prison regime and the witnesses. The bombs, rather than a bloodbath, were meant to create panic, intimidate, destabilize, and weaken the State to create the conditions for such a negotiation, which Cosa Nostra also may try to conduct through institutional channels.<sup>600</sup>

Hence, the main reason why the Mafia was attempting to “weaken the State” and “create the conditions for a negotiation” was to abolish or mitigate the hard prison regime and the witness protection program, both made more effective in 1992 after the decree was converted into law following the bombing at Via D’Amelio. To provide more circumstantial evidence that

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<sup>599</sup> *Il Corriere della Sera*, 6/12/2010.

<sup>600</sup> *la Repubblica*, 4/3/2011.

together with the *mafiosi* other circles of power were probably involved in the attacks are two more facts that took place in the final months of 1993. The first was on September 21, 1993: a bomb was found on a train after an alarm was sounded by the domestic intelligence service SISDE. Following the finding of the bomb, the Director of SISDE, Augusto Maria Citanna, was accused of staging an attempt. The second was the scandal which, in late October and early November 1993, followed the revelations of former SISDE Director, Riccardo Malpica, who accused all Italian governments, current and past, of being aware of slush funds granted to the intelligence agency of which he was boss, although such funds had never been denounced. Such was the tension surrounding the situation that on November 3 the president of the Republic announced, in a speech simultaneously broadcast by all three channels of national broadcast television RAI that an attempt to destroy the State (namely, a *coup d'état*) was under way:

First, they tried with the bombs, now with the most shameful and ignoble of scandals. We must remain firm and calm. I think the moment has come for a clear examination of the current Italian situation in order for us to come to strong and effective conclusions. The great problem that we all – the head of the State, the parliament, the government, and the judiciary – must face, and solve, is that of bringing to justice those who have committed such serious crimes, while, at the same time, not putting the life of the State and its image in the world at stake. Nobody can afford to be passive in front of this attempt to slowly dismantle the State. Either we are capable of reacting, considering the crime in its full significance and defending the innocents and our republican institutions, or we condemn our people, and ourselves, to watch helplessly this methodical attempt fatal to our democracy. I refuse such a killing game, and I now feel the duty to sound the alarm ... The time until the next elections cannot be used to destroy slowly the institutions of the State and the persons that represent them.<sup>601</sup>

In light of this intervention, the evidence supporting the existence of some sort of “Grand Conspiracy” becomes embarrassing. In his speech to the nation made on his own initiative to denounce an ongoing, treacherous *coup d'état* (ironically, through the most typical instrument of a coup, the simultaneously broadcast televised speech), Scalfaro put the Mafia bombs in direct relation to a political plan of destabilization now being pursued even with dossiers that obviously could not be the work of Cosa Nostra. Hence, a “Grand Conspiracy” seems everything except “inscrutable,” as after emerging from an extraordinary number of public statements by political leaders (who not only declared its existence, but also defined its

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<sup>601</sup> *la Repubblica*, 4/11/1993. The last sentence is quite hard to both understand and translate. The actual words pronounced by Scalfaro were “Il tempo che manca per le elezioni non può consumarsi nel cuocere a fuoco lento, con le persone che le rappresentano, le istituzioni dello Stato,” which literally means: “The time until the next elections cannot be spent simmering, with the persons who represent them, the institutions of the State.” Scalfaro, therefore, assumes that the bombings, and the scandals of the previous days, were aimed at destroying the old political parties.

connotations by identifying it as conceived by P2 and whatever other circle of power was connected to P2), it was denounced even by the president of the Republic in the way that we have seen. Just two days after Scalfaro's speech, the Minister of Justice Conso made it official his decision not to extend the hard prison sentence to some 373 *mafiosi*, as suggested by the new DAP Director Capriotti in his note of June 26. In 2010, Conso explained to the Parliamentary Antimafia Commission the reasons for his decision:

In this way, I averted new bloodbaths, but there was not any deal. I made my decision in complete independence, without informing anyone of it: neither the functionaries of the ministry, nor the head of the government, Carlo Azeglio Ciampi, nor the Head of ROS, Mario Mori, nor the DAP. It was not meant to offer a truce, a deal, or peace, but to send a signal and stop the threat of further massacres. After the 1993 bombings in Florence, Rome, and Milan, Cosa Nostra was silent. Riina had been arrested, his successor Provenzano opposed the slaughters; he had a different vision, he was more focused on the financial aspect. Hence, the Mafia was adopting a non-violent strategy.<sup>602</sup>

The passage in which Conso says “to send a signal and stop the threat of further massacres” seems the clumsy attempt to deny the existence of the *trattativa* while unintentionally confirming its very existence. The minister “who acted within the prerogatives of his office” of those who deny the possibility of a deal of a political type between the Mafia and the State sharply contrasts with the logic of the opposite view:

How could the minister, ‘closed in his bunker’ as he claimed to be, know that Cosa Nostra was planning new massacres if he was not dialoguing with the only ones who could be informed about Cosa Nostra's strategy of committing massacres, which were the men who were conducting the negotiation with the Mafia bosses on behalf of the State [the ROS officials]?

How could he know that, in order to stop the bloodshed, it was necessary to revoke the 41-*bis* hard prison regime if he had not read Riina's *papello* (whose existence became public only in 1996 after Mafia informer Giovanni Brusca revealed its existence and whose first copy was handed to the investigators by Ciancimino's son, Massimo, only in 2009), or if he were not talking to those who were conducting the negotiation with Cosa Nostra?

How could he know that Provenzano had replaced Riina as boss of bosses of Cosa Nostra and that he was contrary to further attacks if, in 1993, many, even in the secret services and the police, believed that Provenzano was dead? The threat of new massacres contrasts with what Conso says about the ‘non-slaughtering strategy’ adopted by Provenzano after Riina's arrest, and is disproved by the bombings at Rome, Florence, Milan, and then again at Rome, which are all subsequent to Riina's arrest. Thus, how could Conso infer Provenzano's moderate change of mind? Moreover, this was known only to the protagonists of the negotiation, of the *trattativa*.<sup>603</sup>

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<sup>602</sup> *Il Fatto Quotidiano*, 11/11/2010.

<sup>603</sup> M. Travaglio, *E' Stato la mafia*, op. cit., p. 75.

Conso said that he made the decision on his own. In 2013, he was put on trial for false testimony because a note handed to him by the new Head of DAP Capriotti a few weeks before he took the decision suggested that he lift the hard regime for the *mafiosi*. Conso died in 2015, his testimony could never be judged by a court. Nevertheless, what must be recorded in history is yet the umpteenth lie by a State official at the highest level.

We should now focus our attention on some of the arguments of those who deny the *trattativa*. They claim that none of the 334 *mafiosi* to whom the hard prison regime was not extended were an important boss, that only 23 of those for whom the regime was revoked were Sicilians, and that Conso himself later re-implemented the measure for eight of them.<sup>604</sup> This seems just another way of forcing facts, as among the prisoners who benefited from Conso's decision were also high-ranking bosses such as the head of the *mandamento*<sup>605</sup> of San Mauro Castelverde, Giuseppe Farinella, the boss of the Termini Imerese Mafia Family, Giuseppe Gaeta, the boss of Partinico, a small town in the province of Palermo, Nenè Geraci, a *mafioso* like Vito Vitale who at that moment was not a boss but became one shortly after his release from prison, and other high-ranking *mafiosi* such as Inzerillo and the two Albertis, Gerlando senior and Gerlando junior.<sup>606</sup> Apart from not taking the minister's lie into consideration, however, what seems to undermine the most their interpretation is another aspect. Just 48 hours after the head of the State had denounced – through a television speech simultaneously broadcast typical of those made at crucial moments in history – an ongoing *coup d'état* at which Cosa Nostra took part with bombings that had created terror and killed innocents, what one would expect of a government is the opposite than the lifting of the hard prison regime for those who, in the view of the head of State, were among the executors of such a coup. Conso's words “in this way I averted new bloodbaths” seem to be the best admission of the Italian State's surrender to those “turbid forces” that, according to the political class, were staging the coup. With words, the president of the Republic told the Mafia and her allies, “I refuse such a killing game;” with deeds, Cosa Nostra's bosses were immediately granted what they wanted.

Among those who interpreted the attacks also as a way of preventing the advance of left-wing forces was the leader of the Left Democrats, Achille Occhetto. In an interview

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<sup>604</sup> On such subjects see “Trattativa, Conso tolse il 41-bis a pesci piccoli,” in *l'Unità*, 15/10/2012. See also S. Ardita, *Ricatto allo Stato*, Sperling & Kupfer, Milan, 2012, p. 65, reported in S. Lupo, G. Fiandaca, *La mafia non ha vinto, op. cit.*, pp. 28-29.

<sup>605</sup> A *mandamento* is Mafia District, usually consisting of three territorially contiguous Cosa Nostra Families.

<sup>606</sup> Note n. 11609/08 NC, 23/11/2010, sent by the head of DAP, Franco Ionta, to the head of the Palermo Chief Prosecutor, Francesco Messineo.

released 17 years later, Occhetto said to be still convinced that those bombs “were not solely the Mafia’s.”<sup>607</sup> In 1993, the Left Democrats had won the administrative elections and obtained some of the most important municipalities in the country, such as Turin, Venice, all those in the region of Emilia Romagna, and had done well even in the South, traditionally more hostile towards the Left. Such an advancement, Occhetto believed, “Evidently did not please someone; shortly thereafter, in fact, as it became clear that the First Republic was coming to an end, Cosa Nostra’s strategy of tension began in order to prevent the next-to-come political order from being born through a democratic process; under the pretext of the fear of Communism,” there was “the implementation of a plan whose goal was to prevent the advance of the Left and pave the path for new political forces, thus changing the course of history.”<sup>608</sup> Occhetto added that his party was ready to cope with this situation with a “new national solidarity” based on an alliance between political forces ideologically different, as it had happened in the 1970s when politically motivated terrorism put the democratic life of the country at stake: “Our concern was strong to the point that we were ready to give our support to another government led by Ciampi in order to avoid a political conflict between Left and Right, but this required an alliance with the Popular Party<sup>609</sup> which, unfortunately, had lost too many votes in the 1993 elections, and for this reason there was the risk of not reaching the majority necessary to form such government: and this, in that particular moment, would have been even more destabilizing for a country already on its knees.”<sup>610</sup> In short, for the leader of the heirs of the Communist Party, who in 1993, for the first time since the advent of Fascism were seeing the concrete possibility of coming to power, the Mafia in 1992-1993 acted as the strong arm of a subversive plan aimed at preventing the Left from a very likely electoral success. What should be pointed out is that the interpretation provided by politicians in correspondence with the slaughters coincided with that later provided by Mafia turncoats, perfectly summarized in the words of one of the *mafiosi* protagonist of that season of violence who later turned State evidence:

There was, in fact, for the execution of this plan, a convergence between the interests of Cosa Nostra and those – to put it in the most explicit way – of ‘political racketeering:’ in other words, financial and Masonic [interests].<sup>611</sup>

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<sup>607</sup> *Il Fatto Quotidiano*, 2/6/2010.

<sup>608</sup> *Ibid.*

<sup>609</sup> One of the parties which had risen from the ashes of the Christian Democracy.

<sup>610</sup> *Ibid.*

<sup>611</sup> Statements released by Cannella before the Court of Florence on 25/06/97 reported in *Sistemi criminali*, pp. 60-62.

This convergence seems to provide a most convincing version of facts, especially in light of all the circumstantial evidence so far highlighted, thereby giving us the chance to get closer to *another* truth which, although partial, also emerges from several fragments of judiciary sources.<sup>612</sup> However, what seems most important is the paradox of denying a conspiracy erupting in newspapers and on television, an argument that seems a boomerang in the hands of who uses it.

### 4.3 The concentric circles of power

The Parliamentary Antimafia Commission of the XI Legislature, the last of the First Republic, released its final report at the end of 1993. The wave of emotion caused by the Mafia's recent attacks acted as a stimulus to the committee's investigative work. The commissioners themselves were the first ones to notice the positive effects of this new climate upon their work and to detect how this stimulus provided by civil society helped producing an in-depth study on the links between the Mafia, political racketeering, business, and finance. One of the documents produced by the commission reads that "the country is going through a positive phase with regard to the fight against the Mafia, as there are not only positive results from the antimafia repression but also a positive response from civil society, as demonstrated by the birth of new anti-racket associations, organizations to study the Mafia, antimafia youth associations, and groups of volunteers who help people in the most needy Mafia-controlled neighborhoods where the Mafia gains its consensus and legitimization."<sup>613</sup> Perhaps also because of this stimulus, the parliamentary inquiry produced a seemingly highly reliable document.

Those who deny the *trattativa* accuse those who claim its existence of being the victims of a misleading conception for which the Mafia is an "ideal type" as featured by the two Cianciminos, father and son, in their insincere and interested testimonies. At the basis of this "ideal type" would be an indissoluble plot between Cosa Nostra and other hidden circles of power.<sup>614</sup> However, what to some scholars is nothing more than an "ideal type," according to

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<sup>612</sup> See "Vincenzo Scotti: 'Sì, ho temuto il golpe di mafia,'" in *Antimafia 2000*, 22/7/2009.

<sup>613</sup> *Commissione parlamentare antimafia sul fenomeno della mafia e sulle altre associazioni criminali similari, XI legislatura, Doc. XXIII, n. 9, approvata il 19/10/1993*, p. 55. For a criticism of this source see U. Santino, *Storia del movimento antimafia, op. cit.*, p. 405, and N. Tranfaglia in *Perchè la mafia ha vinto. Classi dirigenti e lotta alla mafia nell'Italia unita, op. cit.*, p. 124.

<sup>614</sup> Such interpretation can be found in S. Lupo, *La mafia non ha vinto, op. cit.*, p. 37.

the Antimafia Commission of 1993 is the very essence of the Mafia (it should also be noted that the report was produced before the two Cianciminos released their testimonies). In one passage of its final report, in fact, we read that “in the various dramatic facts we always find the same concealed powers: secret services, Freemasons, politicians, and Cosa Nostra; this plot has remote origins, has consolidated itself over time, and has long operated as a ‘system.’”<sup>615</sup> The commissioners interpreted the Mafia not solely as the criminal organization Cosa Nostra but also as “a perverse system of power which involves politicians, businessmen, bankers, secret service agents, magistrates, public officials, and administrators.”<sup>616</sup> Such a system had made it possible for the Mafia, “In spite of some fallacies and blows inflicted upon it by law enforcement,” to become “a phenomenon that is in constant expansion thanks to its ability to fuse preservation with innovation; the former permitting the Mafia’s rooting into society, the latter allowing her to make the most from the changes happening in contemporary society.”<sup>617</sup> The commissioners also detected that the Mafia was expanding considerably her influence, and not “not just outside of Sicily but also outside of the *Mezzogiorno* [Italy’s South], and in recent years has changed her political strategy with increased international expansion,” relying on her “interpenetration” with the “political sphere,” without which she “would be reduced and defeated in a short space of time.”<sup>618</sup>

The Antimafia Commission of the final legislature of the First Republic, therefore, defined the Mafia precisely as the triad that a certain historiography refuses *a priori*, namely the organic alliance between the criminal association, corrupt politics, and other circles of power that, far from being “undefined,” are identified in Masonic lodges close to the worlds of business and finance and in segments of the intelligence agencies. On the basis of this interpretation, the 1993 parliamentary report interprets the “military” organization Cosa Nostra as just the first in a complex system of “concentric circles or communication ducts” that exercise their power not solely “through violence, corruption, intimidation, or subversive collusion, but also through social relations, compromise, exchange, negotiation, and by fomenting a culture of political back-scratching and patronage, privatization of public powers, and a strong contempt for the principles of legality and solidarity.”<sup>619</sup> The main characteristics

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<sup>615</sup> *Commissione parlamentare antimafia sul fenomeno della mafia e sulle altre associazioni criminali similari, XI legislatura, Doc. XXIII, n. 9, op. cit.*, p. 79. Among these, the rapid expansion of the Mafia in northern Italy and the rest of Europe, which underestimated by Italian governments, *Ibid.*, pp. 17-20 and 51-54.

<sup>616</sup> *Ibid.*, pp. 77-79.

<sup>617</sup> *Ibid.*

<sup>618</sup> *Ibid.*

<sup>619</sup> *Commissione parlamentare antimafia sul fenomeno della mafia e sulle altre associazioni criminali similari, XI legislatura, Doc. XXIII, n. 9, op. cit.*, pp. 31-32 and *Nota integrativa del deputato Alfredo Galasso, Ibid.*, pp. 73-112.

of this system are its “complexity and dynamism,” which are also at the base of “different types of relations, sometimes coercive, sometimes consensual, and the involvement of subjects quite different to each other, regardless of whether they are internal or not to Cosa Nostra: the killer, the lawyer, the Freemason, the magistrate, the politician, the financier, the doctor, the public official.”<sup>620</sup> The center of one such system is the “military nucleus, which decides the homicides, imposes electoral behavior and alliances, holds the monopoly on violence, and controls parts of the national territory.”<sup>621</sup>

The infiltration of local municipalities and the consequent conditioning of town councils, either through politicians defined as “approachable” or through others direct expression of the Mafia, was the first concentric circle wider than that represented by the military organization.<sup>622</sup> The Antimafia Commission report also detected the “changing strategy” of Cosa Nostra, which “in many areas now even refuses the mediation of contiguous or conniving politicians and aims to directly occupy the institutions with her own men.”<sup>623</sup> The proximity to politicians and State officials served to “guarantee the absence of any form of control, an instrumental use of public power,”<sup>624</sup> and “fix trials” through “the corruption or intimidation of magistrates” in case their “laziness and lack of professionalism” were not enough to guarantee a favorable outcome of trials.<sup>625</sup>

Compared with the previous period, the most significant break was identified with the Mafia’s increased ability to condition public life even outside of southern Italy, a phenomenon that became more noticeable and consistent in the years following.<sup>626</sup> Still according to the

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<sup>620</sup> *Ibid.*

<sup>621</sup> *Ibid.*

<sup>622</sup> *Ibid.*, p. 31.

<sup>623</sup> *Ibid.*, p. 34. The extent of Mafia penetration in local governments is on pp. 33-37.

<sup>624</sup> *Ibid.*, p. 25.

<sup>625</sup> *Ibid.*, p. 26.

<sup>626</sup> Concerning the expansion of the Sicilian Mafia in northern Italy until 1993 see *Ibid.*, pp. 17-20. In 1993, the town councils disbanded for Mafia in Italy were 34 (8 in Sicily, 17 in the region of Campania, 2 in Calabria, 4 in Puglia). Such figure accounts for a certain political will of the Italian government to fight the Mafia that year. However, such commitment declined in the following years, as demonstrated by the fact that the average of town councils dismissed for Mafia was 6 per year between 1994 and 2007 (they were 21 in 1991, of which 6 in Sicily; 21 in 1992, of which 9 in Sicily (Source: *Ministero dell'Interno - Dipartimento per gli affari interni e territoriali - Direzione centrale per le autonomie*). The fact that such figure decreases does not account for a loosening of Mafia penetration as it sharply contrasts with other sources such as the *Relazione sull'attività svolta e sui risultati conseguiti dalla Direzione investigativa antimafia, atti parlamentari, XV legislatura, Doc. LXXIV, n. 1*, pp. 16-30; and, most importantly, the *Relazione DNA, La 'Ndrangheta conquista il nord d'Italia*, in *Antimafia 2000, 9/3/2011*; see also the CNEL rapport *L'infiltrazione della criminalità organizzata nell'economia di alcune regioni del nord Italia, organo consiliare deliberante: osservatorio socio economico sulla criminalità, Consiliatura VIII, Roma 23/2/2010*; and the *Commissione parlamentare di inchiesta sul fenomeno della criminalità organizzata mafiosa o similare, XV legislatura, doc. XXIII, n. 5, 19/2/2008, relatore Francesco Forgione*, pp. 190-222. The definition of 'enterprise syndicate' was introduced in the debate by A. Blok, in *East Side, West Side: Organizing Crime in New York, 1930-1950, op. cit.*, p. 129.

report, the Mafia's relationship with politics was "alarming but not complete,"<sup>627</sup> a problem that could be solved with a better definition of the "vote of exchange"<sup>628</sup> (which took place when a candidate, in exchange for licit or illicit favors, promised a *mafioso* a personal profit or advantage) and through the development of a political responsibility seen as nothing more than "a judgment of incompatibility between a person with public duties and those behaviors that, on the basis of precise, rigorously verified facts, are not necessarily criminal but however induce such a judgment of incompatibility."<sup>629</sup> With regard to this aspect, the commissioners expressed the hope that in the near future the simple suspicion of politicians' proximity to the Mafia would be enough of a factor to prevent their parties from proposing them as candidates. As we shall see, this hope was to be disappointed in the following legislatures. However, the need to write down a presumably obvious concept such as that of a candidate's moral responsibility can be considered a clear indicator of the persistence of a widespread political and institutional irresponsibility that continued to help the Mafia.

Coming to wider concentric circles of power, and in relation to the escalation of violence of 1992-1993, the parliamentary inquiry report outlines – quite interestingly, at a moment when investigations were just beginning – the existence of a criminal power system in which "certain Masonic lodges constitute the link between the Mafia and politics and between the Mafia and other socially influential circles."<sup>630</sup> Precisely "due to its reserved, and sometimes clandestine nature, the model provided by Freemasonry appears, in an almost objective manner, the most suitable to become the crossroad between Mafia interests and other interests of a subversive type: the Masonic lodge, thus, transforms into a sort of multiplier of the *mafioso* interests in the professional, political, and institutional spheres where Freemasonry has its highest number of affiliates."<sup>631</sup>

It is precisely in the light of this convergence of interests that the commissioners of the 1993 Antimafia Parliamentary Commission interpreted the bloodshed that ended just a few weeks before they released their final report, which "seems attributable to Cosa Nostra and her traditional allies, not just other criminal organizations but also that subversive galaxy that many times, in the history of our Republic, has operated together with the Mafia (for instance,

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<sup>627</sup> *Commissione parlamentare antimafia sul fenomeno della mafia e sulle altre associazioni criminali similari, XI legislatura, Relazione sui rapporti fra mafia e politica, Doc. XXIII, n. 2, Roma, 1993, p. 16.*

<sup>628</sup> *Commissione parlamentare d'inchiesta, Doc. XXIII, n. 9, op. cit., pp. 24-25 and 31-32.* Concerning these subjects see also "Santino: Ecco perchè ho lasciato l'antimafia," *la Repubblica*, Palermo edition, 27/2/2005: Santino claims that such vote goes well beyond the simple exchange of favors.

<sup>629</sup> *Commissione parlamentare antimafia sul fenomeno della mafia e sulle altre associazioni criminali similari, XI legislatura, Relazione sui rapporti fra mafia e politica, Doc. XXIII, n. 2, op. cit., p. 22.*

<sup>630</sup> *Commissione parlamentare d'inchiesta, Doc. XXIII, n. 9, op. cit., p. 29.*

<sup>631</sup> *Ibid.*

in the attempted a *coup d'état* made by Prince Junio Valerio Borghese; or in the case of the trip to Sicily by Mafia banker Michele Sindona; or in that of the bombing of train no. 904 of December 23, 1984 in which 16 were killed and 266 wounded; or finally in the Banda della Magliana, the Rome-based Mafia-type criminal organization which resulted to be in relation with both Cosa Nostra and P2).<sup>632</sup> The primary objective of the bombings was to “induce the State to negotiate in order to lift the hard prison regime for the *mafiosi*,” and in trying to achieve this goal Cosa Nostra could rely on “her traditional alliances with that complex of subversive and criminal forces such as Masonic lodges, residues of extremist and violent groups, as well as politicians and officials who, having cooperated in the past with the Mafia, may now be exposed to blackmail;” these circles of power “have not yet been beaten in a definitive way and have everything to lose by the Mafia’s impairment, because this, eventually, may lead to the discovery of the truth regarding the alliances of the past and the aforementioned acts of violence.”<sup>633</sup>

As leading Italian politicians had done just a few weeks before in the wake of each of the attacks, the 1993 report linked the Mafia bombings to Gelli’s P2: “precisely the axe between the Mafia and P2 has constituted, in our recent history, a plot in whose bowels tragic facts have matured such as the bloodbaths, mysterious homicides, scandals, corruption of public officials, attempts at a *coup d'état*, as well as the progressive degeneration of the political system.”<sup>634</sup> The report identified P2 as still being “the melting pot in which complicities and alliances are formed, plots to seize power take shape, and relations destined to remain concealed are knotted around, as part of a subversive plan of infiltration of the institutions.”<sup>635</sup> Finally, the report detected the wane of the separatist political project of the late 1980s-early 1990s, which, by the end of 1993, could be already considered as “a heritage of the past,” with the consequence that Cosa Nostra’s primary necessity was finding “new political alliances, either with old forces or newly-born ones, in order to guarantee more freedom of movement and less risks.”<sup>636</sup>

As the second wave of administrative elections of November 1993 confirmed wins by the Left Democrats and soundly defeats for the separatist parties outside of northern Italy, all the premises were set for the Mafia and her partners to abandon the separatist plan in favor of

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<sup>632</sup> *Ibid.*, pp. 41-42.

<sup>633</sup> *Ibid.*

<sup>634</sup> *Commissione parlamentare d'inchiesta, Doc. XXIII, n. 9, op. cit.*, pp. 31-32 and 91-92.

<sup>635</sup> *Ibid.*

<sup>636</sup> *Commissione parlamentare d'inchiesta, Doc. XXIII, n. 2, op. cit.*, p. 20 and p. 74. The switch from the separatist option to Forza Italia is documented by the sentence to Marcello Dell'Utri released before the Tribunal of Palermo on 11/12/2004, pp. 672-685. Concerning such topic see also L. Abbate, P. Gomez, *I complici, op. cit.*, pp. 217-240, and N. Biondo, S. Ranucci, *Il patto, op. cit.*, pp. 181-194.

other, more credible political options. We can identify in the day February 18, 1994, when the separatist party Sicilia Libera (literally, “Free Sicily”) previously founded by Mafia boss Leoluca Bagarella merged into Berlusconi's Forza Italia, the very moment in which Cosa Nostra disclosed her political choice:

Thus, there were urgent and serious reasons for this political commitment as well as reasons equally important for the new party to take a political line of the strongest commitment to the defense of civil rights on the judiciary front. These reasons, which cannot be reputed, *tout court*, as compromised by the objective to help Cosa Nostra, could only be appreciated by whoever, at that moment, had problems with justice of whatsoever type [Berlusconi].<sup>637</sup>

On November 25, 1993, between the first and the second ballot of the administrative elections, Berlusconi's new party *Forza Italia* was born, although the party was officially announced only two months later, on January 26. According to the voice of the Mafia as provided by her turncoats, it was now that Cosa Nostra found what she was looking for and could thus put an end to her violence. Gaspare Spatuzza, the *mafioso* who from 2008 became Berlusconi's great accuser, revealed that, at the beginning of 1994, while he was in Rome to prepare a further attack against the Carabinieri military police (this was to be the final, most brutal act of violence in order to persuade the State to a truce), he had met with his boss, Filippo Graviano, who reassured him that the political situation was now evolving in a favorable way:

I have known him since we were kids, I can interpret any of his gestures. I saw him full of joy, he was so happy: he told me that we were all set, that we had obtained all that we were looking for and it was all thanks to the seriousness of the persons with whom we had pushed this thing forward, who were not like those Socialist scoundrels, who, instead, had betrayed all our expectations.<sup>638</sup>

The attack that Spatuzza prepared was scheduled to take place on Sunday, January 23, 1994. A car bomb was supposed to detonate right outside the Rome stadium along the route where the trucks carrying the Carabinieri in charge of security after a football match would pass. The five bombs hidden in the car were stored inside as many circular rounds of Parmesan cheese which had been filled also with nails to make the deadliest possible impact. However, the bombs did not explode because of a faulty remote control. On the following Wednesday, through an announcement simultaneously broadcast by his own three national television

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<sup>637</sup> See “La discesa politica di Silvio Berlusconi e la nascita del partito Forza Italia,” in the aforementioned sentence ruling to Marcello Dell'Utri released on 11/12/2004, *op. cit.* p. 1465.

<sup>638</sup> *Il Corriere della Sera*, 12/11/2013.

channels, Berlusconi announced his decision to enter politics. Just two days after, the Graviano brothers, Filippo and Giuseppe, both in Riina's faction of the Mafia, were arrested in Milan. According to Palermo prosecutors, the negotiation between the Mafia and the State had as its clause that the more extremist wing of Cosa Nostra, the one traceable to Riina, was to end up in prison in order for the State to recover its reputation, or at least a part of it, in the eyes of a public opinion that was still waiting for a response to the previous violence. The Mafia, for its part, under the guidance of Provenzano, would have all the time necessary to solve her problems through new political connections while continuing to conduct her businesses as long as TNT and Kalashnikovs were put aside. Such conclusions were confirmed, to some extent, in the 2004 sentence that condemned Marcello Dell'Utri, also confirmed in the appeal trial, in which is written that not only there was a convergence of interests between Cosa Nostra and Berlusconi's party Forza Italia but also an out-and-out "promise of political support:"

The promise of political support to Cosa Nostra came from a subject who, at that moment, could present himself as the organizer of a new political party, and thus had a reassuring effect on the criminal organization, orienting it towards giving its support to Berlusconi's new party, Forza Italia, and encouraging it to cultivate favorable expectations during such a deep moment of crisis. Dell'Utri's conduct reinforced the Cosa Nostra bosses by convincing them of the chance to reach goals that were fundamental to her strategy, as the bosses could now rely on the highest levels of national politics. This promise, made in a such situation, was reputed to be serious and reliable by the *mafioso*, as it was made by an influential person who, in the past, had already demonstrated his availability towards Cosa Nostra.<sup>639</sup>

In 2010, the appeal verdict for the Dell'Utri trial was released. The verdict confirmed the defendant's guilt, but reduced the punishment from nine to seven years of prison, fully acquitting Dell'Utri for his post-1992 conduct. According to the defendant's lawyers, and to those who deny the existence of a State-Mafia deal at least in its political implications, this second verdict totally discredited Dell'Utri's possible involvement in the *trattativa* case and proved that such a case could not have any political connotation, at least as far as Dell'Utri and Berlusconi were concerned.<sup>640</sup> However, in 2018, Dell'Utri was condemned to 12 years in prison with the charge of "violence or threat of violence against a body of the State," an offense regulated by article 338 of the Italian penal code (which, substantially, means

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<sup>639</sup> See *La discesa politica di Silvio Berlusconi e la nascita del partito Forza Italia*, in *Sentenza di primo grado del Tribunale di Palermo al senatore Dell'Utri dell'11/12/2004*, *op. cit.*, p. 1501, also reported in the appeal ruling of 18/11/2010, p. 440.

<sup>640</sup> "La difesa: 'pietra tombale sulla presunta trattativa'," in *lasiciliaweb*, 29/6/2010.

conspiracy against the State).<sup>641</sup> The sentence that condemned Berlusconi's number associate – in sharp contrast with the previous ones of 2010 and 2012 which ruled that he was the link between Cosa Nostra and Berlusconi but only until 1992 – acknowledged that he continued to carry out this task even when Berlusconi had come to power. The verdict also acknowledged that Berlusconi kept on sending money to the Mafia bosses until the whole 1994 – therefore, he was putting money in the pockets of the *mafiosi* even while they were busy in putting forward their bombing campaign and continued to do so while serving as prime minister, at least for a few months.<sup>642</sup> The court therefore accepted, and transformed into a judiciary truth, Brusca's previous testimony that,

At the end of 1993, something was moving in order to solve Cosa Nostra's principal problems. I began to talk to Provenzano about Berlusconi. Provenzano indicated Marcello Dell'Utri as the new political referent of Cosa Nostra. It was Dell'Utri who had resumed the dialogue with the State. Provenzano had been assured of a favorable political situation that would have made it possible to limit the pressure of the judiciary on Cosa Nostra, the seizure of properties, the witnesses, and the hard prison regime. For this reason, he invited us to be patient, as within 10 years everything would have been settled in our favor. The contacts with Dell'Utri passed through Vittorio Mangano and other channels. Provenzano said that, after the attacks, his men had made contact with Dell'Utri, who had replaced Salvo Lima as Cosa Nostra's political referent. And in 1994, Provenzano in person invited all the Mafia affiliates to vote for Forza Italia.<sup>643</sup>

It now remains to be demonstrated, which will be the task of the second part of this work, that both laws and law proposals of the following years, and, most importantly, the attitude of governments towards the Mafia, substantially met the requests of Cosa Nostra. Before, however, we should reconstruct the role of the Mafia in the electoral campaign that began in November 1993 coinciding with Berlusconi's announcement to enter politics, as there are aspects of this campaign which bring further evidence to the assumption that the political situation was evolving in a way that was favorable to the *mafiosi*.

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<sup>641</sup> *Il Fatto Quotidiano*, 20/4/2018.

<sup>642</sup> *Ibid.*

<sup>643</sup> *Il Fatto Quotidiano*, 25/1/2018.

## 4.4 The Mafia in the election campaign

Because since the very beginning of his political adventure Berlusconi personalized the political competition as never before in the history of the Italian Republic, the subject of the relationship between the Mafia and politics in the 1994 electoral campaign ended up coinciding with that of the relations between Berlusconi and the Mafia. However, until the final stages of the election campaign this subject remained marginal in the political debate.

Before the final rally of the campaign, the only significant fact had happened on February 24, two months before the vote. During a hearing of a trial held at Palmi, a small town off the Calabrian coast, Giuseppe Piromalli, the local Mafia boss, while sitting behind bars in a court that was about to judge him announced his intention to vote for Berlusconi. Since Piromalli invited other *mafiosi* to do likewise and was one of the most powerful bosses of the 'Ndrangheta, the Calabrian Mafia, his intervention was interpreted as the whole of the Mafia voicing her electoral preference. The only noticeable reaction to Piromalli's announcement came from Achille Occhetto, candidate to the prime ministerial office for the coalition opposing Berlusconi's. A few days after Piromalli's public statement, in a radio confrontation between him and Berlusconi, Occhetto used the endorsement made by this notorious Mafia boss in order to try to discredit Berlusconi, who replied that, "Nobody can know who the Mafia votes for; I didn't notice that statement, I must confess that I do not know the Mafia phenomenon in depth."<sup>644</sup> Such words, uttered by the soon-to-be prime minister, were to inaugurate a period in which all political forces, with the sole exception of a few single politicians, were to minimize the issue of the Mafia.

Initially latent, the subject of the relations between Berlusconi and the Mafia exploded in the electoral campaign just five days before the vote, when the newspaper *La Stampa* published an interview with the President of the Antimafia Commission, Luciano Violante, in which Violante revealed that Berlusconi's associate and co-founder of Forza Italia, Marcello Dell'Utri, had been indicted for Mafia.<sup>645</sup> Dell'Utri had already been rumored for his alleged ties to organized crime, but since this time the leak came from the president of a parliamentary commission that was supposed to be impartial, Violante's statement seriously damaged Berlusconi, and, on top of that, just a few hours before the vote, in the hottest moment of the electoral campaign. The case ended up playing favorably to Berlusconi and Dell'Utri, as it

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<sup>644</sup> *Il Fatto Quotidiano*, 14/9/2011.

<sup>645</sup> *La Stampa*, 22/3/1994.

gave them a very strong argument to defend one of the themes upon which they had insisted the most during the electoral campaign: that of being persecuted by a magistrature, and more generally by institutions occupied by political rivals that were using such institutions for subversive purposes. Berlusconi counter-attacked by labelling the allegations against Dell'Utri "crazy" and by calling for Violante's suspension as president of the Antimafia Commission (a pointless request, as the new parliament would establish a new commission and a new president anyway). He added that, had he won the elections, he would have done everything in his power in order to "halt certain things from happening."<sup>646</sup> To further complicate Violante's position was the fact that, as the news appeared in the press, the Palermo prosecutors denied that Dell'Utri was indicted or even just investigated for Mafia. In such situation, all that Violante could do was file a lawsuit for slander against Augusto Minzolini, the journalist who had performed the interview, and offer his resignation to better defend himself from the serious charges against him.

In 1996, Minzolini admitted that the part of the interview where Violante had talked of Dell'Utri was based on "subjective impressions determined by a misunderstanding of a conversation regarding another subject."<sup>647</sup> In other words, the scoop was totally invented and groundless. In the turn of just a few weeks, Minzolini had quite a bit of luck finding other jobs. With Berlusconi now in power, he was hired by one of the prime minister's television news programs and by the popular weekly magazine *Panorama*, also controlled by one of Berlusconi's publishing houses. Evidently not feeling any incompatibility, or not perceiving any danger to his reputation, Minzolini did not resign from his previous job at the newspaper *La Stampa*. In the years following his luck continued, and so did the accusations against him of unethical conduct and lack of professionalism. In 2009, he was nominated by Berlusconi, now again the prime minister, as the Editor-in-Chief of TG 1, the nationwide public broadcast with the highest following. While serving as TG1 boss, Minzolini's conduct was often criticized for lack of professional deontology: first, for writing an editorial against a demonstration in defense of freedom of the press organized by the Italian associated press of which he himself was a member; then, for discrediting Mafia witnesses as they revealed that Berlusconi and Dell'Utri were behind the 1992-1993 bombings; then for hiding information on Berlusconi's sexual scandals and for labeling as an acquittal the statute of limitations for Berlusconi's lawyer, David Mills, accused of corrupting judges on behalf of Berlusconi; finally, for minimizing Dell'Utri's condemnation in appeal to seven years in prison.

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<sup>646</sup> *Ibid.*

<sup>647</sup> *la Repubblica*, 3/5/1996.

Investigated a few times for various breaches of the law including violating confidentiality of information regarding secret investigations, embezzlement, fraud, and abuse of office, Minzolini was put on trial twice for embezzlement and for using RAI's financial resources for unjustified expenses.<sup>648</sup> When, in 1996, the newspaper *La Stampa* issued a formal apology to Violante for their 1994 interview, it was far too late, the apologies went substantially unnoticed in the media, and nothing could be done to compensate Berlusconi's political rivals for the harm they had suffered.

Besides being symbolic of the distortions of the Italian media system that characterized the Berlusconi era, the Minzolini-Violante case was the last and most important Mafia-related fact of an election campaign that was to become one of those to be remembered the most in Italian history.<sup>649</sup> Regardless of any judgment that can be passed on this misconduct, right at the very end of the election campaign the issue of the Mafia, which until that moment had remained of secondary importance in public debate, exploded and became that which could potentially impact the election results the most. But, instead of playing unfavorably to those who only a few months after the end of the bombings had received endorsement by *mafiosi* and according to a court sentence were even paying them, it damaged those who one such endorsement had tried to denounce.<sup>650</sup>

## 4.5 Conclusions

In 1993, coinciding with the collapse of the First Republic, all the aspects examined in the previous chapter – Mafia violence, denunciations of an ongoing conspiracy, government policies towards organized crime – made a quantum leap forward. For the first time in its history Mafia violence hit targets never considered before, leaving the suspicion that these targets also served to attack politicians of the old system in order to make them disappear from the institutional scene (the Georgofili Library in Florence, of which the President of the Senate Giovanni Spadolini was a honorary member; the churches in Rome – Saint John Lateran and San Giorgio in Velabro – which bore the same names as the presidents of the two

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<sup>648</sup> *Il Corriere della Sera*, 4/10/2009; *Il corriere della Sera*, 11/12/2009; *Il corriere della Sera*, 23/6/2009; *la Repubblica*, 28/2/2010; *L'espresso*, 29/6/2010; *la Repubblica*, 15/3/2010; *Il Giornale*, 30/5/2011; *Il Giornale*, 30/5/2011.

<sup>649</sup> A criticism of the media system in the early years of the Second Republic can be found in M. Travaglio, *La scomparsa dei fatti*, *op. cit.*

<sup>650</sup> See A. Stille, *The Sack of Rome*, *op. cit.*, pp. 175-179.

chambers of parliament, Giovanni Spadolini and Giorgio Napolitano).

Although more calculated and less emotional compared to the previous year, public statements of Italian political leaders denouncing the existence of a plot aiming to overthrow democracy continued after each of the attacks put forward by Cosa Nostra. Both for its content and the way it was delivered – being simultaneously broadcast by all national public television channels – the speech of the President of the Republic Scalfaro of November 3, 1993 was the climax of all denouncements of an ongoing conspiracy of which Cosa Nostra's violence was the only visible part. While the Mafia was attacking the State, at a very moment when common sense would have suggested an opposite attitude, came the first government decision to annul the hard prison regime to some *mafiosi*.

While considering the Mafia as just the first of a concentric circles of power, the Antimafia Parliamentary Commission final report, submitted to parliament at the end of 1993, interpreted Mafia violence in the light of a convergence of interests between Cosa Nostra and other groups of power. Such violence, the commissioners wrote, “Seems attributable to Cosa Nostra and her traditional allies, not just other criminal organizations but also that subversive galaxy that many times, in the history of our Republic, has operated together with the Mafia.”<sup>651</sup> In the view of the commissioners, the primary objective of the bombings was to “induce the State into a negotiation in order to lift the hard prison regime for the *mafiosi*,” and in trying to achieve this goal the Cosa Nostra bosses could rely on “the Mafia's traditional alliances with that complex of subversive and criminal forces such as certain Masonic lodges, residues of extremist and violent groups, as well as politicians and officials who, having cooperated in the past with the Mafia, may now be blackmailed;” these circles of power “have not yet been beaten in a definitive way and have everything to lose by the Mafia's impairment because this, eventually, may lead to the discovery of the truth regarding the alliances of the past as well as the aforementioned facts of violence.”<sup>652</sup>

As Berlusconi made it official his decision to enter politics, the last of the separatist parties (*Sicilia Libera*) upon which Cosa Nostra had put her chances in the previous years merged into Berlusconi's Forza Italia, in what can be considered as the very moment when the Mafia disclosed her political choice. Even before the Second Republic started with the elections of March 1994, the political line in terms of judiciary policies towards organized crime had already been traced. Although the subject of the Mafia had a secondary role in most of the electoral campaign, this subject ‘exploded’ in the last week of the campaign and had a

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<sup>651</sup> *Ibid.*, pp. 41-42.

<sup>652</sup> *Ibid.*

considerable impact on it. However, instead of playing unfavorably to Berlusconi, who was already rumored to be close to the Mafia because of his associate Marcello Dell'Utri, the Violante-Minzolini case played in favor of him.

## Chapter 5

### Mafia and politics from the First to the Second Berlusconi Government (1994-2001)

Cosa Nostra's violence disappeared as soon as the new political offer materialized, and had the effect of accrediting the government coming onto the scene as capable of restoring public order. However, the XII Legislature did not last more than two years, and during these two years Berlusconi remained in power only for seven months (at the beginning of 1995, his government was replaced by a 'technical' one in which ministers were non-elected politicians many of whom joined the center-left coalition a year later). On April 21, 1996, political elections were held that inaugurated the XIII Legislature and saw a historic result: for the first time in Italian history, the heirs of the Communist Party – the Left Democrats and Rifondazione Comunista – came to power, although as part of a coalition government that also included other parties. However, not even the coming to power of forces still perceived as enemies by the *mafiosi* changed Cosa Nostra's low-profile strategy. For this reason, an exhaustive analysis of the relations between the Mafia and politics in the early years of the Second Republic should not be limited to Berlusconi and his political side as the question should be addressed of why Cosa Nostra, which bet her chances on Berlusconi, did not return to violence when Berlusconi's government fell.

The answer cannot, and should not be limited to the simple, and perhaps simplistic consideration that this non-return to violence was due to the fact that the Mafia bosses had by now realized the negative consequences of the escalation of violence. It has already been pointed out, in fact, that these consequences were quite easily predictable even before the attacks, as the Mafia had already experienced the effects of government repression after her previous wave of violence in the late 1970s and early 1980s. Moreover, it should be explained why in the first six years of the Second Republic, while under an unprecedented attack by the law enforcements agencies, Cosa Nostra obtained a series of favorable political decisions that, accompanied by a general attitude of the governments that minimized the Mafia, consistently downplayed the successes of police forces and magistrature – that “virtuous minority” of the Italian State effectively committed to the fight against both organized crime and political corruption (as we have seen, not all law enforcement agencies demonstrated clear behavior).

Since 1994, both the laws passed and the law proposals made by parliament were generally favorable to the Mafia, as favorable was a State bureaucracy so farraginous and quibbling that made it difficult and, in certain cases impossible, the applications of the existing laws extremely.<sup>653</sup>

The antimafia commissioners of the XIII Legislature came to the conclusion that the low-profile attitude that Cosa Nostra resumed since 1994 responded to the logic of the Sicilian saying “*calati giuncù che passa la china*.”<sup>654</sup> allowing the repression and emotional wave that followed the violence to pass before resuming traditional operations in the shadow of political power. Nevertheless, one should question why this strategy persisted even when Berlusconi’s government fell. The defendant in a number of corruption trials, Berlusconi faced judiciary problems similar to and specular with those of the Mafiosi, and it is also for this reason that he enjoyed the endorsement of *mafiosi*. The bosses of Cosa Nostra could only look favorably upon Berlusconi’s attacks against the judiciary, and, in this regard, it is quite interesting that both Berlusconi and the *mafiosi* publicly defended themselves by claiming to be the victims of an ongoing conspiracy put forward by politicized left-wing magistrates. However, when the center-left coalition came to power, not much really changed in terms of government’s approach to organized crime, which reconnects us to one of our central questions: was this convergence of interests and attitudes between Mafia and politics due to the *mafiosi* simply taking advantage of the laws enacted by Berlusconi, or could it be the outcome of a broader pact of a political nature, silently stipulated in 1992-93, binding future governments to satisfy the requests of Cosa Nostra in exchange for the end of violence?

This chapter analyzes the evidence that makes it possible to justify allegations that one such pact was made. The analysis focuses on Cosa Nostra’s necessity to adjust to a new situation in which the repression of the law enforcement agencies forced her bosses and soldiers into defense, and in quite a few cases even to a defeat, but at the same time had the effect of favoring a further expansion of the *borghesia mafiosa*, the Mafia’s white-collar system.

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<sup>653</sup> An account of the parliamentary history of the years between 1995 and 2001 can be found in M. Travaglio, *Ad personam*, Chiarelettere, Milan, 2010; concerning the relationships between the Mafia and political power in the early years of the Second Republic see L. Abbate, P. Gomez, *I complici*, *op. cit.*, and N. Dalla Chiesa, *La convergenza. Mafia e politica nella Seconda Repubblica*, *op. cit.*; for a history of the early years of the Second Republic see P. Ginsborg, “From Berlusconi to Berlusconi,” in *Italy and Its Discontents*, *op. cit.*, pp. 285-324; M. Clark, *Modern Italy. 1871 to the Present*, *op. cit.*, pp. 513-521.

<sup>654</sup> It means, let the storm finish before coming out again.

## 5.1 The political-media *omertà*

### 5.1.1 “Victims of a tragedy”

The beginning of spring of 1994 coincided with the beginning of the Second Republic. On March 27 and 28, the two coalitions put together by Berlusconi – the *Polo della Libertà* and the *Polo del Buon Governo* – won the elections. The two coalitions were meant to keep together forces that were difficult to conciliate: the right-wing party National Alliance, which with its appeals to nationalist tradition and claims for a strong statehood was the bearer of a centripetal boost, and the Northern League, which with its political supply swinging between federalism and secession seemed to be going in the opposite direction.<sup>655</sup>

For Berlusconi and his supporters, the decision to enter politics with a new party was due to the necessity of giving political reference to a “moderate” electorate that after the fall of the Christian Democracy and of the Socialist Party was orphaned of any political representation, and to the attempt at preventing the heirs of the Communist Party, still perceived as dangerous even after the fall of the Berlin Wall, from coming to power.<sup>656</sup> For Berlusconi’s opponents, instead, such a decision was made because Berlusconi lacked political protection at a very moment when he was facing a number of judicial troubles. In the view of Berlusconi’s adversaries, this was especially true since most of the debt accumulated by his company, Fininvest, was owed to public banks: hence, it was crucial for Berlusconi to bring these banks under his direct supervision instead under that of his political rivals, which would be much more dangerous for him if they were to come to power.<sup>657</sup> Furthermore, at the beginning of 1994, Fininvest had not yet been listed in the stock exchange, and, primarily because of a myriad of satellite companies, its balances had remained difficult to investigate. Some facts, such as the arrest of Berlusconi’s brother, Paolo, (in February 1994, although this was house arrest) seemed to point towards Berlusconi himself.<sup>658</sup>

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<sup>655</sup> A historical account of the facts that brought the formation of the Second Republic is that of P. Ginsborg, *Italy and Its Discontents*, Palgrave Macmillan, New York, 2003, pp. 285 and following; a historical account of Berlusconi hegemony can be found P. Ginsborg, *Silvio Berlusconi. Television, Power and Patrimony*, *op. cit.*, in particular pp. 57-80; concerning the rise to power of Berlusconi see also A. Stille, *The Sack of Rome*, *op. cit.*, pp. 120-204.

<sup>656</sup> *la Repubblica*, 2/11/2000.

<sup>657</sup> For this interpretation see D. M. Smith, *Modern Italy. A Political History*, Yale University Press, New Haven and London, 1997, pp. 486-487.

<sup>658</sup> *Il Corriere della Sera*, 20/11/1992, 12/1/1994. ANSA, 27/11/2011. See also A. Stille, *The Sack of Rome*, *op. cit.*, pp. 169-171; and E. Veltri, M. Travaglio, *L’odore dei soldi*, Editori Riuniti, Rome, 2009. It is also of particular interest that Berlusconi’s brothers, together with former P2 boss Licio Gelli, were later accused by Mafia informer Carmine Schiavone of being involved in the business of toxic waste disposal run by the Camorra

Other aspects were been highlighted regarding the early years of the Second Republic and Berlusconi's political career are how Forza Italia had quite a consistent number of followers – electors but also politicians – from those parties that had been more discredited by the judiciary inquires that brought to the end of the First Republic; how a party fragmentation persisted in the early years of the Second Republic in spite of a new, mostly majoritarian electoral system that failed in its objective of guaranteeing effective governability; how Berlusconi lacked the necessary competence to maintain the promises made in the electoral campaign and implement a clear policy regarding the role of Italy in Europe; and finally, how he repeatedly attacked the magistrature and tried to put the judiciary under his direct control.<sup>659</sup> In general, the interpretation in which a primary characteristic of Italian history is defined by the overlapping of short revolution (in this case, the 1992-93 biennium) followed by long restoration seems totally agreeable and perfectly applicable to the years from 1992 onwards (it also appears to be the adaptation to Italian history of the Sicilian saying, *Change everything in order not to change anything*).<sup>660</sup> From this perspective, the beginning of the Second Republic coincided with the beginning of a restoration phase, and the return of the Mafia to a phase of non-violence should be framed within this broader – if we are allowed to call it that – political scheme.

How the Second Republic coincided since its early weeks with the beginning of a political restoration became evident by the first decisions made by the Berlusconi government. The new legislature began with the president of the Republic rejecting the nomination of Cesare Previti – a lawyer and partner of Berlusconi, who was later arrested for the corruption of judges – to the office of Ministry of Justice (Previti became the minister of Defense). Upon

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in the area of the region of Campania between the cities of Acerra, Nola, and Marigliano, which in subsequent years became known as the “triangle of death” (between 1994 and 2014, this area was contaminated by the burial of millions of tons of toxic substances, generating an almost threefold increase in cancers of the liver, bladder and nervous system that killed mostly women and infants. Data about the so-called “terra dei fuochi” can be found in “Ecco cifre, dati e numeri delle rotte dal Nord verso la Terra dei Fuochi. Domani a Napoli Legambiente nel #fiumeinpiena per archiviare questa triste stagione,” in *legambiente.it*, 15/11/2013. See also the journal *The Lancet Oncology*, vol. 5, no. 9, September 2004, pp. 525-527, *Italian Triangle of Death Linked to Waste Crisis*. Before his death in 2015, Schiavone accused the then-Minister of the Interior, Giorgio Napolitano, of having secreted away his testimony released in the 1990s, with the effect of letting the business go on without interruption for 20 years (see *la Repubblica*, 8/2/ 2010).

<sup>659</sup> See D.M. Smith, *Modern Italy. A Political History*, *op. cit.*, pp. 487-491 and P. Ginsborg, *L'Italia del tempo presente*, *op. cit.*, pp. 547-556. A critical analysis of the electoral system introduced at the beginning of the Second Republic can be found in “Sartori: il Mattarellum e le idee sbagliate,” in *Il Corriere della Sera*, 5/11/1995.

<sup>660</sup> See *Italy and Its Discontents*, *op. cit.*, p. 285. Concerning the threats to democracy see the classic literature on the subject such as A. De Tocqueville, *La democrazia in America*, vol. 1 e 2, Bologna, Cappelli, 1957 (original edition 1835); L. Canfora, *Demagogia*, Palermo, Sellerio, 1993; and L. Canfora, *Critica della retorica democratica*, Rome-Bari, Laterza, 2002; for an analysis of the issue of authoritarian power see C. L. Montesquieu, *Lo spirito delle leggi*, Turin, Utet, 1952 (original edition 1748); and N. Bobbio, *Etica e politica: Scritti di impegno civile*, Mondadori, Milan, 2009.

Scalfaro's refusal, on July 13, 1994 Berlusconi enacted the so-called *salva-ladri* (literally “thief-saver”) decree. Signed by the newly appointed Minister of Justice Cesare Biondi, who had been the former lawyer of several defendants in the Clean Hands corruption trials, the decree limited the number of crimes for which the magistrature could order preventive detention and introduced secrecy for the communication of arrest warrants, greatly helping those found guilty of bribery and other corruption-related crimes to avoid prosecution and possibly putting a definitive end to the Clean Hands judiciary season. Despite that the day the decree was signed national attention was concentrated on the soccer World Cup semi-final in which Italy played Bulgaria, a section of public opinion still protested against the measure, forcing the government to withdraw it. Backing the protest was also the Northern League, whose potential withdrawal from the majority coalition would have led to an anticipated fall of the government. The decree, however, was not abandoned but converted into a draft law: it thus remained on the government agenda, waiting for better times to be re-proposed. In those first days of the Second Republic there was also the failed attempt by Forza Italia and National Alliance to enroll in their ranks some of the magistrates protagonists of the Clean Hands investigations, such as Pier Camillo Davigo and Antonio Di Pietro. Such a move seemed to have been made to construct an enduring image of legality and, at the same time, neutralize those whom Berlusconi and his peers considered as their most dangerous rivals.<sup>661</sup>

Since the early days of the new political cycle it appeared evident that the Mafia and the parliamentary majority and its leader Silvio Berlusconi shared certain priorities, namely the will to rig or avoid trials in order to re-establish the impunity interrupted in the previous biennium, a certain greed for wealth and power, and – as it has been pointed out – “some of the elements of an archaic Italy, less educated, more rural, and with traits typical of “amoral familism” such as the contempt of the other and of institutions, and the lack of a sense of Statehood.”<sup>662</sup>

This convergence of interests between the Mafia and the government and its majority emerged from some statements made by the protagonists from both parts. On May 25, 1994 Riina, during a break at a hearing for the trial of the murder of Antonino Scopelliti (the prosecutor in charge of sustaining the accusation against Cosa Nostra in the Maxi Trial, killed

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<sup>661</sup> See P. Ginborg, *L'Italia del tempo presente. Famiglia, società civile, Stato, op. cit.*, pp. 553-554, e A. Stille, *The Sack of Rome, op. cit.*, pp. 193-196.

<sup>662</sup> Concerning these aspects see A. Stille, *The Sack of Rome, op. cit.*, pp. 176 e 246; D. M. Smith, *Modern Italy. A Political History, op. cit.*, p. 488, and M. Caciagli, P. Corbetta (edited by), *Le ragioni dell'elettore. Perché ha vinto il centro-destra nelle elezioni italiane del 2001*, Il Mulino, Bologna, 2003, p. 133. An anthropological analysis of the possible degenerative forms of familism, in a *mafioso* perspective, can be found in J. and P. Schneider, *Culture and Political Economy in Western Sicily, op. cit.*

in 1991 for refusing to adjust the trial in favor of the Mafia), taking advantage of the absence of the jury, told the attending journalists that the new head of the government, Berlusconi, should beware “the attacks of these Communists, this gang made up of untrustiest subjects such as Mr. Caselli, Mr. Violante, and this other one guy, Arlacchi [a sociologist and politician with expertise in organized crime] who writes books on the Mafia.”<sup>663</sup> With such words, the Mafia was identifying and making public her enemies by name and surname. Five months later, during a State visit to Moscow, Berlusconi indirectly, and who knows if deliberately or not, answered. He said that it was his hope “not to do these things on the Mafia anymore, because this is a disaster that we have made around the world, from *La Piovra* [a successful television series of a few years earlier] onwards; we do not even realize that all this has given the world such a negative image of our country: how many *mafiosi* are there in Italy? We do not want a hundred people to give a negative image of us to the world.”<sup>664</sup> The head of the government, who at the moment in which he uttered such words was also the head of all the mainstream media in the country, was inviting “not to do these things on the Mafia anymore.” Since it cannot be believed that Berlusconi was unaware of what the Mafia was, having he previously shared his house with a *mafioso* killer and having been established himself by definitive judiciary sentences as a businessman “under the umbrella of Mafia protection,” the only possible interpretation of his statement seems to be that in the new phase that was beginning the silence *of* the Mafia was supposed to correspond to the silence *on* the Mafia.<sup>665</sup>

Berlusconi's statement was very much appreciated by the *mafiosi*. During another hearing for the Scopelliti trial Riina spoke again, saying, “Prime Minister Berlusconi is right, these are all inventions, all put forward by these tragedy-makers who discredit Italy and our beautiful Sicily; they say lots of bad things about Cosa Nostra, the Mafia, that make people run away: but what Mafia?! It's all a fairytale... Andreotti is the victim of a tragedy, as I am myself; these Mafia witnesses just launch accusations because they are paid, they get money for it.”<sup>666</sup> As we see, at the very first opportunity available, it was the Mafia herself who publicly announced her political preferences: first, by summoning the prime minister; then, by approving him as he minimized the Mafia. Riina defined himself as the victim of a tragedy, in solidarity with both Andreotti and Carnevale; Berlusconi, who is approved of (“President

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<sup>663</sup> See M. Travaglio, *La verità sulla pax mafiosa*, in *Micromega.net*, 28/1/2010.

<sup>664</sup> *Ibid.*

<sup>665</sup> *la Repubblica*, Palermo edition, 5/9/2013. In addition, a 2018 verdict confirmed that at that moment Berlusconi was making payments to Cosa Nostra, although the reason for such payments is still not clear. See *Il Fatto Quotidiano*, 27/9/2018.

<sup>666</sup> *la Repubblica*, 20/10/1994.

Berlusconi is right”), was the only one in the position to do something to redeem the three “victims of tragedy,” which means favoring the return to a situation in which the Mafia was minimized or denied. In Riina’s view, on one side were the “victims of tragedies” like him who were forced to face a conspiracy by antimafia prosecutors and a corrupt and criminal justice system; on the other the informers and law enforcement agents, the latter even accused of paying the former. The contraposition could not be more clearly defined: the Mafia distinguished her friends from her enemies, and did it out in the open with a public intervention of her boss of bosses.

### **5.1.2 Two targets: Mafia turncoats and prosecutors**

On April 1, 1994, just three days after Berlusconi had won the elections with the new government still waiting for its installation, the time did not seem soon enough for Giuseppe D’Avanzo, noted editor of the newspaper *la Repubblica*, to write that “what should count now is the reasonable concern that a season [that of the Clean Hands corruption trials and those against the Mafia] may have come to an end. (...) How else could one judge some statements made by Silvio Berlusconi against Mafia informers?” D’Avanzo also pointed out that one of the leaders of Berlusconi’s party had stated, on a public occasion and in Corleone, one of the capitals of the *mafioso* power, that “Sicily’s problem is not the Mafia but the antimafia.”<sup>667</sup> D’Avanzo’s concern derived from the fact that “it is written in the bloody criminal history of Italy that following the great victories of the State [against organized crime] there has always been a powerful counter-boost that has been accurately justified: perhaps unexceptionable in form, but always deleterious in substance.”<sup>668</sup> The reason why D’Avanzo did not need to wait long to come to his conclusions was because he had all clear already, or at least he sensed, that the government and its leader wanted the Mafia to disappear from public debate or play a secondary role in it, and in the latter case never with a controversial approach. Such predictions were everything except wrong: from the 1994 elections onwards, in fact, the Mafia was allowed to remain in public parlance only as far as attacks on witnesses or on the hard prison regime were concerned. From the very beginning of the legislature, it became clear that the fight against the Mafia was going to be reduced in power, and within this scheme the media had to play their part.

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<sup>667</sup> *la Repubblica*, 1/4/1994.

<sup>668</sup> *Ibid.*

At the end of May, the minister of the Interior proposed to delegate powers to the president of the Region of Sicily in order to help guarantee public order and security. The proposal was welcomed with enthusiasm by Franco Martino (the president of the Region of Sicily who had been elected at the time of the First Republic and whose majority was, therefore, made up of politicians elected from the ranks of political parties that now did not exist anymore), but it was bitterly rejected by opposition parties and by quite a number of magistrates who were worried about the consequences of delegating the fight against the Mafia to a government supported by a congress in which more than half of the members had been investigated for collusion with the Mafia and some even condemned to prison, as was the case in Sicily in 1994. The Mayor of Palermo, Leoluca Orlando, also responded negatively to the proposal, stating that should the government's idea become law, the task of coordinating the police bodies would be assigned to such a compromised parliament, with the consequence of giving a great advantage to Cosa Nostra.<sup>669</sup> Similar criticisms were expressed by a Palermo antimafia prosecutor, Vittorio Teresi, who underlined how, in contrast to what Falcone, Borsellino, and other magistrates protagonists of the previous season of the fight against the Mafia preached, "the message is now that of delegation, the impression that of going back in time, when the Mafia was believed to be solely a Sicilian problem."<sup>670</sup> Even the Head of the Palermo Prosecution Office, Gian Carlo Caselli, saw the government proposal in strict continuity with that *Sicilianism*<sup>671</sup> that has always been favorable to the Mafia. To clarify the consequences of the proposal, Caselli publicly revealed the answer of a Mafia informer who had been asked his opinion about a potential Supreme court in Palermo: "Such a great thing, it would be."<sup>672</sup>

Since the beginning of the legislature, the government judiciary policy followed the line launched by the previous Minister of Justice Conso to "modify" the witness protection program in order "to prevent deviation and pollution."<sup>673</sup> However, this general hurry to modify the rules regulating the management of Mafia turncoats was not unanimously shared by all politicians and State officials and was looked upon with concern by the magistrates and the police, who were the primary recipients of these new rules in case they were approved. In April 1994, the National Antimafia Chief Prosecutor, Bruno Siclari, replied to Conso asking him, in a polemical tone, why he "had chosen the post-electoral limbo to launch his

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<sup>669</sup> *la Repubblica*, 25/5/1994.

<sup>670</sup> *Ibid.*

<sup>671</sup> On such topic see G.C. Marino, *Globalmafia*, *op. cit.*, pp. 64-65. See also p. 276 and n. 960 of this work.

<sup>672</sup> *la Repubblica*, 10/4/1994.

<sup>673</sup> *la Repubblica*, 3/4/1994.

proposal.”<sup>674</sup> Siclari added that “the witness protection program should not be touched,” because “if the Mafia perceives that we are taking the edge off her our fight is lost,” especially since “so far there has been only one case of a Mafia turncoat who was not reliable, that of Pellegritti, who, in fact, was indicted for slander by Falcone.”<sup>675</sup> In June, Siclari made another public intervention to defend the witness protection program as it was. This time, he sounded the alarm on the unease of several Mafia informers, warning of their possible “great escape” from State collaboration: “They are standing back, and in such a situation they may not want to talk anymore.”<sup>676</sup> According to Siclari, these grievances were due to the government announcement that declared, amongst its priorities, a reform of the witness protection program.<sup>677</sup>

In light of facts that occurred during those same days, Siclari’s alarm seemed justified. An important police operation in eastern Sicily had just led to the arrest of several *mafiosi* “who were strangling the life of entire communities.”<sup>678</sup> The operation, made under the code name *Mare Nostrum*, had ended on June 6, just a few hours before Siclari’s statements. Thanks to a 1500-strong joint force of policemen, Carabinieri, and the *Guardia di Finanza* (Italy’s financial police), 130 of the 223 who had been issued preventive detention orders by the Messina Prosecution Office for Mafia, homicide, and drug-trafficking could be arrested. Although incomplete, it was still a reasonably notable success for the law enforcement agents: in Barcellona, a small town in the province of Messina on the eastern coast of Sicily, the Mafia clans headed by Domenico Chiofalo and Giuseppe Gullotta were dismantled – although Gullotta had managed to escape before the police could put handcuffs on his wrists. The Bontempo Scavo and Galati Giordano clans, whose members “were coming down from the near mountain village of Tortorici to assault the marinas,” were also dismantled, as was the Mistretta Mafia Family, headed by one Giacomo Tamburello, one of the most powerful bosses of the area. The *mafiosi* who were brought before a court were linked to Cosa Nostra, the ’Ndrangheta and the Camorra, and exercised full control over areas in eastern Sicily thanks to a system of white-collar workers. The Mafia witnesses who enabled the dynamics behind an eight-year Mafia war to be unveiled, allowing quite a consistent extortion racket to emerge and shedding light on some bloody terrorist-style attacks, such as those against the Tortorici commissariat and the Nebrodi Museum in the town of Sant’Agata Militello which had been

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<sup>674</sup> *Ibid.*

<sup>675</sup> *Ibid.*

<sup>676</sup> *la Repubblica*, 7/6/1994.

<sup>677</sup> *Ibid.*

<sup>678</sup> *Ibid.*

carried out a few years earlier by the aforementioned *mafioso* groups, were Orlando Galati Giordano and the entire family of Salvatore Marotta, the latter after becoming a Mafia informer together with his sons and his godson.<sup>679</sup>

This was not the only successful operation that law enforcement agents had pulled off in that first part of 1994 thanks to the revelations of Mafia witnesses, as well as Siclari's denouncement was not the only one warning of the negative consequences of a possible reform of the witness protection program that was made in these heated days. On April 19, the Milan Chief Prosecutor, Francesco Saverio Borrelli, in response to the government proposal of modifying the witness protection program, defended "the importance and the role of Mafia turncoats in investigations," because "the recent plans of reformation would, as a matter of fact, discourage collaborations with justice."<sup>680</sup> On the day before Borrelli spoke, revelations made by Mafia informers to Milan prosecutors had led to the arrest of 125 people, the search of another 300, and the seizure of a number of weapons and cars as well as more than five tons of Colombian cocaine offloaded in Genoa and destined for Milan. A powerful gang cartel, which had been able to sell relevant quantities of drugs and even control some Milan suburbs with Mafia methods similar to those used in southern Italy, was now over.<sup>681</sup>

One should therefore wonder why the government was in such a hurry to modify the witness protection program and took such a strong stance against Mafia informers if these were clearly paving the way to a level of success never seen before. According to the government, this change was necessary to improve the witness protection program. An article published on April 5, 1994 by the newspaper *la Repubblica*, however, offers another answer to this question. In the article we read that, "The ongoing campaign against Mafia witnesses is certainly the most disquieting indication of the possible dismantling of the laws that have made possible the extraordinary investigative and judiciary successes against the Mafia in the last biennium. (...) It is a fact that witnesses are the thorn in the side of the Mafia, the Camorra, the politicians, the men in the institutions, and the businessmen in collusion with criminal organizations: we owe it to the revelations of hundreds of *mafiosi* (who, currently, number around 700) if in the last two years the investigations on the power structures of Cosa Nostra and Mafia infiltration of the State apparatus have led to results that were not even imaginable until a while ago."<sup>682</sup> The article ended with a bitter conclusion: "Unfortunately, the only possible explanation is that now there is less political will to continue to use this

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<sup>679</sup> *Ibid.*

<sup>680</sup> *la Repubblica*, 19/4/1994.

<sup>681</sup> *Ibid.*

<sup>682</sup> *la Repubblica*, 5/4/1994.

irreplaceable judiciary tool against the Mafia.”<sup>683</sup>

This decline in the fight against the Mafia was to be sensed by many quite soon. In an editorial that appeared in *la Repubblica* on the day of the second anniversary of the Capaci bombing, historian Nicola Tranfaglia grasped some symbolic aspects in the attitude of the government “that are right before anyone’s eyes: two days ago, the Palermo Prosecution Office indicted the former Prime Minister Giulio Andreotti for collusion with the Mafia, and, at a convention to remember Giovanni Falcone attended by magistrates, it was revealed the existence of a collection of essays written by Falcone from 1982 to 1992; however, most of the minister’s attention was for the lawyers, with the invitation to the convention being extended to the magistrates only at the very last minute and the invitation to the ceremony’s final lunch issued solely to the lawyers, some of whom even suspected of being in collusion with the Mafia.”<sup>684</sup> Tranfaglia also pointed out “the affection shown by the minister to a lawyer involved in the Pizza Connection case such as Vito Ganci, or to Cristoforo Fileccia, one of the defending lawyers of Totò Riina,” and said to be worried about “the minister’s proposal of regulating the judiciary use of Mafia turncoats” and about the fact that “Biondi, after launching harsh criticism at the current witness protection program, has proposed that only the National Antimafia Chief Prosecutor, a single person nominated by the judiciary governing council, the CSM, with the approval of the government, can decide on the applicability of the witness protection program and not, as is the case now, single prosecutors or prosecution offices.”<sup>685</sup> Other aspects that, according to Tranfaglia, hinted at a change of wind were “the need of a preliminary ‘statement of intent’ to be released by the informer in order to access differentiated prison programs and make the protection more effective,” of which Biondi had spoken the day before the ceremony. Such statement was “only in appearance meant to improve the actual witness protection program: since Biondi is a lawyer and an MP himself with a longstanding experience having himself been the defense and civil plaintiff in several important trials, one should assume that he has full knowledge of the implications of such proposal and of one such concentration of all the decision power on a subject as delicate as Mafia turncoats.”<sup>686</sup> Tranfaglia criticized the proposal also because “on one side it conflicts with the constitutional precept giving a prosecutor the power of starting and conducting the criminal trial; on the other, it presents the serious risk of giving the government the opportunity to interfere heavily with delicate decisions that may affect

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<sup>683</sup> *Ibid.*

<sup>684</sup> *la Repubblica*, 23/5/1994.

<sup>685</sup> *Ibid.*

<sup>686</sup> *Ibid.*

politicians who may be even government ministers or belong to the parliamentary majority of which the government is the expression: what guarantee can a citizen have, in a situation like this, that the magistrature can continue, without obstacles, to fight the relationships between the Mafia and politics?” The editorial ended with the bitter ascertainment that “the measures giving the government such powers of intervention and decision put tens of trials in danger, pollute many important sources of proof, and are a deadly step back in the judiciary fight against Cosa Nostra.”<sup>687</sup>

The attacks against Mafia turncoats were so numerous and strong throughout 1994 that in the ceremony to inaugurate the Judicial Year of 1995, 1994 was farewelled by the Palermo Attorney General, Antonino Palmieri, as “the year of the assault on Mafia witnesses,” which had been so verbally violent that “Italy will always appear as a country where everything possible is done in order to prevent judiciary investigations on the corrupt links between politics and business.”<sup>688</sup> Palmieri's appeal, however, did not stop the attacks against both the judiciary and Mafia turncoats, and one month later Palermo Chief Prosecutor Gian Carlo Caselli invited all those attacking Mafia witnesses to put an end to such public interventions as “in the last year there have been so many out-and-out religious wars against magistrature and Mafia witnesses that they have turned public opinion away and limited the phenomenon of *mafioso* collaborations, which, in 1993, was en masse.”<sup>689</sup>

Meanwhile Cosa Nostra, helped by the “religious wars” against those fighting against her, understood the favorable moment and tried to strike a final blow to Mafia witnesses. At the end of 1994, *mafiosi* executed Domenico Buscetta, the nephew of Tommaso Buscetta who stood as the symbol for all Mafia witnesses. How compromised was the situation of witnesses also emerged from the so-called “revolt of Mafia informers” of April 1995, in which Francesco Marino Mannoia and Balduccio di Maggio, two of the most important Mafia turncoats, refused to answer magistrates’ questions, and another informer, Santino Di Matteo, deserted the hearings. Just one year had passed since the beginning of the ‘new’ political phase, and the political climate on the Mafia had already been overturned.<sup>690</sup>

The attacks on Mafia witnesses came simultaneously with those against the judiciary. Right after the government had settled in office, the Minister of Justice Biondi sent inspectors to the Milan Prosecution Office without any real reason to justify such decision. The parliamentary opposition reacted with a motion signed by 30 of its congressmen inviting the

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<sup>687</sup> *Ibid.*

<sup>688</sup> *la Repubblica*, 15/1/1995.

<sup>689</sup> *la Repubblica*, 15/2/1995.

<sup>690</sup> *la Repubblica*, 21/4/1995.

government and the majority to stop their “war against the judiciary.”<sup>691</sup> The situation became so tense that Biondi had to defend himself from the accusations of sending “a Mafia-type warning” against Antonio Di Pietro, the Milan star prosecutor of the previous ‘Clean Hands’ season, and his colleagues.<sup>692</sup> A similar accusation of the minister had been launched the previous year by the President of the Parliamentary Antimafia Commission Violante, who had warned that “the attempt of delegitimizing those committed to fighting the Mafia by accusing them of factionalism is precisely the same method used by the Mafia.”<sup>693</sup>

As the government did not miss an occasion to pursue its line, those further down in the pyramid of power had no hesitation in following it. On April 9, 1994 Palermo Chief Prosecutor Caselli sounded an alarm that “registers that look very much like blacklists are being compiled and disseminated (...); today, I find myself on a list in which, substantially, what is being asked is to prevent me from doing my job.”<sup>694</sup> In the very same hours, the government released data on the state of the fight against the Mafia which were quite distressing: 52 magistrates in Sicily had to confront some 5000 members of Cosa Nostra; eight in Calabria, assisted by 12,000 between policemen and Carabinieri versus the 50,000 in office in Sicily and in the throes of the 22,000 Mafia defendants and the 5,600 ascertained *mafiosi* that the judiciary did not have the means to put on trial; and 17 in Campania, in the throes of 6800 *mafiosi* from the Camorra.<sup>695</sup> The only “irreplaceable weapon available to the State” – said the former president of the antimafia parliamentary commission, Luciano Violante – were those 700 witnesses who were now beginning to perceive the changing political climate and consequently to stand back, to the point that it would be better “to say clearly that there is not any more a political will to fight the Mafia.”<sup>696</sup>

Such words should be put into context and interpreted also in the light of those pronounced one year later, on June 11, 1995 by the Head of the Naples Prosecution Office, Agostino Cordova. In defending the judiciary from the “real attack of today, which is precisely that against the prosecutors,” Cordova outlined the situation at the Naples Tribunal, which “has long exceeded its saturation point: from 1990 to 1994, strikes by criminal lawyers have nullified hearing days for a total of two years and four months; between January and May 1995, 5851 trials, of which 146 of major importance, were postponed with a total of

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<sup>691</sup> *la Repubblica*, 1/11/1994.

<sup>692</sup> *Ibid.*

<sup>693</sup> *la Repubblica*, 27/10/1994.

<sup>694</sup> *Ibid.*

<sup>695</sup> *Ibid.*

<sup>696</sup> *Ibid.*

13,100 defendants, among whom 1236 were detainees; and 4379 witnesses, of whom 2892 were drawn from the police forces, were summoned in vain.”<sup>697</sup>

Since early 1994, prosecutors defined from time to time as “putschists, assassins,” or whatever other insult could be used to slander them, became the favorite target of the government and its supporters (Caselli, not in a parliamentary debate but live on the free-to-air RAI 1 TV channel during the peak viewing hour of a Sunday afternoon, was called a “Greek colonel” and “Giulio Andreotti’s left-wing magistrate enemy” by Berlusconi’s MP Vittorio Sgarbi).<sup>698</sup> The accusation against these prosecutors was that of plotting a conspiracy – our usual, ever-returning conspiracy – to overthrow the government. In October 1994, Sgarbi demanded the arrest of “assassins” and “kidnappers” such as were Di Pietro and his colleagues at the Milan Prosecution Office, who only deserved the “harshest possible sentence for their attacks on the constitution and constitutional bodies.”<sup>699</sup> Even in this case, the unusual request was made on television, this time though from Sgarbi’s daily – and frequently repeated throughout the day – television program broadcast by the network that was owned by his boss Berlusconi. Feeling “delegitimized” and the victims of “unjustifiable” attacks, the Milanese magistrates called for a public intervention by the president of the Republic in their defense. As a result, the president too, Scalfaro, became the target of a verbal crossfire between Giuliano Ferrara, a journalist and teammate of Berlusconi, and Sgarbi himself. Again on television, and not in the parliament as they could have done, both Ferrara and Sgarbi called for a “psychiatric evaluation” for the president of the Republic: perhaps because of these public relation skills, Ferrara was made by Berlusconi minister of the relations between parliament and government, an office which appears to have existed only in Italy.<sup>700</sup> Berlusconi’s two ‘politicians’ were investigated, but in the end no action was ever taken against them. What is most important to our analysis is that the Mafia and the political forces in power shared the same language, their instruments played the same sheet music.

As with those against Mafia witnesses, the attacks on the judiciary continued even after the government fell and reached such an extent that on May 4, 1995 the ANM (the National Association of Italian Magistrates, one of the associations of Italian magistrates) released a notice condemning the “unmotivated attacks, generic insinuations, and delegitimizing accusations, especially those made by individuals invested with public responsibilities, which

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<sup>697</sup> *la Repubblica*, 12/6/1995.

<sup>698</sup> *la Repubblica*, 13/5/1994.

<sup>699</sup> *la Repubblica*, 22/10/1994.

<sup>700</sup> *la Repubblica*, 19/12/1994.

are unacceptable and undermine the correct functioning of democratic order.”<sup>701</sup> These attacks were seen as instigated by political forces that particularly appreciated “the work of the magistrature as far as the investigations are on their political rivals,” while “harshly criticizing it when their action is directed against members of the majority or their interests,” with the consequence of a “regrettable situation that is now bearing the tension between politics and the judiciary to an unbearable extent.”<sup>702</sup> Even the ANM document, however, had no effect: only one week after its release, the minister of Justice presented a report to parliament on the activity of the Milan magistrates that the ANM president could only describe as “extremely serious and insulting.”<sup>703</sup>

### 5.1.3 In defense of Mafia (alleged) politicians

An interesting case revealing the continuity in which those accused of Mafia or of colluding with the Mafia defended themselves is that of Francesco Musotto. A candidate in the ranks of Forza Italia, Musotto was elected president of the Province of Palermo in 1994. On November 8, 1995, he was arrested on the basis of revelations made by ten 10 Mafia informers. Four other accomplices “above suspicion” were taken into custody together with him: Musotto’s brother, Cesare, a real estate agent; one Daniele Di Lisi, a veterinarian; Salvatore Scardina, an architect; and a trader by the name of Francesco Bonomo. The charge, for all of them, was Mafia membership. Musotto was accused of protecting and assisting Mafia fugitives, providing public contracts to Cosa Nostra, and giving logistical support to *mafiosi* even at times when they were engaged in committing serious crimes. During the course of the trial, the accusation against Musotto was reduced from Mafia membership to collusion with the Mafia<sup>704</sup> and fraudulent bankruptcy. In 1998, Musotto was acquitted of the criminal charges against him and returned to serve as the president of the Province of Palermo (he was re-elected both in 1998 and in 2003). Then he became an MP for the European Parliament, to which he was elected in 1999 and 2004 and was even elected president of the Legislative Commission of the European Union.

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<sup>701</sup> *la Repubblica*, 5/5/1995.

<sup>702</sup> *Ibid.*

<sup>703</sup> *Ibid.*

<sup>704</sup> Both offenses were regulated by the 416-*bis* article of the Italian penal code, so the line between the two was, and still is, quite blur. Concerning this see V. Giglio, “Il Vertice ambiguo ovvero quando la Cassazione contraddice se stessa,” in *diritto.it*, <https://www.diritto.it/vertice-ambiguo-ovvero-la-cassazione-contraddice-stessa/> (accessed January 2018).

What looks most interesting in this case is the public defense that was organized for Musotto. In the same way as it happened in 1902 after the arrest of another major Sicilian politician, Raffaele Palizzolo accused of instigating the homicide of the first excellent victim in Mafia history, the former President of the Bank of Sicily and Mayor of Palermo Emanuele Notarbartolo, shortly after Musotto's arrest a committee was formed to publicly claim his innocence. This committee, which was set up in the extraordinarily short time of two days after the news of the arrest was released, was supported by some of Sicily's most powerful politicians. Among those who, on Sunday, November 12, 1995 gathered in front of Palermo's Palace of Justice to protest against Musotto's arrest were the coordinator of Forza Italia for the Region of Sicily, Gianfranco Miccichè; a senator of the national parliament from Berlusconi's party, Enrico La Loggia; Alberto Acierno, Francesco Cascio, and Silvio Liotta, all three congressmen in the national parliament; Enzo Fragalà, a senator elected for the party of National Alliance and also the lawyer of some Mafia bosses until 2010 when he was killed in a Mafia ambush; Filippo Cangemi, who was about to replace Musotto as the president of the Province of Palermo; and the President of the Province of Palermo, Antony De Lisi. How did this committee offer its public support, long before the trial began, to a defendant accused of such serious crimes? By claiming that Musotto had been indicted because of "Mafia informers who were slandering him" guided by some undefined "secret powers."<sup>705</sup> The committee's promoter, Gianfranco Miccichè, told the attending journalists that "Francesco Musotto's arrest is part of a broader plot that began with the ousting from the government of the Minister of Justice Filippo Mancuso and that had continued with the illegitimate attempts to put Vittorio Sgarbi and Tiziana Maiolo on trial and with the amendments of the parliamentary opposition to the annual report of the Parliamentary Antimafia Commission, whose transparent aim was that of presenting Forza Italia as the receptacle and the fifth column of the Mafia within the institutions."<sup>706</sup> Just four days earlier, upon receiving the news of Musotto's arrest, Miccichè had released a public statement that the arrest "is a *coup d'état*, and they are aiming even higher."<sup>707</sup> As we see, there is a continuity between the way in which Musotto and Palizzolo defended themselves, or rather, were defended by their peers. In both cases, public defense was based on claims of a conspiracy whose victims were defendants accused of collusion with the Mafia. However, with the Musotto case this continuity made a quantum leap forward, as the committee was formed immediately after the news of the arrest was released while in the

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<sup>705</sup> *la Repubblica*, 13/11/1995.

<sup>706</sup> *Ibid.*

<sup>707</sup> *la Repubblica*, 9/6/1995.

case of Palazzolo only after the defendant had been condemned in the appeal trial, which in the specific case means years after the arrest. Regardless of the different degree of sobriety in taking action, the accusation of being the victims of a conspiracy remains the favorite counter-weapon of those accused of conspiring with the Mafia, and it is hard not to notice the *normal* – on both sides, the Mafia as well as the antimafia – of assuming the existence of a conspiracy, although defined in opposite ways.

#### **5.1.4 The parliament minimizes the Mafia**

The presidency of the first Parliamentary Antimafia Commission of the Second Republic was entrusted to an MP from Forza Italia, Tiziana Parenti. A magistrate who in the previous biennium had stood out for the criticisms of her colleagues of the Milan Prosecution Office, whom she accused of going easier on politicians of the Communist Party compared to those of other parties in the Clean Hands inquests, Parenti was evidently appreciated by Berlusconi, if, on occasion of a party rally that took place right before the elections, he presented her as the “future minister of Justice,” although in the end she never got the office.<sup>708</sup>

The line of the parliamentary commission became clear from the beginning. In her first public speech as president, Parenti said that the new parliament’s priority with regard to the Mafia was reducing the role of informers as well as limiting the “political use” of them. In Parenti’s view, “the privileges that they [the Mafia informers] had received” were the main cause of the “persistent insufficiency” of police forces, and an “improper use of them and their manipulation by prosecutors towards pre-constituted theorems” had to be “avoided in every possible way.”<sup>709</sup> As we see, the conspiracy claim, already evident in the language of Cosa Nostra boss Totò Riina and used as a defensive tool by those supporting the President of the Province of Palermo Musotto after his indictment for Mafia is now being adopted by the president of the Parliamentary Antimafia Commission, the most authoritative political body to investigate on the Mafia. From the government’s perspective, such a conspiracy was a plot by opposition parties which could rely on the complicity of a magistrature that was manipulating Mafia turncoats in order to delegitimize their alleged political rivals.

The line of the antimafia parliamentary commission did not change even after the

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<sup>708</sup> A. Stille, *The Sack of Rome*, *op. cit.*, p. 172.

<sup>709</sup> *la Repubblica*, 21/5/1994.

Berlusconi's government fell in November 1994. In April 1995, Parenti, who had remained in charge of her office, leveled the accusation that "some major Mafia turncoats have been taken on vacation to seaside resorts with an enormous waste of state money, men, and resources,"<sup>710</sup> and these words provoked the immediate reaction of politicians from the opposing faction. Pietro Folena, in charge of judiciary policies for the Left Democrats, counter-accused Parenti of having made "extremely serious statements" that "between the lines seem to be an invitation to quit collaborations with justice" and a way of manipulating the entire issue [of Mafia informers] towards political aims."<sup>711</sup> A Milan antimafia prosecutor, Armando Spataro, replied to Parenti that Mafia turncoats did never enjoy any privileged treatment at all. Instead, the main problems regarding their management were the "great difficulties" that these informers had and the "constant danger for their life and for that of their relatives:"<sup>712</sup> precisely the opposite of Parenti's claim. Even the police counter-accused Parenti. Their point of view was put forward by Roberto Sgalla, head of SIULP, the largest union of Italian policemen. In Sgalla's view the main reason for the delays and inefficiencies of the State in the management of Mafia turncoats and the consequent advantage for the Mafia was the "red tape preventing a concrete solution to the problems sparked by the necessity of protecting Mafia informers" such as the new identities that they had to be given by law, the bureaucratic procedures deriving from the opportunity to use their video conference testimonies in trials, and, more generally, the fact that "the political bureaucracy is much slower than organized crime."<sup>713</sup> However, despite all this and that "the government's promises have remained on paper, thanks to the efforts and the sacrifices of many State officials the witness protection program still functions, albeit at the cost of negative consequences for daily police activity: the Central Protection Service office, in the throes of 5000 people's problems, do whatever they can with the few men and resources available, and the mobile police squads protect and supervise Mafia turncoats and their relatives instead of conducting their investigations as they should do."<sup>714</sup> According to the police, therefore, in spite of all the various problems deriving from the lack of government support and the usual excess of bureaucracy, the witness protection program, so harshly under attack, was still working. The polemics followed for a while, and the only message that the Mafiosi could receive was that there was a political attitude that discouraged collaborations with justice, as well as the lack of political will to fight organized

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<sup>710</sup> *la Repubblica*, 22/4/1995.

<sup>711</sup> *Ibid.*

<sup>712</sup> *Ibid.*

<sup>713</sup> *Ibid.*

<sup>714</sup> *Ibid.*

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Parenti's work continued to interfere with that of the magistrates until the end of the legislature. In May 1995, she sent a note to the Palermo Prosecution Office inviting prosecutors to "respect the proper procedure regarding the rapport between different State powers" and lamenting that the prosecution office had requested information on Balduccio Di Maggio (the Mafia informer who revealed the hiding place of Totò Riina) without explaining why one such information was needed. Parenti also complained that "an authoritative intervention in a parliamentary commission, and an indirect seizure request, have been advanced to the Antimafia Commission's secretary instead of the commission's president."<sup>715</sup> Forced to react, Caselli said that his office, "In the most scrupulous way and with due respect for every parliamentary prerogative, has put forward to the Antimafia Commission, formally and in the way established by the law, a request concerning the acquisition of documents totally unrelated to the activity of the commission, and in any case providing all the necessary information to the presidents of both chambers of parliament and the Parliamentary Antimafia Commission."<sup>716</sup> The case had the effect of aggravating the relations between the legislative and executive powers of the State on one side and the judiciary on the other at a point in which, given what happened the previous two years, the fight against the Mafia needed precisely the opposite, i.e., compactness and unity of purpose.

The final report of the Antimafia Commission was released in January 1996, as the legislature was coming to its anticipated end and new elections were approaching. The report is a perfect snapshot of the return to an attitude of complete indifference by both the parliament and government on one issue, the Mafia, which only a few months earlier was a national emergency. It can be reasonably argued that the only relevant content that this document offers is the absence of any relevant content, its non-speaking being that which speaks loudest.<sup>717</sup> When it was released, the report appeared so poor even to some of those who had drawn it up, that 50 members of the commission demanded Parenti's resignation, describing her as "factious and unfit for the office."<sup>718</sup> Among those signing the motion against the president, who were for the most part MPs in opposition to Berlusconi drawn from the ranks of the Left Democrats, Rifondazione Comunista and the Partito Popolare, were also

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<sup>715</sup> *la Repubblica*, 12/5/1995.

<sup>716</sup> *Ibid.*

<sup>717</sup> See *Commissione parlamentare antimafia, Relazioni e documenti approvati nella XII Legislatura (18 ottobre 1994-31 gennaio 1996)*. Camera dei deputati, Servizio di informazione parlamentare e relazioni esterne – Ufficio atti e pubblicazioni, Roma, 1996.

<sup>718</sup> *la Repubblica*, 17/2/1995.

deputies of the Northern League.<sup>719</sup> Never, in Italian history, had a president of the Parliamentary Antimafia Commission been so harshly accused of misconduct, and never had the polemics been so bitter in tone within the Antimafia Parliamentary Commission. A former Palermo prosecutor and now an MP for the center-left, Giuseppe Ayala described Parenti as “incompetent” and “worthless.”<sup>720</sup> Previously, having Ayala been photographed in a public place where some *mafiosi* incidentally happened to be present, Parenti had accused him of “conniving with the Mafia.”<sup>721</sup> Such an unmotivated attack, which sums up the climate within the commission, was described by another commissioner, Pino Arlacchi, as “disgusting and ignoble.”<sup>722</sup> In the document of non-confidence against Parenti, we read, “Since Berlusconi came to power, a serious and noticeable brownout in the fight against the Mafia, the lack of a solid antimafia political will, and a serious failure of antimafia action have to be registered,” prevalently due to the “unsuitability and lack of competence of the president of the Antimafia Commission.”<sup>723</sup> Such a document, which defined the attacks by various politicians against the hard prison regime as “rash,”<sup>724</sup> also put forward a number of proposals: reinforcing protection of Mafia witnesses; rapidly putting into force a new judiciary figure, the judge of Peace, in charge of ruling over less serious crimes in order to streamline trials; increasing the functions of the director of the Department of Public Security; entrusting men and resources to the Office of Central Protection; and developing international anti-money laundering agreements. The objective of these proposals was to “give the law enforcement and State administration a strong antimafia turn.”<sup>725</sup> Parenti's reaction to these accusations and proposals could not better account for the restoration of an authoritarian line, in a perfect match with the ongoing trends in national politics:<sup>726</sup> “Those who are not willing to work can leave, they will be replaced; and those who take a vote of non-confidence against me delegitimize the parliament that has appointed me.”<sup>727</sup> As we see, the internal fight within the parliamentary commission was bitter, and the image projected outside was one of inefficiency, profound division, and lack of unity of intent: one that was ideal for the Mafia.

In the two hundred pages of the report, there is no substantial mention of the relations between Mafia and politics. The Mafia is reduced – just to consider the case of the Sicilian

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<sup>719</sup> *Ibid.*

<sup>720</sup> *Ibid.*

<sup>721</sup> *la Repubblica*, 25/1/1994.

<sup>722</sup> *Ibid.*

<sup>723</sup> *la Repubblica*, 20/3/1995.

<sup>724</sup> *Ibid.*

<sup>725</sup> *Ibid.*

<sup>726</sup> For such an interpretation see D. M. Smith, *Modern Italy*, *op. cit.*, p. 491.

<sup>727</sup> *la Repubblica*, 17/2/1995.

Cosa Nostra, which is the criminal organization to which the report gives more attention – to a problem afflicting only a few villages and municipalities.<sup>728</sup> After an introduction on the investigations conducted by the parliamentary commission, the following chapters touch on usury, the situation of judiciary offices, problems relating to the management of Mafia witnesses, Mafia penetration in some Sicilian municipalities (of which not even one was a provincial capital: those mentioned are Gela, Niscemi, San Giuseppe Jato and Corleone, as if the Mafia were just a problem afflicting small towns, irrelevant in the cities, and without any international dimension), investigations carried out by some of the commissioners in the northern region of Liguria where criminal groups from southern Italy were penetrating, and finally, the state of organized crime in Puglia, a southern Italian region where Mafia infiltration was less compared to others such as Sicily, Calabria, or Campania. The only controversial issue addressed was that of Mafia witnesses. Yet, the document, on the problems relating to Mafia informers, runs for just one page. On this single page, the commission demands adequate financial resources from the government for the management of witnesses; puts forward the necessity of eliminating a preventive statement of intent for the regulation of witnesses and of evaluating the quality and the entity of each collaboration by establishing safer criteria in conceding benefits to witnesses and deciding upon the number of family members to protect; demands the abolition of mandatory approval by the penitentiary administration for the prison detention of informers outside prisons; and sends a general invitation to avoid polemics that may have the effect of discrediting witnesses and putting their safety at risk.<sup>729</sup>

The Parenti commission's final report contrasts sharply with that released by the previous commission, which instead tackled the possible presence of secret instigators of the attacks of the previous biennium, a subject that is not even mentioned in the Parenti report: evidently, the best way to deal with the most important Mafia-related controversy was not to deal with it at all. In the turn of just two years, following the course dictated by Berlusconi, the parliament had overturned its attitude towards the Mafia.

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<sup>728</sup> *Commissione parlamentare antimafia, Relazioni e documenti approvati nella XII legislatura (18 ottobre 1994 – 31 gennaio 1996), Camera dei deputati, Servizio di informazione parlamentare e relazioni esterne – Ufficio atti e pubblicazioni, Rome, 1996.*

<sup>729</sup> *Ibid.*

### 5.1.5 The Mafia in the media

Since 1994, the mainstream media rarely talked about the Mafia – Cosa Nostra’s return to silence after the previous roaring season played favorably in this respect. Both the *omertà* of the parliament and the media should be framed within the general optimism on the new course that Berlusconi bore with him, which helped public opinion, or at least the larger part of it, to quickly forget the tragedies of the previous biennium. It is worth repeating that the novelty element of this historical phase lay in the fact that never before had a silence on the Mafia been accompanied by such harsh campaigns against the magistrates. Within this scheme, the subject of the Mafia was generally used by the media only in order to undermine the work of those committed to fighting it on a daily basis, especially if investigating the Mafia’s connivance with politicians and/or state officials, or in order to attack the witness protection program and, although to a lesser extent, the hard prison regime: the same two laws that were enabling public prosecutors greater insight into Cosa Nostra and rip the veil off the Mafia’s relationships with the worlds of business and politics.<sup>730</sup>

Between 1998 and 2006, media coverage of the Mafia was directly proportional to her violence. This coverage reached its peak in 1992 with the Capaci and Via D’Amelio bombings.<sup>731</sup> The statistics available show a decreasing trend in Mafia crimes coinciding with the beginning of the Second Republic, and this trend affected not just Cosa Nostra but also the other mafias, which seemed to “indirectly” understand the negative consequences of both

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<sup>730</sup> The history of the Mafia presents many cases that account for this phenomenon. We may mention here the story of Palermo prefect Antonio Malusardi, who, in 1876, after successfully arresting almost all the bandits of the Palermo area approached their protectors and was forced to resign within one year (on this story see S. Lupo, *Storia della mafia*, cit., pp. 80-102; G.C. Marino, *Storia della mafia*, cit., pp. 64-69; F. Renda, *Storia della mafia*, op. cit., pp. 109-129). Another case is that of Notarbartolo, whose story has been told at the beginning of Chapter 1 of this work; one more case is that of Cesare Mori, the official appointed by Mussolini as prefect of Palermo in order to bring Sicily under the control of the government, whom, after he began to arrest powerful people of Sicily, was eventually dismissed by Mussolini (see note 38 of Chapter 1 of this essay for a bibliography concerning such topic). The debate on the so-called *pentitismo*, the Italian term to refer to the phenomenon of Mafia witnesses, emerged in Italy during the 1980s, when, in 1983, a famous television presenter, Enzo Tortora, was falsely accused by a bunch of Neapolitan *mafiosi* of being involved in the trafficking of drugs: put on trial for Mafia, Tortora was eventually acquitted, but during his detention he got a lung cancer (on such case see L. Palazzolo (edited by), *Enzo Tortora. Per una giustizia giusta*, Milan, Kaos, 2006; S. De Gregorio, *Tortora. Morire d’ingiustizia*, N. De Dominicis, Naples, 1988; L. Steffenoni, *Il caso Tortora*, Chiarelettere, Milan, 2018). The debate re-emerged in the political agenda as the news of the Andreotti indictment was announced, see for example *la Repubblica*, 13/4/1994, p. 13. Concerning this subject see also S. Lupo, *Cos’è la mafia*, op. cit., pp. 10-12.

<sup>731</sup> According to the final report of the Antimafia Commission of the XIII Legislature Mafia homicides were 557 in 1990, 718 in 1991, 453 in 1992: see *Senato della Repubblica – Camera dei Deputati, Commissione parlamentare d’inchiesta sul fenomeno della mafia e altre associazioni criminali similari, Relazione conclusiva, relatore Onorevole Giuseppe Lumia, approvata dalla commissione in data 6 marzo 2001*, Doc. 23, N. 57, p. 17).

extreme violence and media exposure. From 1994 on and for a few years, Mafia homicides decreased everywhere in Italy. The decrease was clearer in Sicily, where State repression was concentrated, compared to other southern Italian regions, and continued after Berlusconi's first government fell. From 1996 onwards, the number of homicides in Sicily dropped below 50, remaining settled at such a level throughout the years following. However, the pace of the decrease was double in Sicily compared to Calabria and Campania, the two other Italian regions where the Mafia was more deeply rooted and killed the most. Between 1989 and 2008, the average percentage variation in the number of homicides per year was in fact -11% in Sicily, -5.8% in Calabria, and -5.7% in Campania.<sup>732</sup> In the same period, in all these three regions the decrease in Mafia homicides corresponded with an increase in the number of extortions, with an average percentage variation per year of 2.9% in Sicily, 7.5% in Campania, and 3.8% in Calabria. Such figures suggest that the power syndicate of the Mafia, i.e., her territorial control, increased in the first 15 years of the Second Republic.<sup>733</sup> And in Sicily, this happened in spite of the successful repression of law enforcement agencies, suggesting that Cosa Nostra had found a way to cope with this situation at least to a certain extent, and to limit, at least in part, the specific weight of the successes of the State.

The police investigations that were conducted in those years also highlighted how major Italian criminal organizations created or reinforced alliances and cartels with other mafias around the world, the most important of these new criminal pacts being made with Colombian, Russian, Nigerian, and Albanian criminal groups. Thanks to these new networks, illegal *mafioso* activities multiplied to include the traffic of toxic waste and human beings, illegal betting, new types of fraud and abuse, as well as other activities that added to the Mafia's traditional control of public contracts and drug trafficking. These new sectors also led to an expansion in the Mafia's channels for money laundering, especially thanks to the new opportunities offered by the economies of emerging countries.<sup>734</sup> So much so that, at the end of 2004, after 10 years of alternating left- and right-wing governments in Italy, on occasion of a convention taking place in the Sicilian city of Syracuse promoted by the OCPO (a scientific committee sponsored by the Italian government), figures were released detailing the Mafia's

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<sup>732</sup> R. Abbate, A.P.M. Mirto, "Le statistiche giudiziarie sulla criminalità organizzata," in R. Sciarrone, edited by, *Alleanze nell'ombra, op. cit.*, pp. 99-104. Concerning this aspect, quite interesting are the figures reported by president of Confersecenti in the course of the assembly that took place on 2/10/2001, in Rome. We read in the rapport that "the Mafia tax system charges the overall economy of a total value of 35,000 billion liras per year," and the traders extorted would be some 160,000 per year, figure rounded down (see G. Priulla, *Raccontar guai. Cosa ci minaccia, cosa ci preoccupa*, Rubbettino Editore, Soveria Mannelli, p. 172).

<sup>733</sup> G. Priulla, *Raccontar guai. Cosa ci minaccia, cosa ci preoccupa, op. cit.*, p. 172.

<sup>734</sup> For a detailed account of this expansion see the special edition of *Limes* entirely dedicated to the Mafia, *I colori delle piovre, Limes*, 2, 2005.

income at €43,000 million per year.<sup>735</sup> However, later research suggested that such calculations were rounded down quite consistently. Other, more reliable research raised the figure by double to €85,000 million.<sup>736</sup> Regardless of the non-negligible difference, there is no doubt that the new phase inaugurated in 1994 saw an increase in the enterprise syndicate of Italy's main criminal organizations. The Mafia's new strategy seemed to have positive results in spite of a more efficient state repression.

Let us now analyze the media *omertà* placing it in relation with Mafia violence. In quantitative terms, the year in which the Mafia killed the most was 1991. Of the 1918 homicides committed that year, the police attributed 718 to the Mafia, at a rate of 1/2.67. In 2006, the final year of our analysis, the homicides attributed to the Mafia were sevenfold less, totaling 109, at a rate of 1/5.69 for the total homicides committed (621, threefold less than in 1991).<sup>737</sup> Media coverage of the Mafia increased beginning from 1990. In that year, for the first time, the number of headlines that the press dedicated to the Mafia was more than 10 per thousand. Such a trend continued over the following two years, with the number of headlines rising above 15 per thousand in 1991 to reach its peak at more than 18 per thousand in 1992, the year in which Mafia violence was more blatant. The decline began in 1993. First slightly (also due to the bombings in Rome, Florence and Milan the figure remains high in 1993, with about 13 per thousand headlines), slowly decelerating by 1994 when, in correspondence with the beginning of the new political course, it went down to 10 per thousand, progressively declining faster in the next two years and dropping by half after 1997, settling at around five per thousand headlines per year in the subsequent five years.<sup>738</sup> The trend in the number of articles dedicated to the Mafia by the national press was more or less similar. As far as the headlines in the press are concerned, 1992 was the peak year, with 6% of articles as the overall total. The first decrease came between 1993 and 1994 (in 1994, however, articles on the Mafia remained at 4%), and a second decrease came between 1994 and 1998, when the number of articles dropped to below 3%.<sup>739</sup> Thus, the curves of both headlines and articles follow the same trend, further demonstrating how Cosa Nostra's low-profile strategy led to the media's progressive disinterest. All of a sudden, the Mafia had disappeared from the priorities of the public agenda.

This quantitative data should be interpreted also in the light of the violent verbal attacks

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<sup>735</sup> Conference held by OPCO, Syracuse, July 16-18, 2004, reported also in G. Priulla, *Raccontar guai*, *op. cit.*, p. 178.

<sup>736</sup> *Limes*, 2, 2005.

<sup>737</sup> G. Priulla, *Raccontar guai. Cosa ci minaccia, cosa ci preoccupa*, *op. cit.*, pp. 175-181.

<sup>738</sup> *Ibid.*

<sup>739</sup> *Ibid.*

launched by Berlusconi and his peers against magistrates and Mafia witnesses mostly through Berlusconi's television networks, which suggests an analysis combining a quantitative approach with a qualitative one. This verbal campaign reached such an extent in the 1994-1995 biennium that at the end of 1995, in the course of a public debate also attended by the Head of the Palermo Prosecution Office Caselli and the former President of the Antimafia Commission Violante, the leader of Libera, a national association aimed at drawing public attention to the Mafia and hindering the expansion of criminal organizations, launched an appeal to boycott "the sponsors of those television programs constantly attacking state officials who fight the Mafia, a civil and peaceful resistance must be staged against those who transform television into a stage for their own rallies."<sup>740</sup> During the course of the debate, Caselli said that "sometimes the media's attention on the Mafia seems to be dangerously in decline," while Violante stressed how a live broadcast of the Andreotti trial should be avoided, at the risk of "spectacularizing justice."<sup>741</sup> Perhaps, precisely "declining attention" and "more spectacularizing" is the formula that best explains the relationship between the Mafia and the media in the early years of the Second Republic. In short, in the rare occasions in which the Mafia issue was addressed in the public debate, such issue was used for attacking the antimafia.

Towards the end of the legislature, on March 4, 2001, some magistrates held a meeting in the Senate. Among those attending were former Palermo Chief Prosecutor, Antonino Caponnetto, the one who, together with Falcone and Borsellino, had staged the Maxi Trial. As his turn came around, Caponnetto criticized the "silence on the Mafia" that "has characterized an entire legislation."<sup>742</sup> Other magistrates and notable names embodying the fight against the Mafia who came from all over the nation and expressed similar views to Caponnetto's were Caselli, the Milan prosecutor who had been protagonist of the 'Clean Hands' inquiries Gherardo Colombo, the National Antimafia Chief Prosecutor, Pier Luigi Vigna, Borsellino's sister Rita, and the President of Libera, Luigi Giotti. The target of their attack, which in retrospect looks more like a defense, was not Berlusconi but "the entire legislature," which also meant the left-wing coalition, in power since 1996. While confronting these magistrates and antimafia activists, Pietro Folena, in charge of the judiciary policies on behalf of the Left Democrats, could only admit that "with regard to the Mafia, RAI's public broadcasting has

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<sup>740</sup> *la Repubblica*, 18/9/1995.

<sup>741</sup> *Ibid.*

<sup>742</sup> *la Repubblica*, 4/3/2001.

failed.”<sup>743</sup> Since public broadcasts were not controlled by Berlusconi between 1996 and 2001, Folena’s admission implicitly meant that even the failure of the media, with regard to the Mafia, was *bipartisan*.

### 5.1.6 Andreotti’s self defense

Just 11 days after the settlement of Berlusconi's government, the Palermo Prosecution Office indicted Giulio Andreotti for collusion with the Mafia. Andreotti had already been indicted in 1993 by the Perugia prosecutors as the instigator of the homicide of Gaetano Pecorelli, a journalist killed by Cosa Nostra in 1979 with all probability because he was about to release information that would have seriously damaged Andreotti. However, the Palermo trial had a much more consistent impact on public opinion than the one at Perugia, and it was immediately labeled “the trial of the century.” The news of another, somehow even more serious charge against Andreotti generated a division in the country between those who believed him guilty and those for whom he was innocent. The debate that followed was heated, although the clamor of its protagonist and the verbal aggressivity of those who expressed their views often ended up obscuring the facts for which the trial had been staged.<sup>744</sup>

From the release of the news of the indictment, the whole magistrature, and in particular the Palermo Prosecution Office and its head Caselli, became Berlusconi and his peers’ favorite target of a delegitimizing campaign staged through that formidable media apparatus that Berlusconi’s political rivals had not forced him to get rid of after his announcement to enter politics as the head of a new party coalition, even in spite of a law forbidding those in

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<sup>743</sup> *Ibid.*

<sup>744</sup> On the Andreotti trials see F. Nicastro, V. Vasile, *Andreotti. La mafia vista da vicino*, Edizioni Arbor, Palermo 1995; A. Nicaso, *Io e la mafia. La verità di Giulio Andreotti*, Monteleone, Vibo Valentia, 1995; Caselli G.C., Monatanaro S., Ruotolo S., *La vera storia d'Italia. Interrogatori, testimonianze, riscontri, analisi. Giancarlo Caselli e i suoi sostituti ricostruiscono gli ultimi vent'anni di storia italiana*, Pironti, Naples, 1995; G. Andreotti, *Cosa loro. Mai visti da vicino*, Rizzoli, Milan, 1995; E. Macaluso, *Giulio Andreotti tra Stato e mafia*, Rubbettino, Soveria Mannelli, 1995; U. Santino (edited by), “Guida al processo Andreotti,” in *Città d’Utopia*, no. 0/17, November 1995, partly published on *Narcomafia*, Year III, no. 10, November 1995; A. Stille, *Andreotti*, Mondadori, Milan 1995; E. Quattrocchi, *Andreotti Giulio: incolpevole*, Koinè, Rome 1996; S. Lupo, *Andreotti, la mafia, la storia d'Italia*, Donzelli Editore, Rome, 1996; U. Santino, *L'alleanza e il compromesso. Mafia e politica dai tempi di Lima e Andreotti ai giorni nostri*, Rubbettino, Soveria Mannelli 1997; for a different perspective see G. Andreotti, *A non domanda rispondo. Le mie deposizioni davanti al Tribunale di Palermo*, Rizzoli, Milan, 1999; L. Jannuzzi, *Il processo del secolo. Come e perché è stato assolto Andreotti*, Mondadori, Milan, 2000; G. Cavalli, *L'innocenza di Giulio. Andreotti non è stato assolto*, Chiarelettere, Milan, 2011.

charge of, or running for, public offices from holding public licenses.<sup>745</sup> In the hammering media production that followed the announcement of the indictment, Andreotti became the symbol of what politics was fighting to avoid and defeat at all costs: judgement in court, regardless of the fact that the magistrature was forced to call for such judgement due to the principle of a compulsory exercise of penal action established by the Italian constitution.<sup>746</sup>

After being notified the indictment, and even before the trial began, Andreotti publicly defended himself by saying that “whoever accuses me must have had a hidden prompter: either the prosecutors have made a mistake, or a prompter may have arranged to place something on their desk, may have sidetracked them; Mafia turncoats can be maneuvered.”<sup>747</sup> As we can see, we are confronted with the usual defensive strategy of all or most politicians investigated or put on trial for Mafia or corruption. Now accused of plotting with the Mafia, Andreotti defends himself invoking the existence of a plot against him led by some “hidden prompter:” once again, claiming to be the victim of a conspiracy remains the favorite counter-weapon of those accused of conspiring.

### 5.1.7 Ilardo

A *mafioso* belonging to the Caltanissetta Mafia Family led by the Madonias, Luigi Ilardo was liberated from prison in 1994 allegedly for being sick, but in actual fact to infiltrate Cosa Nostra on behalf of ROS, the special unit of the Carabinieri police in charge of the fight against organized crime. Thanks to his revelations, in a few weeks the Carabinieri were able to capture quite a number of Mafia fugitives.<sup>748</sup> Among those arrested was also the head of the

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<sup>745</sup> As it was the case with Fininvest, Berlusconi's private company. On this subject see A. Stille, *The Sack of Rome*, *op. cit.*, pp. 174 e 198. During the parliamentary session of 28/2/2002, the Left Democrats MP, Luciano Violante, said that “Mr. Berlusconi was given full guarantee, not now but in 1004, that he would never lose control of his televisions; he knows this, and Mr. Letta knows it too! (...) You have accused us of anti-democratic behavior, although we never did a law to solve the so-called conflict of interests; had we declared Berlusconi non-eligible despite the concessions for his televisions, (had we permitted, editor's note) that Mediaset's volume of sales, during the years of our government, increased 25-fold.” See *Resoconto stenografico dell'intervento di Luciano Violante del 28/2/2001 nella seduta n. 106 della XIV legislatura Camera dei Deputati*, p. 75.

<sup>746</sup> See N. Tranfaglia (see *Mafia, politica, affari, 1943-2008, op. cit.*) and G.C. Marino (*Storia della mafia, op. cit.*). Concerning such issue see *Relazione sul caso Impastato prodotta dalla Commissione parlamentare antimafia, approvata il 6 dicembre 2000, prot. n. 768 SG/CIV, doc. XXIII n. 50, part IV*, pp. 147-152. According to such document, the main reason of Mafia success was that “the political groups have too often ignored the Mafia” (*Ibid.*, p. 149); the already mentioned *Relazione finale della Commissione parlamentare antimafia, Doc. XXIII n. 9*, not only speaks of “ignoring” the Mafia, but of a real collusion between the Mafia and politics (*Ibid.*).

<sup>747</sup> *la Repubblica*, 22/5/1994.

<sup>748</sup> The documents used for this account of the Ilardo case are: *Atti del Processo Grande Oriente; Atti Processo*

Madonia crime Family, and following this arrest Ilardo, by now already in the higher echelons of the Family hierarchy, became the *reggente* of his crime family (the boss in charge while awaiting the nomination of a new boss). Thanks to his new position, he entered in direct contact with Bernardo Provenzano, Cosa Nostra's boss of bosses, whose movements he began to report to the ROS colonel Michele Riccio, the official in charge of managing his activity as an infiltrator of Cosa Nostra on behalf of the Carabinieri. Colonel Riccio gathered all of Ilardo's confidential information including that, on occasion of the 1994 elections, the Mafia Families had given their members the order to vote for Berlusconi since a contact with an important politician from Berlusconi's party had been established. In 1998, Riccio told prosecutors that such contact was Marcello Dell'Utri, who – he said – had guaranteed Cosa Nostra the passing of favorable laws in return for the end of the bombings and blatant murders if only Berlusconi had won the election.

One day, Ilardo handed Riccio the most valuable information a policeman could ever want: he revealed details of a meeting at which all of Cosa Nostra's top bosses would be present. Scheduled for October 31, 1995 at Mezzojuso, a small village in the Sicilian Interior, this leaked meeting gave the Italian State the opportunity to kill with one easy move, and once for all, the Sicilian Cosa Nostra, to behead it to the point of reducing it to a subject only good for the movies. However, on that October 31, the Carabinieri approached the place where the meeting was taking place, maintained constant surveillance of it as the *mafiosi* were inside, but did not break into the house.<sup>749</sup> Once become public, the case gave birth to an internal controversy within the ROS, as Riccio accused his superiors of protecting Provenzano's lam and of asking him to hide Dell'Utri's name. His superiors were Colonel Mario Mori and Sergio De Caprio, the same ones who three years before had left Riina's den in the hands of the *mafiosi*, and Antonio Subranni, the head of the whole Carabinieri police body. For this conduct, Mori and Ultimo were put on trial only to be later acquitted from the criminal charges laid against them, while Riccio was condemned for slander (only in 2018 were Mori and Ultimo condemned in the first verdict of the State-Mafia deal trial, although at the time of writing they are still appealing). For Ilardo, instead, things got lots worse. On the evening of

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*Covo Riina (Mori- De Caprio); Atti Processo strage di Capaci, Assise-Appello-Cassazione; Atti Processi strage Via D'Amelio- Borsellino uno-bis e ter; Atti Processi Stragi del 1993; Decreto di archiviazione inchiesta c.d. "Alfa e Beta"; Decreto di archiviazione inchiesta c.d. "Autore uno e Autore due"; Atti del Processo Andreotti, Assise-Appello-Cassazione; Ordinanza sentenza Ufficio istruzione di Palermo per gli omicidi Reina, Mattarella, La Torre, Di Salvo; Atti processo Talpe alla procura di Palermo; Atti Processo Mori Obinu (mancata cattura di Bernardo Provenzano); Sistemi Criminali, op. cit.; Atti archiviazione inchiesta sul magistrato Giovanni Tinebra; Atti archiviazione inchiesta sul magistrato Luca Tesaroli; Atti processo a Bruno Contrada.* Special thanks to Nicola Biondo for having given me these documents.

<sup>749</sup> Concerning the fugitiveness of Provenzano see N. Biondo, S. Ranucci, *Il Patto*, op. cit., pp. 65-74.

May 10, 1996, just a few hours before he would join the witness protection program, as he was getting out of his car right in front of his apartment two men riding a motorbike approached him firing bullets that prevented him forevermore from repeating to prosecutors what he had told to Riccio. At the time of his murder, only ROS officials knew about his infiltration of Cosa Nostra. The *omertà* that the Head of the Government Berlusconi had publicly called for had to be assured with an act of violence – the only significant, although quite forgotten act of violence of Cosa Nostra since 1993.

## 5.2 The dynamics internal to Cosa Nostra and the looming of the victory of the Mafia white-collar system

On April 21, 1996, the anticipated elections that opened the XIII Legislature, the second of the Second Republic, witnessed a historical result, as the heirs to the Italian Communist Party – the Left Democrats and the Rifondazione Comunista – for almost half a century excluded from the government, won the majority of the seats in the parliament as part of a coalition with other smaller parties. Nothing, though, changed in the strategy of the Mafia: after firing at Ilardo, guns remained silent.<sup>750</sup> And nothing, or not much, changed in the attitude of the government towards the Mafia.

The reports released by the DIA and the Parliamentary Antimafia Commission explain that Cosa Nostra defended herself from law enforcement forces by returning to her traditional low profile attitude in order to adapt to a new conjuncture in which the repression was inevitably harsher after the 1992-1993 attacks. The arrests, trials, and convictions that followed the bombings were in fact a partial and temporary defeat for the *mafiosi*, but one such defeat was to be counter-balanced by a further expansion of the *borghesia mafiosa*, the Mafia system of white-collars composed of politicians, professionals, bureaucrats, businessmen, and other professionals of various type.

From the early 1990s, we read in the final report released by the Parliamentary Antimafia Commission of the XIII Legislature, “It has been possible to discover and dismantle several Mafia clans, begin important judiciary inquiries, and stage quite a number of trials with several defendants, for a total of some hundred people.”<sup>751</sup> The report attributes the principal merit of this break to Mafia witnesses, who had enabled the capture and court prosecution of numerous killers and *mafiosi*, as well as to the use of new methods of investigation made possible by new technologies. The period between 1996 and 2001 was generally considered positive by the antimafia commissioners, as “compared to other historical phases in the fight against the Mafia the decade that has just ended has been characterized by unquestionable successes never achieved before.”<sup>752</sup> To justify such a conclusion, the report mentions the high number of Mafia fugitives captured in Italy or abroad

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<sup>750</sup> Even Ilardo’s homicide was completely ignored by the media, also because nobody could know of Ilardo’s activity as an infiltrator in the Cosa Nostra.

<sup>751</sup> *Commissione parlamentare d’inchiesta sul fenomeno della mafia e delle altre associazioni criminali similari, Relazione conclusiva, XIII legislatura, Doc. XXIII, N. 57, approvata il 6 marzo 2011, p. 39.*

<sup>752</sup> *Ibid.*

from 1992 to 2000 (2569), “a considerable amount in absolute terms.”<sup>753</sup> It points out the good result that from January 1, 1996 to February 13, 2001, 100 members of Cosa Nostra, 107 members of the Camorra, 74 of the 'Ndrangheta and 17 of the Puglia mafia were captured.<sup>754</sup> However, the report also detects that by 2001 the number and importance of Mafia witnesses was in strong recession and the commissioners agreed with the many antimafia prosecutors who, at the end of the legislature, decried the center-left government’s handling of Mafia witnesses as “mortifying:” it was clear to them that the witness protection program had been dismantled by their very own parliament.<sup>755</sup> The report continues that despite the effectiveness of the repression Cosa Nostra had not resumed her attack on the State but had continued her most traditional strategy of conniving with politics, “establishing new connections or maintaining the old ones with the worlds of business, politics and professions.”<sup>756</sup> In doing so, the Mafia bosses were giving the impression of accepting the arrests with resignation and with the awareness or the expectation that, in the turn of a few years, their problems would be solved and the situation return to be the same as always. As we shall see, there were quite good reasons to justify one such attitude.

Those who deny the *trattativa* claim that, if the capture of Riina was a plot directed by Provenzano or in which Provenzano was complicit, a conflict should have arisen between the two factions of Cosa Nostra.<sup>757</sup> Yet, a conflict between the two factions indeed arose, even though it never exploded, as proven by the biannual reports released by the DIA from the mid-1990s, which all give evidence of a clear division within Cosa Nostra between a faction oriented to a return to violence and one more willing to compromise. For example, we read in the report of the second semester of 2000, “The changing strategy that Provenzano has given to the Mafia has not been painless: it has provoked, instead, a fracture that soon degenerated into one of the numerous internal conflicts that, periodically, have marked the transition

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<sup>753</sup> *Documento n. 2399, XIII legislatura, Rapporto sullo stato della sicurezza in Italia, 2001, Ministero dell'interno*, pp. 428-429. The commissioners identified three types of Mafia fugitives: the 30 most dangerous, sought in the “special wanted program,” another 500 listed in the “most dangerous fugitives” pamphlet, and “other dangerous fugitives,” *Ibid*, p. 426.

<sup>754</sup> *Documento n. 2433, op. cit.*

<sup>755</sup> *Commissione parlamentare d'inchiesta sul fenomeno della mafia e delle altre associazioni criminali similari, relazione conclusiva, op. cit.*, pp. 39-40 and p. 48.

<sup>756</sup> *Ibid*, p. 44, see also *Ministero dell'Interno, Direzione Investigativa Antimafia, Attività svolta e risultati conseguiti, 2° semestre 2000*, pp. 6-7. In the DIA report released on the following semester we read that “According to Ilardo, in the course of such meeting Provenzano said that within 5-7 years Cosa Nostra would have been able to return to that atmosphere of calm necessary to carry out businesses,” in *Ministero dell'Interno, Direzione Investigativa Antimafia, Attività svolta e risultati conseguiti, 1° semestre 2001*, p. 8.

<sup>757</sup> Salvatore Lupo writes that the only hint of this would have been a statement of Riina's son made upon the arrival of Provenzano in the same prison where he was, in 2006. Riina's son was reported to have commented sarcastically: “Why did the have to take this cop here?” (see S. Lupo, *La mafia non ha vinto, op. cit.*, p. 40).

phases in the history of Cosa Nostra.”<sup>758</sup> Towards the end of the 1990s, Cosa Nostra had still a regional system of coordination and her governing Family, the Corleonesi, was split into two factions that shared the same objective of the organization’s rebirth but had different views on which methods to use in order to reach such goals. The one faction that prevailed in this internal conflict was that led by Provenzano. Riina and his followers, who were all to be arrested between 1994 and 1996, were the losing side. The line of the “moderate faction” – as the DIA investigators call it – ended up appearing to most *mafiosi* as the only possible strategy “that could, sooner or later, guarantee a return to operating in an entrepreneurial way.”<sup>759</sup>

The Mafia’s plan to face the State’s counter-offensive moved along three directions. These were to “bring Cosa Nostra back to her traditional pattern, which in the past had allowed her to move silently and with minimum internal conflicts possible; drastically reduce the number of *mafiosi* creating a sort of criminal elite separated from those in charge of less important criminal activities in order to put the organization under the guide of bosses destined to remain defiladed;” and raise the cultural profile of Cosa Nostra’s leadership entrusting the most important tasks to ‘qualified’ men of honor with good ranking on the social scale.”<sup>760</sup> With regard to this latter aspect, it should be noted that in this phase the *mafiosi* prioritized their level of education as never before. On September 22, 2002, despite the rigors of the hard prison regime, Mafia boss Pietro Aglieri attained his decree in literature with a major in theological studies, accomplishing it with honor and receiving congratulations from the three professors who had come to an armored and under surveillance university room set up in the prison of Rebibbia to hear the defense of his thesis for the University of Rome La Sapienza.<sup>761</sup> Aglieri was just one of the bosses who at the beginning of the new century took part in what a newspaper called the “Mafia race to a university degree.”<sup>762</sup> Between the end of the 1990s and the beginning of the new millennium, quite a few *mafiosi* did everything they could to enroll in university and get a degree. Prior to that, they had never “devoured books in the prison libraries [or] begged their lawyers to convince prosecutors and surveillance judges to allow them special permits to be able to study as freely as possible – all of them, or almost

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<sup>758</sup> *Relazione della Direzione Investigativa Antimafia del 2° semestre 2000*, p. 8.

<sup>759</sup> Concerning the regional coordination of Cosa Nostra and the split of the Palermo Mafia into two opposing factions see *Ministero dell’Interno, Direzione Investigativa Antimafia, Attività svolta e risultati conseguiti, 1° semestre 1998*, pp. 7-8; concerning Provenzano’s low profile strategy see *Commissione parlamentare d’inchiesta*, cit., p. 38. See also *Ministero dell’Interno, Direzione Investigativa Antimafia, Attività svolta e risultati conseguiti, 2° semestre 2000*, pp. 7-8.

<sup>760</sup> *Ibid.*, p. 8.

<sup>761</sup> *la Repubblica*, 23/7/2003.

<sup>762</sup> *Ibid.*

all of them, obtaining good grades.”<sup>763</sup> Among this new category of alumni with a special criminal past was one of the bosses responsible for the Capaci bombing, Antonio Galliano. By the time Aglieri graduated, Galliano had already passed two exams in the faculty of economics. Other *mafiosi*-students were Calogero Brusca (brother of Giovanni, the killer who exploded the bomb at Capaci), who committed himself to the study of literature; Antonino Tusa, nephew of the Caltanissetta boss Giuseppe Madonia, who enrolled in the faculty of agriculture; Giancarlo Giugno, from the Mafia Family of Niscemi, a small town in the province of Caltanissetta, who enrolled in the faculty of medicine; Carlo Marchese, from the Riesi Mafia Family, who chose law.<sup>764</sup> There were also some who could not enroll or did not do so well in the exams: for example Domenico Ganci, a *mafioso* from the Palermo Family of La Noce, blamed his hard prison regime for not being able to start university; or Santino Pullarà, who had to give up after repeatedly failing the exam of Theoretical Philosophy and had to make do with an accountant diploma. And there were also those who, not being able to enroll in university, went for a diploma, such as the former killers from the Graviano Mafia Family, Paolo Alfano, Pietro Salerno, and Nunzia Graviano, all responsible for the massacres of 1992 and 1993.<sup>765</sup> One wonders why did the *mafiosi* study, and in certain cases even study hard, during these years. An article published in 2003 by the newspaper *la Repubblica* tried to provide an answer: “Mafia experts say that these *mafiosi* are certain that, sooner or later, whether or not they are condemned to life in prison, they will all return free.”<sup>766</sup> However valid, this explanation may not be enough, as not enough could be that that they did so in order to try to outflank the hard prison regime. Perhaps, the bosses of this generation were sensing that, if they wanted to continue to have a successful career in crime, it was better for them to put aside the guns, forget Cosa Nostra, and join the other dimension of the Mafia, the *borghesia mafiosa*, the white-collar system of the Mafia.

Apart from education, this period also saw important changes in *mafioso* rules and codes of behavior as well as in the structure of the organization. These changes included an increased compartmentalization of the organization, a more cautious regulation of the internal streams of information, and the revision – and in some case even the repeal – of some of the most traditional rules (such as the “presentation ritual,” in which only a *mafioso* could introduce a *mafioso* to another *mafioso*), in order to ensure a safer internal circulation of information and stem the hemorrhage of informers that had put Cosa Nostra’s own existence

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<sup>763</sup> *Ibid.*

<sup>764</sup> *Ibid.*

<sup>765</sup> *Ibid.*

<sup>766</sup> *Ibid.*

at stake. Even the attitude towards Mafia turncoats changed drastically: the oblique acts of revenge which, in the 1980s and early 1990s, had led to the assassinations of a large number of relatives and even friends of *mafiosi* who decided to switch sides and testify against Cosa Nostra were replaced by an attempt at “their recovery and complete re-introduction into the criminal context.”<sup>767</sup> In this case too – and it is a quite important case, as turning State evidence has always been the most infamous offense in the eyes of the Mafia – violence was kept to a minimum. Cosa Nostra reduced the number of her affiliates and progressively separated them from those who were at the lowest level of the pyramid, i.e. the criminal “laborers.” The Commission, Cosa Nostra’s governing body, was replaced by a “directory” formed by the wisest and most expert bosses, the only ones who had the ability to handle such delicate phase of transition while awaiting better times to re-organize the *mandamenti* – the Mafia districts that grouped territorially contiguous families together and then elected the Commission bosses – and form a new Commission.<sup>768</sup> The old *capi-mandamenti*, the heads of each Mafia district had, in fact, last met in February 1993. These old bosses were replaced by special counselors who were for the most part experts in finance and in the norms regulating the assignment of public contracts. Cosa Nostra’s new structure, therefore, was no longer the pyramid it was at the time of Riina, but controlled by “a new Commission made up of white-collar *mafiosi* under the guidance of Provenzano and a select few who could enable Cosa Nostra to maintain her unitary structure.”<sup>769</sup>

The increased role of the *borghesia mafiosa* was thus the consequence of the historic conjecture of the mid-1990s and was meant to recreate the conditions for Cosa Nostra’s internal stability while coping with the repression of the law enforcement agencies. A DIA report released in 2000 detected this change in the profile of men of honor who “now increasingly seem to be becoming a group of businessmen destined to be more presentable as the replacement of old with new *mafiosi* progresses and who will leave the task of finding the resources for the ordinary activities of Cosa Nostra to the individual Families.”<sup>770</sup> Such a strategy of camouflage was favored by the “extraordinary financial resources” that the Mafia could still rely on also due to the fact that her “enormous” wealth “has not yet been seriously hit” by the law enforcement agents, as State repression had concentrated almost exclusively

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<sup>767</sup> *Ibid.*

<sup>768</sup> *Commissione parlamentare antimafia, relazione conclusiva, op. cit.*, pp. 44 and following. The report also detects that, in order to cope with its financial expansion, Cosa Nostra created a special compartment which was also in charge for its foreign (financial) relations (see *Il comparto estero di Cosa Nostra e la finanziarizzazione dell'economia mafiosa, Ibid.*, pp. 66-68).

<sup>769</sup> *la Repubblica*, 9/2/2004.

<sup>770</sup> *Ministero dell'Interno, Direzione Investigativa Antimafia, attività svolta e risultati conseguiti, 2° semestre 2000*, p. 10.

on “the soldiers and generals who have fired their guns or pushed the remote control to detonate the explosives, while the Mafia’s financial brains – the men with the skills to activate the enormous channels for money laundering, the various professionals who have hid, in Italy or abroad, Cosa Nostra’s dirty money – have not been hit in the same way.”<sup>771</sup> Police successes were thus accompanied by an increasing growth of those grey zones within which politicians, State officials and bureaucrats, men of business and finance interacted with *mafiosi*, established alliances, and did their businesses together: those shady areas where *mafioso* power takes shape which continued to be a threat to Italy’s democratic life and which were seen as the cause why the entire truth behind the previous Mafia violence campaign had not yet emerged.<sup>772</sup>

The history of our country has seen a democracy constantly wounded by the persistent attack of *mafioso* powers, which have never missed the opportunity to make their presence felt; our democratic life, in fact, besides an extraordinary growth of civil rights and forms of participation, has also experienced shady zones within which several hidden powers, among which the Mafia, have found a space; for example, still today, we do not have full knowledge of what happened in 1992-1993 and why the Mafia attacked targets that she had never considered before. (...) Politics and the Mafia cross in a fatal way, as they deal with the same territory, with the same people; consequently, when consensus is democratic participation, real politics prevails; but when consensus becomes a practice of business and money division, the Mafia prevails.<sup>773</sup>

In conclusion, the evolution of the Mafia that we have outlined in this section, and upon which we shall return to focus our attention in the next chapter, was the consequence of a process of adjustment to a new situation in which State repression of the Mafia was harsher and more effective than it had ever been in the past. Cosa Nostra was forced to shield herself and reduce her dimensions in order to guarantee a safer and more cautious approach between her higher and lower echelons, the latter now more than ever secluded from the rest of the organization. In this situation, the Mafia understood that she could almost exclusively rely on her white-collars, now called upon to operate at the forefront and make up for the limited role the military side was forced into. The reduction in size of Cosa Nostra was a deliberate and necessary choice that was counterbalanced by the expansion of the Mafia’s relational

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<sup>771</sup> *Commissione parlamentare antimafia, relazione conclusiva, op. cit.*, p. 46.

<sup>772</sup> For a theoretical framework of such “grey zone” see P. F. Asso, C. Trigilia, “Mafie ed economie locali, in Sciarrone (edited by), *Alleanze nell’ombra. Mafia ed economie locali in Sicilia e nel Mezzogiorno, op. cit.*, p. XXIII and following.

<sup>773</sup> *Commissione parlamentare antimafia, relazione conclusiva, op. cit.*, p. 111. The thesis of Italy as a country with limited democracy ideal for the development of the Mafia is sustained by U. Santino in his *Don Vito a Gomorra, op. cit.*, pp. 114-118.

dimension, more dangerous as more liquid and less tangible, strategically more refined, more pervasive of society, and capable of polluting the political and bureaucratic machine.<sup>774</sup> Thus, whereas on the one side serious blows were inflicted upon the *mafiosi*, on the other, with the new political course inaugurated in 1994 the *borghesia mafiosa* found the best conditions for a further development and for accumulating further quotas of power.<sup>775</sup> The *mafiosi* of the ‘military’ Cosa Nostra had to accept this defeat sensing that it was unavoidable and that it was their best option to put all their eggs on a development in an almost purely business dimension in order to cope with the changing times. The strategy of the Mafia, in short, was that of surrendering the trench to the assaulting enemy in order to find better shelter in a new one from which to prepare a counter-attack.

These considerations help explaining why, in the second half of the 1990s, the magistrates more committed to the fight against organized crime – so harshly attacked by that combination of political and media power that since its very inception characterized the Second Republic – claimed or hinted that the Mafia had not been defeated but had instead found in the new political course the most favorable conditions for a rebirth.<sup>776</sup> After the 1992-1993 bombing campaign, the criminal underworld of Cosa Nostra continued to be at the interface of a political, institutional, and entrepreneurial upper world with which it was meshing more and more and that had the considerable advantage that it could still rely on widespread impunity. The victory of the *borghesia mafiosa* that begins to build up from 1994 was, we could say, more shameless and manipulative than in the past, as corrupt politicians, while boasting of the successes of law enforcement agents against the *mafioso*, were indeed reproducing the most favorable conditions for a new development of the Mafia in which the *mafioso* white-collar system was to play a primary role. Berlusconi and Dell’Utri’s public statements describing the killer Vittorio Mangano as a “hero” offer perhaps the best evidence of this shameless new attitude with which a certain political power publicly addressed the Mafia. The oddity of politicians investigated for Mafia who boast of success against organized crime obtained by those officials – magistrates and police forces – whom they were constantly attacking, and by whom they were constantly attacked for making laws that undermined their work cannot go unnoticed. In this light, the “encouraging trend” in the fight against the Mafia with which those who deny the *trattativa* classify the phase that inaugurated in 1994 seems to

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<sup>774</sup> Among the authors who talked about a fall of the Sicilian Mafia between the end of the XX century and the beginning of the XXI see A.G.D. Maran, *Mafia. Inside the Dark Heart*, Mainstream Publishing, Edinburgh-London, 2009.

<sup>775</sup> *Il Corriere della Sera*, 14/12/2000.

<sup>776</sup> Such an interpretation can be found in G. C. Caselli in *Le due guerre*, *op. cit.*, and in R. Scarpinato in his letter to Paolo Borsellino “Caro Paolo, hanno paura perché la verità è vicina,” in *Micromega*, 26/7/2012).

be unacceptable as incapable to expand vision beyond the sole criminal organization.

If there could be any objection to this conclusion it is perhaps the fact that this guiding role of the relational dimension of the Mafia is nothing new. In fact, in their 1876 inquiry on the Mafia, MPs Franchetti and Sonnino had already detected one such aspect. In particular, Franchetti understood how important were “the relationships between professional malefactors and wealthy and well-to-do classes” and that the force which had permitted what he called “the violence industry” to reach such a condition of power was “the dominant class.”<sup>777</sup> However, the documents produced by the DIA and the Parliamentary Antimafia Commission in the second half of the 1990s, which as we shall see are supported also by other evidence, show that this *mafioso* “dominant class,” in correspondence with the beginning of the Second Republic, took practically full control of all Mafia operations as it had never happened before, relegating the old bosses to a secondary role, and in many cases even replacing them in their role as ‘bosses’ leading the Mafia to a new, more liquid and less detectable dimension. The new *mafioso* that emerged from the mid-1990s was rather a type already in existence who, in a sort of Mafia Darwinism, wiped the old one away. The emerging boss was almost exclusively oriented towards a business criminal dimension, and it was only for this reason that he appeared more “presentable” than his predecessor. It was he who – as admitted by the National Antimafia Chief Prosecutor, Pietro Grasso, in 2005 – “in practically any profession” acted as “the interface between Cosa Nostra and the legal world” and constituted “the *other* side of the Mafia, which is still a whole” and which remained substantially unpunished throughout the repression begun in 1994 and continued at least over the next two decades, taking shape as a “collective intelligence” that “makes decisions in the dark, in silence.”<sup>778</sup>

In order to account for this change of the Mafia boss profile we can mention the cases of Michele Aiello, a Mafia manager operating in the healthcare field who was arrested in 2003 and from whom €800 million was confiscated; or that of Giuseppe Guttadauro, a surgeon who became the head of the Brancaccio Mafia district, one of the most important of Cosa Nostra in Palermo; or Giovanni Battista Giacalone, a retail distribution manager who, according to a sentence released by the Palermo Tribunal, had become the *co-reggente* (the boss in charge of controlling a crime family in case its previous boss is arrested) of the San Lorenzo Family and was in charge of public contracts and the extortion racket not only in the area under the control of his Family but also in the district controlled by another boss, Tommaso Natale;

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<sup>777</sup> Franchetti L., *Condizioni politiche e amministrative della Sicilia, op. cit.*, p. 94.

<sup>778</sup> P. Grasso, “Vinceremo quando esisterà un’alternativa,” in *Limes*, n. 2, p. 59.

quite interesting is also the profile of Giuseppe Liga, an architect, businessman, and politician,<sup>779</sup> who was condemned to 20 years in prison for being the head of San Lorenzo, one of the most important Mafia districts that was previously controlled by boss Salvatore Lo Piccolo, indicated by the judiciary sources as one of the main bosses of Cosa Nostra after the arrest of Provenzano (Lo Piccolo was arrested in 2007). Further evidence also comes from the investigations and trials conducted during the same period at Trapani and its province, on Sicily's western coast, where Mafia penetration was historically high. Less affected by State repression compared to the Palermo Cosa Nostra and the one with the highest power syndicate in Sicily as demonstrated by the minimum degree of violence and the exiguous number of turncoats – the power syndicate being the Mafia's capacity to control a territory and impose her rules – at Trapani too was the Mafia progressively switching under the guidance of professionals, politicians, and businessmen, many of whom were also Freemasons and in proximity to the secret services and other state apparatus, such as Francesco Pace and Nino Birrittella, bosses and entrepreneurs who controlled the entire system of public construction contracts, or Vincenzo Laudicina, a member of the City Council of Marsala – the city on Sicily's western coast famous for Garibaldi's landing during his 1860 expedition that led to the national unification of Italy – who according to the Palermo Tribunal was “the undisputed protagonist of administrative politics in the city of Marsala” and the one in charge of managing practically all public contracts on behalf of the Trapani Mafia.<sup>780</sup> One final case that should be mentioned now and upon which we will linger in the next chapter is that of Sebastiano Scuto, a businessman from the city of Catania in the eastern side of Sicily who became known throughout the island as the “king of supermarkets” and who in 2013 was found guilty of collusion with the Mafia: according to the verdict that condemned him, he had a guiding role in the criminal context in which he operated and could make decisions independently from the clans to which he had entrusted his “protection.”<sup>781</sup>

In short, the Mafia that emerges from the investigations and police operations made since 1994 is a network of relations in which form, structure, and persistence vary from case to case. Although the grey zone that took command of operations had different modulations depending on time, place, and contractual force of each actor,<sup>782</sup> the case studies to which we have just alluded and that will be analyzed in greater depth in the following chapter offer

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<sup>779</sup> Liga also served as president of the *Movimento Cristiano dei Lavoratori Siciliano*.

<sup>780</sup> See R. Sciarrone (edited by), *Alleanze nell'ombra*, op. cit., pp. 175-176.

<sup>781</sup> *la Repubblica*, 15/5/2013. An analysis of the Scuto case can be found in R. Sciarrone (edited by), *Alleanze nell'ombra*, op. cit., pp. 223-304.

<sup>782</sup> For such conclusions see R. Sciarrone (edited by), *Alleanze nell'ombra*, op. cit.

evidence of an evolution of the Mafia towards what we could call a “new middle class” of men of honor: professionals ready to take full control of all operations, even those which were previously the task of ‘military’ bosses. In the same way, the trial verdicts of the years marking the transition between the two millennia seem to validate the conclusions reached by the DIA investigators, neatly summarized in the statement by the antimafia prosecutor Antonio Ingroia that between the two centuries those in command of Cosa Nostra were “subjects who were once simply the bosses’ financial consultants and who have now replaced them in the guidance of the clans.”<sup>783</sup> This metamorphosis, this further progressive liquefaction of the Mafia into her network of relationships is a crucial point in our analysis, because it counterbalances considerably the success of law enforcement agents against Cosa Nostra. In this perspective, the trench that the Italian State, after so many unsuccessful assaults, had finally managed to conquer was one left with no or few soldiers, one of no, or consistently less, strategic value.

### **5.3 Mafia and politics without Berlusconi in power**

The pattern outlined so far in this chapter did not change with the shift in power: the attacks by Berlusconi and his peers against the judiciary continued, and, most importantly, even the government’s antimafia action progressively continued to lose momentum, as both laws and law proposals met, in substance, Cosa Nostra’s diktats listed in Riina’s *papello*.

On November 22, 1994, while presiding over the G8 international summit on transnational crime, Berlusconi was notified that he was indicted for having allegedly paid kickbacks to the financial police on behalf of his company, Fininvest. The warrant led to a government crisis, as the Northern League withdrew its support from the government coalition. Without a majority in parliament, Berlusconi was forced to resign as prime minister and put his mandate into the hands of the president of the Republic, who called for a ‘technical’ government, the second in Italian republican history. Its leadership was entrusted to Lamberto Dini, a former economist and general director of the Bank of Italy, whose political views were mostly conservative. Supported by a majority formed by an alliance between left-wing and center parties, the Dini government was granted the task of transitioning the country towards anticipated new elections, which were fixed for the

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<sup>783</sup> *Il Corriere della Sera*, 22/3/2010.

beginning of 1996. On March 21, 1996 these brought Berlusconi's rivals to power, and in the crucial moment of the eve of the transition to a European monetary union, the head of the government became the former economist and university professor Romano Prodi.<sup>784</sup>

### 5.3.1 “Prodi is just as Berlusconi”

The judiciary policies on both organized crime and corruption did not see any substantial change when Dini's transitional government was in power. In August 1995, with the support of all parties except the Northern League, the government made preventive detection more difficult for all corruption-related crimes, abolished the obligation for a prosecutor to issue an arrest order for Mafia, shortened preventive detection, and modified the 371-*bis* article of the penal code by annulling the *flagrante delicto* arrest of a witnesses who released a false testimony. The consequences of such decisions for the fight against the Mafia, in particular the shortening of the preventive detection, soon became apparent. On January 16, 1996, during a hearing before the CSM (the governing body of the Italian judiciary), the National Antimafia Chief Prosecutor, Bruno Siclari, denounced that, “between April and June, 400 defendants awaiting to be tried for Mafia were to be released from prison, the figure being expected to grow in the subsequent months.”<sup>785</sup> The situation was, of course, more serious in southern Italian prosecution offices, where most Mafia trials were to take place and where prosecutors were already in a state of alert due to the risk that most trials would be held with no defendant behind bars. In Caltanissetta, for instance, the prosecution office could not even fix the hearing dates for the trials of the 1992 bombings nor that for the killing of Antonino Sietta – a judge murdered by Cosa Nostra for having condemned major bosses to life in prison – as many of the accused were defendants in dozens of trials and, as such, had now the right to attend all the hearings.<sup>786</sup>

The moving of tons of defendants and entire courts was not the only problem that Siclari

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<sup>784</sup> Concerning a historiography on these subjects see D.M. Smith, *op. cit.*, Ginsborg, *Italy and Its Discontents 1980-2001, op. cit.*, and M. Clark, *Modern Italy. 1871 to the Present*, Pearson Longman, Harlow, 2008; worth of mentioning are also the essay by A. Mammone, G. A. Veltri, *Italy Today, The Sick Man of Europe*, Routledge, London-New York, 2010, which focuses in particular on the ‘Ndrangheta). However, none of these as well as other books considers the relationship between the Mafia and politics. The only books that cover this subject are N. Tranfaglia, *Mafia, politica, affari, 1943-2008, op. cit.*; *Perché la mafia ha vinto, op. cit.*, and N. Dalla Chiesa. *La convergenza. Mafia e politica nella Seconda Repubblica, op. cit.*

<sup>785</sup> *la Repubblica*, 17/1/1996.

<sup>786</sup> *Ibid.*

highlighted. There was also that of the lack of judges, in particular the GIP (the order of judges in charge of the correct procedure and the legality of preliminary investigations), and the never-ending strikes of the lawyer, which were causing a massive backlog especially in southern Italian cities. The worst situation was at Reggio Calabria, in the southern Italian region of Calabria. Here, one of the antimafia prosecutors, Salvatore Boemi, warned that “over the next semester some hundred affiliates to the ’Ndrangheta, who are defendants in four trials still in the first trial, may be released from prison.”<sup>787</sup> In the turn of just a few weeks the situation got worse. At the end of April, as the antimafia prosecutors met to brainstorm possible solutions to the problems deriving from the shortening of preventive detention, a verdict issued by the Constitutional court sanctioned the incompatibility between the magistrate of the *Tribunale della Libertà*, the court in charge of judging on measures restricting individual liberties, and the magistrate of the court in charge of the judgment: in just five days, in all of Italy hundreds of trials had to be skipped, “from Genoa to Lecce, from Milan to Palermo, Perugia, Bari, up to Caltanissetta and Gela: trials often important, many in which defendants are accused of Mafia and other serious charges connected to organized crime.”<sup>788</sup>

Let us now examine what happened with the coming to power of the center-left coalition in the spring of 1996. The precariousness of this coalition is accounted for, in the first instance, by the fact that in the five years of the legislature the parliamentary majority gave birth to four governments, which alternated in power from 1996 to 2001. Such precariousness also impacted the government response to the Mafia. As an MP from that parliamentary majority wrote who also served as a member of the Antimafia Parliamentary Commission, the coalition of parties supporting the government was “unable to offer a solid framework in support of the magistrature, the police forces, and a civil society wounded by Mafia massacres.”<sup>789</sup>

At the beginning of the legislature, the parliament established a commission to study corruption and propose solutions to limit it. Its aim was moralizing the political life: evidently, the Clean Hands investigations had not gone so far as to solve the problem of public morals. Presided over by an MP from Rifondazione Comunista, Giovanni Meloni, the commission did not see the participation of any high-profile congressmen. Its work remained constantly under attack by all political parties, and the ten proposals that it made were almost all rejected by

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<sup>787</sup> *Ibid.*

<sup>788</sup> *la Repubblica*, 1/5/1996. The proposals of the magistrates concerned for the most part the organizations of trials and insisted upon the use of videoconferencing to interrogate the defendants.

<sup>789</sup> See N. Dalla Chiesa, *La convergenza*, *op. cit.*, p. 115.

parliament: a clear indication that the moralization of political life was not warmly welcomed, in the very first instance, by those same political forces which that had established commission perhaps only to better present themselves to public opinion. The parties in power, which formed the coalition called Ulivo (literally, “olive tree,” paradoxically a name chosen as symbol of strength and resistance), were no exception: the center-left, in fact, could rely on a large majority in the parliament which would have allowed it to convert the commission’s proposals into laws.<sup>790</sup>

On the side of the opposition, not even Berlusconi’s fall from power stopped him and his associates from attacking the judiciary. At the end of the summer of 1996, Giuseppe De Rita, the president of CNEL, the National Committee of Economics and Work, accused the parties in power of “having staged a plot with the police, the magistrature and the secret services, with objectives of pure power and threatening the rule of law.”<sup>791</sup> De Rita’s accusations arrived like a thunderbolt, and while being judged “exemplary” by the former president of the Republic and now senator for life Francesco Cossiga, it left the magistrates “surprised, bitter, and outraged.”<sup>792</sup> The case, which worsened the relations between political power and the judiciary, tied in with the habit of Italian politicians and officials of decrying a conspiracy. The accusation of plotting came at a point when the Palermo magistrates had just demanded, en masse, to be moved to another city: despite all their denunciations about the conditions in which they were forced to work their situation had remained the same as in 1992. In Sicily, as in most of southern Italian regions, the conditions in which these magistrates were forced to work were worse due to the Mafia, as described by one of them, Salvatore Centaro, the president of the Court of Gela, a city on the southern coast of Sicily where Mafia penetration in that period was on the rise:

I want to move away from Gela; I want to go back to a normal life, as a man, a father, a magistrate (...) What is the State demanding to me? That I take care of justice, and that’s what I want to do... but I also want to go back to life, I want to start breathing again... In one of my previous outbursts I said that I would love to live as my colleagues in northern Italy do... by which I mean go to the movies, to the theater... I would like to explain this more in detail... it would be enough to be able to go to a bar with one of the lawyers just for a coffee or a chat (...) I’ve been here for five years now, and I’ve never had coffee with a lawyer. My life, our life here as

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<sup>790</sup> *Repubblica Italiana, Atti XIII legislatura, p. 3592, seduta del 26/9/1996 Istituzione di una Commissione speciale, ai sensi dell’articolo 22, comma 2, del regolamento, per l’esame dei progetti di legge recanti misure per la prevenzione e la repressione dei fenomeni di corruzione.* Concerning the history Anticorruption Commission see N. Dalla Chiesa, *La convergenza, op. cit.*, pp. 126-127.

<sup>791</sup> *la Repubblica*, 14/9/1996.

<sup>792</sup> *Ibid.*

magistrates, is just a prison. (...) In the government, I have always found a wall of silence; I have always had the feeling that our requests for help annoyed them (...) For five years we have all worked really hard, with great enthusiasm, but now none of us can take this anymore. We are in the throes of more than 30 Mafia trials... and we are just three judges; it is a burden of work that in other offices is carried out, and full time, by five or six magisterial sections. I myself have been, in a quite delicate trial, both the judge and the GUP [the judge for the preliminary hearing, in charge of ruling upon the request of a prosecutor to prosecute an accused]. The only judge older than me has served for just three years. The Tribunal of Gela has even less employees than that of Pinerolo [a small northern Italian city]... I have written dozens of letters to the CSM and the Ministry of Justice; there have been two inspections, the inspectors verified that everything we wrote was true, but nothing has happened, nothing... they treat us like any bureaucratic practice, those in the government think like accountants: the organic plan contemplates such a number of offices here, another number there, and so on... nobody has ever acknowledged our commitment, our sacrifice; it is as if we did not exist. It is true that the *mafiosi* no longer kill as they did before, but, in 1995 alone, there were more than 200 dynamite attacks, almost one per night, a store or a shed damaged every night... I, too, was threatened, they have ‘warned’ me many times, witnesses have revealed of a plan to kill me... and the same, if not worse, has happened to my younger colleagues who, as soon as they set foot here, were welcomed with car fires, threats, and so on. We all live armored, night and day. Initially, I thought that it was possible to bring some legality to this “Far West,” but unfortunately, I had to change my mind. How can we demand that our citizens avoid the *omertà*, and collaborate with justice, if we do not give them justice? Trials last forever, and the situation will always get worse; nobody wants to come to work here.<sup>793</sup>

The interview dates back to 1996. However, the magistrates’ frustration towards the government continued uninterrupted throughout the entire legislation. In May 1997, on occasion of a public meeting promoted by the journals *Società Civile* and *Micromega* that took place in Milan, a number of prosecutors accused the Prodi government of making “irreversible decisions” regarding the limitation of the magistrature’s autonomy that “not even Craxi had dared to go so far,” for which reason they wanted to publicize their “NO to the counter-reform of justice.”<sup>794</sup> These magistrates claimed that such unease was heightened by the inefficiency with which the law was forcing the judiciary action. For example, by the beginning of that year, due to bureaucratic quibbles, only 0.5% of Mafia turnover, estimated to be 500,000 billion liras in the 15 years between 1982 and 1997, had passed under the control of the government: just 248 billion, compared to the almost 6000 billion of assets that were confiscated to criminal organizations.<sup>795</sup> Prosecutors constantly resumed their criticism of the loosened grip on antimafia action, which they were forced to conduct with judiciary tools that were “too weak” and under the “frenetic, rude, interested, and shameless” attacks by

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<sup>793</sup> *la Repubblica*, 7/1/1996.

<sup>794</sup> *la Repubblica*, 16/5/1997.

<sup>795</sup> *la Repubblica*, 17/2/1997.

politicians whom they held responsible for all the problems afflicting the judiciary and who had gone so far as to call them “red robes, assassins, *mafiosi*, plotting magistrates” and all manner of names, and who seemed “annoyed” anytime someone “talked about the Mafia.”<sup>796</sup>

From 1998 onwards, these tensions grew stronger. As prosecutors remained the target of Mafia violence and intimidation (arson attempts were made and murders plotted, including that of Palermo Chief Prosecutor Caselli), the verbal violence of quite a number of politicians was now being directed even against the judges, and the counter-accusations were now not just against Berlusconi but also against Prodi.<sup>797</sup> On June 30, 1998, after repeatedly and publicly criticizing the government for the lack of care in the management of Mafia witnesses “by now totally abandoned to themselves,” for the dismantling of investigative bodies and the insufficiencies in the number of judges now “bordering on the ridiculous,” the Head of the Reggio Calabria Antimafia Prosecution Office, Salvo Boemi, in justifying his resignation as a protest against the government’s inefficiency or ineptitude, leveled an accusation that could not say more: “Prodi is just like Berlusconi.”<sup>798</sup> One year later, the National Antimafia Chief Prosecutor, Pier Luigi Vigna – he, too, right before announcing his resignation in opposition to a government which he considered guilty of impeding real and effective combating organized crime – lamented that in the southern Italian regions “the State is losing control of the territory.”<sup>799</sup> These denouncements and protests came at a moment when criminals were being aided by the continuous replacement of investigators and by the frequent prison releases, a situation that was described by Boemi as “a shame” and “a gift to the Mafia.”<sup>800</sup>

The loosening of the grip on antimafia action, intended by the magistrates committed the most to their cause primarily as the lack of a real political will to fight against organized crime, was already evident at the beginning of 1996 when, in the eastern Sicilian city of Catania, a summit on the state of the fight against the Mafia took place in an “almost desert room,” having been boycotted by the prefect, the archbishop, the head of the police, and the president of the Province, who were all invited. In the same period, and in the same city, a candlelight vigil to protest against Cosa Nostra had taken place in a “desert room.”<sup>801</sup> The only meager consolation for these antimafia prosecutors laid in sharing their frustrations with the DIA investigators, whose morale was summed up by a 30-year-old agent from the Palermo office in an interview given to the newspaper *la Repubblica* right after he had been threatened,

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<sup>796</sup> *la Repubblica*, 11/3/1998, 26/4/1998, 13/1/1998, 7/7/1998, 6/3/1998, 11/4/1998, 19/5/1998, 12/1/1999.

<sup>797</sup> *la Repubblica*, 21/4/1998, 8/11/1998, 27/7/1996.

<sup>798</sup> *la Repubblica*, 1/7/1998.

<sup>799</sup> *la Repubblica*, 4/1/1999, 9/1/1999 e 13/11/1999.

<sup>800</sup> *Ibid.*

<sup>801</sup> *la Repubblica*, 14/1/1996 and 1/9/1996.

together with some colleagues of his, to be moved to another destination for having staged a mini-parade in front of the police headquarters to celebrate the blitz that led to the arrest of a Mafia boss of the caliber of Giovanni Brusca:

You've got to be kidding, instead of expecting praise I should expect to be moved? (...) When the partisans captured Mussolini, they showed him hung in a square, head down, together with Claretta Petacci [Mussolini's mistress, killed with him as the Second World War ended in Italy in late April 1945]. And nobody dared to say anything, because it was a war. Well, ours is also a war, and when you win a battle you've got to celebrate. Yes, maybe this is not normal, but Palermo is not a normal city, because here there is the Mafia. Those who watch this war comfortably seated on a couch, when the only dead they have ever seen are the victims of terrorism, should well remember this.<sup>802</sup>

The threats to this policeman came from his superiors and not from the Mafia, and it was because he was in fear of his superiors that he gave the interview under conditions of anonymity.<sup>803</sup>

The last Mafia-related fact involving the Prodi government before it was replaced by another government sustained by the same parliamentary majority but under the presidency of Left Democrat Massimo D'Alema was that of Pasquale Cuntrera. One of the most wanted criminals in the world, Cuntrera was known as "the king of drugs" for being one of the most powerful and dangerous international drug traffickers in the world. Born and raised in the southern Sicilian city of Agrigento, Cuntrera was freed from prison in April 1998 after a Supreme court sentence established the illegitimacy of an extension to his preventive detention due to a delay in fixing the date of the trial. On May 6, 1998, while being tailed, Cuntrera found a way to escape. The press did not hesitate to jump on another "scandal," made even more serious by the fact that the news of Cuntrera's escape was released only several days after he had evaded and, most importantly, by the irony that he had been able to escape despite being confined to a wheelchair.<sup>804</sup> The Minister of Justice, Giovanni Maria Flick, had no other option except publicly announce his resignation for his "political responsibility" in the case. Yet, the Head of the Government Romano Prodi rejected his offer of resignation. Prodi, evidently, did not consider what the parliamentary opposition labeled as a "skit" a fact serious enough to lead the minister to leave his office.<sup>805</sup> The case also re-ignited the debate on the so-called *garantismo*, the commitment to the defense of civil rights.

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<sup>802</sup> *la Repubblica*, 23/5/1996.

<sup>803</sup> *Ibid.*

<sup>804</sup> *la Repubblica*, 19/5/1998 and 20/5/1998.

<sup>805</sup> *Ibid.*

Caselli's position in this debate is interesting to note, saying how it was "absurd and incomprehensible to free a dangerous criminal such as Cuntrera only a few days before pronouncing his definitive sentence of more than 20 years in prison: in this way, *garantismo* is merely a joke, but since we are dealing with the Mafia, there is nothing to joke about."<sup>806</sup> According to the magistrates committed to fighting against organized crime, this approach to *garantismo* was, or could be, another way of helping the Mafia.

### **5.3.2 "A system which may break, in every unpredictable moment, the pact of silence"**

Whereas the Parliamentary Anti-corruption Commission was not warmly welcomed even by the same parliament that had established it, another commission, known as the Bicameral, instead received the greatest attention from all parties and the media. Born at the behest of the leaders of the two coalitions, Massimo D'Alema<sup>807</sup> and Silvio Berlusconi, the latter now elevated to the rank of father constituent while under investigation for a number of crimes and the defendant in a number of corruption trials (in 1998, Berlusconi was indicted by three prosecution offices for a total of nine charges), the Bicameral Commission was given the task of reforming the constitution in its parts relative to the form of State, the form of government, bicameralism, and the norms regulating the constitutional guarantees.

Ever since the commission was instituted, Berlusconi pushed for the judiciary to be included among the subjects to reform. In charge of preparing the judiciary reform proposal was an MP from the majority of the center-left, Marco Boato, who prepared seven reform drafts, all of which presented the measures pushed for by the anti-magistrates front, such as the separation of careers between judges and prosecutors, a reform of the CSM (the judiciary governing council), and other reforms introducing possible disciplinary action against judges.<sup>808</sup> If passed, these reforms would have enabled authoritarian control: in fact, as the final draft was submitted for vote to the parliament, the former head of P2, Licio Gelli, sarcastically claimed the copyright, as the proposals coincided with his 'Plan for Democratic

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<sup>806</sup> *la Repubblica*, 23/5/1998.

<sup>807</sup> Although he was not yet Prime Minister when the commission was formed, D'Alema could be still considered the leader of the parliamentary majority.

<sup>808</sup> *Atti Parlamento italiano, Commissione bicamerale per le riforme costituzionali, legge 24 gennaio 1997 n.1.* An account of these facts can be found in N. Dalla Chiesa, *La convergenza, op. cit.*, pp. 127-130; P. Ginsborg, *Italy and Its Discontents, op. cit.*; M. Clark, *Modern Italy. 1871 to the Present, op. cit.*, pp. 516 and following.

Rebirth’ on practically every point.<sup>809</sup> Among the various criticisms of the reform proposals made by the magistrates it is worth mentioning that of Palermo Attorney General, Vincenzo Rovello, as such criticism addresses the theme of the possible consequences of the new norms in the fight against organized crime and perfectly accounts for how the magistrates felt about the possible new measures. In his speech given at the inauguration of the 1998 Judiciary Year,<sup>810</sup> while commenting on the events of the previous year, Rovello pointed out that the separation of the careers between judges and prosecutors and “the recent constitutional reform proposals, which would lead to a division of CSM, are against the independence of the magistrates.”<sup>811</sup> He then highlighted how these proposals would affect negatively the hard prison regime and warned of the dangers deriving from potential fake witnesses and from a further slowing down of the trials.<sup>812</sup>

Among the magistrates considering the reforms proposed by the Bicameral Commission “a disaster for the judiciary” was also one of the protagonists of the Clean Hands seasons, the Milan prosecutor Gherardo Colombo.<sup>813</sup> In an interview released to Italy’s most-read newspaper, *Il Corriere della Sera*, Colombo denounced the risks of a judiciary in submission to the government saying, “It displeases, worries, and disturbs a system which may break, in every unpredictable moment, the pact of silence, that has that type of complicity which blackmail bears with it and from which it derives the will of reducing the independence of the magistrature: a less independent, or even totally dependent magistrature would, in fact, no longer be able to carry out its function of guaranteeing control over legality.”<sup>814</sup> Colombo’s interview provoked a fiery reaction by several politicians, and it is quite significant that the harshest attacks, “characterized by the most classic totalitarian jargon”<sup>815</sup> (Colombo was described as “the victim of raving and delirium,” “paranoic,” “subversive,” and a “psychiatric case”), did not come from Berlusconi or those close to Berlusconi but from MPs of the opposing coalition close to Massimo D’Alema. The most significant passage in the interview, one that should be highlighted, is that in which Colombo speaks of a “pact of silence” (could this be a reference to Riina’s *papello*?) and of the “type of complicity which blackmail bears

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<sup>809</sup> *la Repubblica*, 18/5/1997. Before releasing the interview, Colombo had already presented his views in his *Il vizio della memoria*, Feltrinelli, Milan, 1996.

<sup>810</sup> In the Italian judiciary order, the *Anno Giudiziario* is the time period, corresponding to the calendar year, in which the judiciary activity takes place.

<sup>811</sup> *la Repubblica*, 13/1/1998.

<sup>812</sup> *Ibid.*

<sup>813</sup> *Il Corriere della Sera*, 22/2/1998.

<sup>814</sup> *Ibid.*

<sup>815</sup> See N. Dalla Chiesa, *La convergenza*, *op. cit.*, pp. 129-130. See also *Il Corriere della Sera*, 23/2/1998, 23/2/1998, 23/2/1998, 23/2/1998.

with it” (could this be the *trattativa* between State and Mafia?). Colombo was the magistrate who in 1981, while investigating Mafia banker Michele Sindona, discovered the existence of Gelli’s P2. Eventually, the Bicameral Commission terminated with Berlusconi’s speech to the parliament on May 27, 1998, probably because Berlusconi no longer considered it useful to solving his judiciary problems.<sup>816</sup>

At the end of 1997, the Minister of Justice, Giuseppe Maria Flick, made the decision to close down the top security prisons on the islands of Pianosa and Asinara, those where the application of the hard prison regime (the 41-*bis*) was harshest: the two islands were transformed into popular tourist destinations. In addition to this step, which met one of the principal requests of Riina’s *papello*, less severe applications of the hard prison regime were enacted with the justification of being in accordance with a sentence recently issued by the Constitutional court that raised doubts on the differential treatment of prison inmates.<sup>817</sup> Not only could *mafiosi* in prison now resume communication with each other but also with the external world, as they were even allowed to make phone calls. Although still in vigor, the hard prison regime, which was one of the reasons why Falcone and Borsellino were killed, was by now lessened to the point of barely being useful anymore, as it no longer satisfied the original reasons for which it had been introduced, namely preventing *mafiosi* from exchanging information while in prison.<sup>818</sup>

Still in 1997, and still under the D’Alema government, a reform of the 513 article of the Code of Criminal Procedure was passed.<sup>819</sup> The new article established the principle in which statements previously made before a prosecutor had to be repeated in court by defendants in separate trials. The law draft presented to parliament also established that defendants would be told immediately when investigations were begun on them, reduced the number of crimes for which preventive detention was possible, and ruled that a judge, in formulating his verdict, could not use previous sentences (that which in common law is called the doctrine of precedent). The consequence of this last point, as far as Mafia trials were concerned, was that the existence of Cosa Nostra, which had been sanctioned by the final verdict of the Maxi Trial

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<sup>816</sup> *la Repubblica*, 10/6/1998.

<sup>817</sup> Concerning such aspects see *Il regime di “carcere duro” ex art. 41-bis comma 2 o.p.: analisi degli aspetti giuridici e applicabili*, in *L’altro diritto. Centro di documentazione su carcere devianza e marginalità, L’art. 41-bis l. 354/75 come strumento di lotta contro la mafia*, in <http://www.altrodiritto.unifi.it/ricerche/misure/fontanel/cap3.htm> (accessed July 2017).

<sup>818</sup> And this regardless of the fact that it was the parliament itself to acknowledge the importance of the harsh prison regime for the fight against the Mafia, see *XIII Legislatura, Commissione parlamentare antimafia, Doc. XXIII, n. 57, op. cit.*, p. 41. A well-documented account on how the harsh prison regime was loosened can be found in L. Abbate, P. Gomez, *Addio 41-bis, addio...*, in L. Abbate, P. Gomez, *I complici, op. cit.*, pp. 266-268; see also N. Dalla Chiesa, *La convergenza*, *op. cit.*, p. 120; and U. Santino, *Don Vito a Gomorra, op. cit.*, p. 78.

<sup>819</sup> *Legge 16 luglio 1997, n. 234*. See also *Il Corriere della Sera*, 18/7/1997.

in 1992, would have to be demonstrated each time from scratch, with the consequence that those witnesses who dared to come before a court and make statements against a *mafioso* would become the easy target of Mafia's threats and retaliation, which would make it much easier for *mafiosi* to cancel the evidence against them. The help given to the Mafia was so evident that Caselli, in an editorial that appeared in the newspaper *la Repubblica*, wrote that "the parliament has repealed the Mafia by law:"

I (*mafioso*) know that there is proof against me that has been gathered by the prosecutor through the revelations of Mr. X. But I (*mafioso*) also know that, based on the new 513 article, if Mr. X invokes his right to decline to answer the question, the accusations against me will be cleared entirely. Therefore, it is evident that, inasmuch *mafioso*, I have the obligation to do everything I can (using all my Mafia resources) to induce Mr. X not to answer. This, inasmuch *mafioso*, is part of my DNA, otherwise I should change my job, the Mafia would not be for me. Thus, a 513 article that does not contemplate a defense against the criminal bullying of the Mafia could only be justified if the Mafia did not exist. In short, the new 513 article risks having criminogenic effects.<sup>820</sup>

In the same way as Caselli, other magistrates felt the need to warn of the effects of the new measure. A Turin prosecutor by the name of Marcello Maddalena said, "It is unavoidable to doubt that the new article has been introduced, beyond any possible good intention, not to prevent the condemnation of a few innocents but to impede that of those who are obvious culprits."<sup>821</sup> Moreover, the new 513 article would have had the paradoxical effect that a witness testimony could become the object of a negotiation, thus giving rise to "perverse and unimaginable situations" as the "witness, for example, may use his statements as a form of blackmail by saying, 'Either you give me this and that, or in the trial I will invoke my right to decline to answer';" or, "in cases in which he has obtained what he wanted and decides to answer all questions at the trial hearings, he will be inclined to please those upon whom his protection and assistance depend, even when some of his statements should be rectified."<sup>822</sup> Maddalena's conclusion was quite bitter: "It is as if the objective of these regulations were that of inducing silence and not make people speak."<sup>823</sup>

Even more embittered, if ever possible, were the comments by the Palermo antimafia prosecutors, those most directly affected by the new norms if they were passed. One of them, Antonio Ingroia, warned that the Mafia bosses responsible for the 1992-1993 bombings "may

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<sup>820</sup> *la Repubblica*, 24/7/1997.

<sup>821</sup> *la Repubblica*, 31/7/1997.

<sup>822</sup> *Ibid.*

<sup>823</sup> *Ibid.*

soon return to stroll the streets of Palermo.”<sup>824</sup> In a similar way, Guido Lo Forte made the accusation that “after the hard prison regime has been disempowered and after the closure of the prisons of the islands of Asinara and Pianosa, beyond any consideration or possible intention, it seems that the requests and expectations of the Mafia are gradually being satisfied (...): due to a series of oversights and coincidences, what Riina wanted is now coming true.”<sup>825</sup> Thus, according to antimafia prosecutors the center-left government was making decisions that met Cosa Nostra’s requests. How favorable were these decisions to the Mafia was confirmed by the data on how many trials involving *mafioso* would have been skipped if the reform of article 513 was approved. Such figures were released by the minister of Justice (thus, not a biased source, but the government itself) on May 28, 1997: a total of 916 trials, of which 266 were at risk of overstepping the time period before the statute of limitations could be out into effect and 180 at risk of being left without detainees. Eventually, the new 513 article of the penal code, after being approved by parliament, was rejected by the Constitutional court as “unconstitutional.” However, what goes down in history is another attempt to pass a law that was clearly favorable to the Mafia, and even one unconstitutional.

The parliament, however, did not give up and got around the obstacle by modifying the 111 article of the constitution regulating the procedure of trials. The new 111, which came to be labeled, perhaps ironically, *Just Trial*, provided that a criminal trial should be based on the cross-examination between the accused and the defense, in conditions of equality and before a third and impartial judge, and that from the cross-examination between the parties – to which the new article attributed the same weight, since the prosecutor was no longer the bearer of general interest but simply one of the parties in the trial – the evidence should emerge. The *Just Trial* was passed by the D’Alema government with the support of the parliamentary opposition led by Berlusconi.<sup>826</sup> The effects of the new measure on all trials, including Mafia trials, became soon evident. The first important trial to be prorogated due to the application of the new 111 was that held for kickbacks paid for the assignment of works to rebuild the Nuovo Teatro Piccolo theater in Milan. After a seven-year investigation, the first hearing was scheduled for December 10, 1999. It happened, however, to coincide with the launch of the constitutional reform, and thus, upon the request of the defending lawyers and in spite of the

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<sup>824</sup> *la Repubblica*, 27/2/1998.

<sup>825</sup> *Ibid.*

<sup>826</sup> See also U. Santino, *Don Vito a Gomorra*, *op. cit.*, pp. 77-78, and N. Dalla Chiesa, *La convergenza*, *op. cit.*, pp. 120-121. For a bibliography on such subjects see G. Barbacetto, P. Gomez, M. Travaglio, *Mani pulite. La vera storia. Da Mario Chiesa a Silvio Berlusconi*, Editori Riuniti, Rome, 2002, pp. 487-488, 580-598; S. Lodato, M. Travaglio, *Intoccabili. Perché la mafia è al potere. Dai processi Andreotti, Dell’Utri & C. alla normalizzazione. Le verità occultate sui complici di Cosa Nostra nella politica e nello Stato*, BUR, Rizzoli, Milan, 2005, pp. 120-128; *la Repubblica*, 9/10/2000.

opposition of the Milan prosecutors, the judge had to postpone the trial to the following month in order to give the new regulations time to come into force, with the consequence that “the general belief is that all the accusing witnesses will refuse to repeat their statements in court and therefore, in application of the new rules the Tribunal in January could do nothing but acquit the defendants: the former mayor of Milan, Paolo Pillitteri, and the former public works assessors for Milan City Council, Epifanio Li Calzi and Massimo Ferlini, both from the Communist Party.”<sup>827</sup> D’Ambrosio, one of the protagonists of 1992-1993 judiciary fight against political corruption, commented that “this is just the end of the Clean Hands season.”<sup>828</sup>

The regulations introduced by the new 111 came into force by decree law, and were thus waiting for parliament to approve the set of ordinary laws to accompany them and render them effective. The parliament vote was scheduled for January 7, 2000; the new constitutional article would affect all trials beginning right after it was enacted. For the Milan magistrates, this meant wiping the slate clean. The ANM issued a release saying that, “In the trial it will not be possible to take into consideration the decisions that have already been made by the prosecutor while exercising the penal action.”<sup>829</sup> A CSM counselor commented, “There is a concrete risk of completely annulling the cross-examination process and a collapse of the entire trial; the decree will have devastating effects, as it will open the path to an interpretative Babel.”<sup>830</sup> Even some government judiciary experts had to admit that the new measures were “a labyrinth.”<sup>831</sup> The main reason for the magistrates’ protests was that now they had to cope with investigations born, raised, and having gone to trial following rules – some of which, such as those relating to the formation and acquisition of evidence, essential to court proceeding – which, in the decisive moment of the court hearing, were completely flipped (an example of this would be the case of the *Toghe Sporche* trial in Milan, in which both Berlusconi and Dell’Utri were charged with corrupting judges). The new 111 article of the constitution also established how the evidence had to be gathered: in all trials, including and beginning with those related to Mafia and corruption, witness statements that had been put on record before the prosecutor but were not to be repeated in court became wastepaper, while “the statements of other co-defendants could be used as proof only if it was ascertained that

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<sup>827</sup> *la Repubblica*, 12/11/1999.

<sup>828</sup> *Ibid.*

<sup>829</sup> *la Repubblica*, 5/1/2000.

<sup>830</sup> *Ibid.*

<sup>831</sup> *Ibid.*

each statement derived from direct and autonomous knowledge.”<sup>832</sup>

Even several Mafia and corruption trials as well as all types of investigations were compromised. Although it was true that the debate on the *Just Trial* norms and the reformation of the 513 article of the penal code had already been going on for two years before the new article was approved, and thus the prosecutors should have considered the possibility of such changes while coordinating their investigations, it was also the case that many of the judiciary inquiries had begun long beforehand. In 2002, only two years after the *Just Trial* was introduced, the Palermo Chief Prosecutor, Pietro Grasso, while commenting on the application of the new measures to such a delicate situation as that of Sicily where citizens’ collaboration could easily become the target of Mafia intimidation, spoke of “an absolutely utopian ideological frame” and confessed his fear of a potentially “victorious criminality” in the nearest future due to the serious risk that “it will not be possible to condemn those robbers that were arrested, since the victims may not have the courage to repeat their accusations in court.”<sup>833</sup> On March 3, 2007 – five years had now passed since the *Just Trial* was introduced with the Second Berlusconi Government having been replaced by one led by Romano Prodi – Grasso, still the head the Palermo Prosecution Office, spoke of an “antimafia that has now reached its final stop.”<sup>834</sup> Ironically, such words came not even one year after he had arrested one of the most wanted criminal in the world, Bernardo Provenzano, the boss of bosses of Cosa Nostra who had been a fugitive since 1963. According to Grasso, the end of the antimafia had arrived in spite of its greatest success and the reasons for this paradox were “the reforms that were made in these last few years,”<sup>835</sup> by which he did not mean just those passed between 2001 and 2006 by Berlusconi, whose effects we will analyze in the next chapter, but also those passed by the center-left government, such as the *Just Trial* and “the new regulations on the witness protection program,” for which “many trials must be cancelled and many defendants are acquitted or released from prison: the era of the great Mafia investigations seems to have now ended.”<sup>836</sup> The trials at risk were not just those against major organized crime groups – for which Grasso invoked a “double track” considering the Mafia’s ability to buy, intimidate, or simply influence witnesses – but mostly those in which the defendants were, for instance, Albanian clans dealing with prostitution: in such cases, “the criminals may hold the family members of their victims hostage in Albania; how can we

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<sup>832</sup> *Ibid.*

<sup>833</sup> *la Repubblica*, 12/4/2002.

<sup>834</sup> *la Repubblica*, 4/3/2007.

<sup>835</sup> *Ibid.*

<sup>836</sup> *Ibid.*

know, then, whether or not these women will repeat their accusations in court if in the meantime they were threatened? But what is really absurd is that, if a witness makes statements in court that are different from those released during the investigation phase, the judge can only decide upon the reliability of such statements and cannot ascertain the truth of the matter.”<sup>837</sup>

In 2007, when Grasso was launching these accusations and the effects of the rules introduced a few years earlier were more evident, further criticisms, although less harsh, came even from the very ones who had passed those reforms or were part of the parliamentary majority that had introduced them. One of these critics was the former Minister of Justice, Giovanni Conso, for whom “the flood of new guarantees introduced by the *Just Trial* does not encourage respect for the duration of the trial, something the Council of Europe is no longer willing to compromise on.”<sup>838</sup> Another criticism was that of Giannicola Cinisi, former undersecretary to the Ministry of Interior for the Ulivo government, for whom “we are facing a system of guarantees that denies the principal guarantee, i.e., the conduction of the trial, which does not even happen in cases in which the statute of limitations expires due to the continuous delays, and this happens quite often.”<sup>839</sup> A last criticism was made by Vitaliano Esposito, representative of the second Prodi government to the European Court of Human Rights, who said: “For the European Court, as long as they keep to their due time frame, two trials are enough: just one trial and the appeal, and not three trials as it happens in Italy.”<sup>840</sup> Even those who had drafted these laws, or had voted them, had now to admit their perverse effects.

The year 1999 saw the introduction of yet another measure undermining prosecutors’ work. The Carotti Law – which bears the name of the MP who drafted it, Pietro Carotti, group leader of the Partito Popolare (one the parties heir of the Christian Democracy) for the parliamentary commission in charge of drafting laws regulating the functioning of the judiciary – extended the opportunity for summary judgment to any typology of crime. Whoever requested to be tried with such type of procedure could have their prison sentence reduced by one third.<sup>841</sup> This measure, combined with other benefits such as those given for “good conduct” to prison inmates, would, as a matter of fact, abolish life in prison (the first point listed in Riina’s *papello*) and lead to a revision of the Maxi Trial, as requested by Cosa

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<sup>837</sup> *Ibid.*

<sup>838</sup> *Ibid.*

<sup>839</sup> *Ibid.*

<sup>840</sup> *Ibid.*

<sup>841</sup> Concerning this subject see F. Zarba, “Quando il rito abbreviato è un regalo ai mafiosi,” in *Huffington Post*, 9/6/2015.

Nostra's bosses.<sup>842</sup>

The advantages that the new regulation offered to the Mafia are demonstrated by the requests to be judged using summary judgment that were put forward by the major Mafia bosses who were in prison awaiting trial (many of whom were the defendants in several trials). The first to issue such a request was Michele Greco, the former boss of Cosa Nostra's governing body, the Commission; Greco was followed by Pippo Calò, Leoluca Bagarella, Mariano Tullio Troia, Antonio Madonia, Stefano Ganci, and a hundred more or so *mafiosi*. On October 23, 2000, at one hearing of the trial for the 1993 bombings, summary judgment was also requested by Totò Riina and the Graviano brothers: now, all the elite of Cosa Nostra wanted to be judged with summary judgement. It should also be noted the way in which the Mafia bosses made their requests: in "a bunker room inside the Ucciardone prison, as crowded as it was at the time of the Maxi Trial with all of the defendants present, even those sick, or in a wheelchair such as Pietro Vernengo; with the court benches packed and the public of great occasions flocking to attend the event, as it had not happened in years."<sup>843</sup> The Mafia, thus, welcomed the new regulations introduced by the center-left government with a "public of great occasions," almost as if it were the final of some important sport tournament. Even summary judgment, it goes without saying, provoked the opposition of antimafia prosecutors, in particular those working in Sicily, who forgathered to prepare a document to send to the Minister of Justice, Piero Fassino, and the CSM (the governing council of the Italian judiciary), in order to denounce the effects of a measure that they considered unconstitutional as "it only rewards the defendant, annulling *de facto* life prison, and making Mafia trials longer and more complicated."<sup>844</sup> A Palermo prosecutor, Antonino Di Matteo, explained such effects quite clearly:

In some trials, it has happened that nine defendants out of ten have demanded summary judgment. In such cases, the trial must be doubled, as the nine defendants who have asked for summary judgment will still be judged by the same court, while those who did not demand it will be judged by another tribunal that will have to start another trial from scratch. What is the advantage of this for the State? Perhaps the saving of time or money? Not at all, because summary judgment can even be requested for the appeal trial.<sup>845</sup>

Another prosecutor, Luca Tescaroli, spoke of a "gift to the Mafia:"

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<sup>842</sup> Law 16/12/1999, no. 479. See also U. Santino, *Don Vito a Gomorra*, *op. cit.*, p. 77 and N. Dalla Chiesa, *La convergenza*, *op. cit.*, pp. 118-119.

<sup>843</sup> *la Repubblica*, 5/1/2000.

<sup>844</sup> *Ibid.*

<sup>845</sup> *la Repubblica*, 25/6/2000.

Let me start with the most important trials, those for the Capaci and Via D'Amelio bombings, and those for the bombs exploded in Florence, Rome, and Milan. The defendants in these trials, already condemned to life in prison, can demand, and obtain, summary judgment, and thus will no longer serve a life sentence but a lesser penalty. And this is also valid when life sentences were given in appeal in case the Supreme court rules for the cancellation of the trial. Let me offer another practical example. In the Borsellino-*bis* trial, the second trial conducted for the Via D'Amelio bombing that cost the lives of Paolo Borsellino and five of his armed escort, the defendants, already condemned to life in prison even in appeal, will demand summary judgment. Without any doubt the trial will be reopened, as there would be new evidence. In this case, the appeal court would still rule, and not a single judge as is the case with the new trials. What would be the benefit for the State? None, while the bosses would have the great advantage of not being condemned to life in prison. But there is more: the forthcoming Mafia trials would be even more at risk, and Mafia witnesses will become increasingly rarer. Can you imagine a trial in which only one judge, the GIP, the Judge for the Preliminary Investigation, would have to judge instead of a court? Pressure and threats directed at the magistrates have always existed, and judgement by a court has always guaranteed against this. One single judge, instead, may be more easily pressured and, consequently, would be overexposed. Furthermore, the new law discourages Mafia witnesses, and I can demonstrate this with another practical example. As a Mafia witness, Giovanni Brusca has been condemned to 20 years in prison. Well, with summary judgment the bosses risk, at most, 30 years in prison, which are then, in fact, reduced to 20 or 15. So, I wonder, what are the advantages for becoming a Mafia witness? In this way, we just play right into the hands of Cosa Nostra, which will reinforce herself and become even more dangerous than before.<sup>846</sup>

In short, the government passed a law that for the magistrates was a “gift to the Mafia” and did not give any advantage to the State. In their protest, the magistrates were soon joined by the relatives of Mafia victims, eventually leading the government to issue a decree law reducing the typologies of crimes for which summary judgment could be conceded. ‘Massacre’-related crimes were now excluded from the list: however, both the help and the attempt to help the Mafia, whether this was made deliberately or not, remain a matter of fact – especially considering that, despite the exclusion of the ‘massacre’ crime typology, such measures remained favorable to both *mafiosi* and other dangerous criminals, as demonstrated by the following case. On July 21, 2003, the President of the Criminal Chamber of Foggia, Raul Pellegrini, said at a press conference that “often the Bari Prosecution Office [a city in Puglia where Mafia presence in those years was on the rise] does not scorn contact with the lawyers before the preliminary hearing, to then concede its approval of the release from prison of the defendants assisted by those lawyers in exchange for a plea bargain or summary

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<sup>846</sup> *la Repubblica*, 6/6/2000.

judgment;”<sup>847</sup> such type of negotiation was frequent, as prosecutors wanted to hasten criminal trials, and was also used recently for 21 alleged *mafiosi* from Foggia (another city in the region of Puglia) who now were all free despite the fact that only a few days earlier the undersecretary to the Ministry of the Interior, Alfredo Mantovano, had sent a note to the government warning of their dangerousness. These *mafiosi* had been arrested in June 2002 in a police operation coordinated by the Foggia prosecutors with charges of Mafia, homicide, extortion, and drug trafficking. In March 2003, just a few weeks before the beginning of the trial in July, during the first preliminary hearing their defending lawyers presented a requests for alternative trial rites, such as summary judgment and plea bargaining. Thus, as the hearings progressed, the defendants, among whom were top-ranking bosses such as Antonio Bernardo, Francesco Spiritoso and Vincenzo Pellegrino, were all freed from prison and subject only to obligations related to dwelling, with the exception of Roberto Sinesi, the historic boss of the Foggia mafia, who was already serving a final sentence.<sup>848</sup>

Further evidence of how counterproductive the government action towards the Mafia was comes from the case of the arrest authorization for Marcello Dell’Utri, which came at a time when Dell’Utri was an MP in both the Italian and the European parliaments and when the prime minister was D’Alema. Accused of aggravated extortion and slander on the basis of wiretaps and even a video, Dell’Utri was waiting for the parliament to decide on his arrest. The Chamber of Deputies junta for permission to proceed, with the decisive vote of the majority supporting the government, voted against the arrest, solving the conflict between parliament and magistrature with the defeat of the latter and returning power and prestige to Dell’Utri, while further compromising the authority of the magistrature.<sup>849</sup>

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<sup>847</sup> *la Repubblica*, 22/7/2003.

<sup>848</sup> *Ibid.*

<sup>849</sup> *Atti parlamentari XIII legislatura, Doc. IV, n. 17, Richiesta di autorizzazione all’arresto dell’onorevole Marcello Dell’Utri in relazione al Procedimento penale n. 5222/97 R.G.N.R. Aperto presso la procura della Repubblica, Tribunale di Palermo.* Concerning the grounds of the parliament against the arrest see *Atti parlamentari, Camera dei Deputati, Relazione della Giunta per le autorizzazioni a procedere in Giudizio sulla domanda di autorizzazione all’esecuzione di ordinanza di custodia cautelare nei confronti del deputato Dell’Utri, Doc. IV, n. 17-A.* See also *Il Corriere della Sera*, 14/4/1999 and N. Dalla Chiesa, *La convergenza*, op. cit., pp. 122-123.

### 5.3.3 The judicial policies of the Amato government

In April 2000, Giuliano Amato became Italy's new prime minister, starting the fourth and last government of the center-left legislature. Not even under this government there was any real change regarding judicial policies, which continued to remain substantially favorable to the Mafia.

The Amato government had been settled for exactly five months when, on September 25, a Palermo prosecutor, Franca Imbergamo, repeated the usual refrain of magistrates against politicians. Voicing her disappointment into reporters' microphones, Imbergamo said, "The State is abandoning us, exposing us to the revenge of the Mafia."<sup>850</sup> However, if the refrain was the same as that heard so many times, the reason for it was different. Just a few days before, the Minister of the Interior, Enzo Bianco, who had remained in office as Amato replaced D'Alema as prime minister, had reduced, and in some cases even completely removed, the security measures for magistrates, including those prosecutors committed to the fight against the Mafia. The circular that reached the desks of all prefects around the nation also ordered the removal of the garrisons from the houses of the antimafia prosecutors, which were to be replaced with others that, in a typically *italianese* bureaucratic language, the note defined as of a "dedicated dynamic type."<sup>851</sup> The announcement of the new measure left the magistrates exposed to what they defined "the easiest of Mafia revenge."<sup>852</sup> Such a decision, especially when interpreted in the light of the general context that we have outlined so far, and although not listed as one of Cosa Nostra's requests, could not better match the Mafia's desires: the government, the center-left government, was going even beyond Riina's *papello*.

In the months following, the debate was resumed to explore the possibility of extending the measure of dissociation for *mafiosi*. This was, we know, the measure most convenient to Cosa Nostra because it enabled *mafiosi* to obtain the same benefits as witnesses simply by releasing a formal statement declaring that they were no longer members of the Mafia, laying down or pretending to lay down their weapons, accusing themselves of certain crimes but without having to accuse other *mafiosi*, in perfect harmony with the Mafia's strategy to rebuild the organization with members who were above suspicion and with a clean criminal record. A draft law of this proposal was presented to the parliament in 1997 by three senators

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<sup>850</sup> *la Repubblica*, 25/9/2000.

<sup>851</sup> S. Lodato, M. Travaglio, "Senza scorta," in *Intoccabili*, *op. cit.*, pp. 324-326. The agents who were surveilling the houses of the magistrates 24 hours a day were abolished and substituted with a house-to-house patrol service.

<sup>852</sup> *Ibid.*

from electoral districts in southern Italy: Melchiorre Cirami, a former Sicilian magistrate, Bruno Napoli, a Calabrian lawyer defending several *mafiosi* from the 'Ndrangheta, and Davide Nava, whose background was quite different: he was a former secondary school headmaster from the region of Campania.<sup>853</sup> The proposal rejected some month earlier by the Antimafia Commission<sup>854</sup> was now returning on the initiative of Pietro Aglieri, the Mafia boss who had graduated with honors in theology, showered with compliments by the professors who had given him a gold star on the day of his graduation in the Rebibbia Roman prison. Even this proposal, which received great support in the parliament, had to be shelved by the minister of Justice because of the protests that it provoked, the loudest of which were that of the newly appointed Director of DAP, Caselli, who vetoed the idea, and that of the association for family members of Mafia victims.<sup>855</sup> However, the attempt to meet the diktats of Cosa Nostra remains, in this case too, a matter of fact.

At the end of 2000, another law favorable to the Mafia was passed. Approved on December 7, 2000, the Law No. 397 regulated the procedure of defense investigations, establishing that the deeds gathered by defense lawyers had the same value as those gathered by the prosecutor and that defense lawyers too could conduct preventive investigations. For the *mafiosi*, this meant the chance to summon witnesses through their lawyers and, as matter of fact, threaten or simply 'influence' them.<sup>856</sup> Among the myriad available documents we find in the archives of DDA, the Antimafia Prosecution Office, which, while highlighting the long-term effects of the regulation also offer evidence of such an advantage, we report one that perfectly exemplifies what the consequences of the new rules were: an order for preventive detention released by a Naples GIP, the judge in charge of ruling over preliminary investigations, on October 19, 2010. The document reads as follows:

The Naples DDA has verified that in certain cases the defense lawyers of the most important Mafia bosses from Caserta [a city not far from Naples where some of the most powerful Camorra groups of the Campania region

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<sup>853</sup> *Atti parlamentari, Senato della Repubblica, XIII, Legislatura, Disegno di legge N. 2843*, which can be consulted on the website: <http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=Ddlpres&leg=13&id=2996> (accessed July 2017).

<sup>854</sup> *la Repubblica*, 2/8/1996.

<sup>855</sup> See S. Lodato, M. Travaglio, *La trattativa Aglieri*, in *Intoccabili*, *op. cit.*, pp. 321-324. That Cosa Nostra was lobbying for the introduction of dissociation is confirmed by the following sources: *Ministero dell'Interno, Direzione Investigativa Antimafia, Attività svolta e risultati conseguiti, 1° semestre 2000, part I, Contrasto alla criminalità di tipo mafioso*, pp. 9-10; concerning Ilardo's revelations on the will of the Mafia to have the parliament to introduce the measure of dissociation see N. Biondo, S. Ranucci, *Il patto*, *op. cit.*, pp. 218-229. Concerning the reaction of the relatives of Mafia victims see G. Maggiani Chelli, "Testimonianza Mutolo, Associazione Georgofili: sconvolti da chi invocava legge per dissociazione mafiosa" in *19luglio1992.com*: <http://www.19luglio1992.com/testimonianza-mutolo-ass-georgofili-sconvolti-da-chi-invocava-legge-per-dissociazione-mafiosa/> (accessed various dates).

<sup>856</sup> It is Law no. 397 passed on 7/12/2000, named *Disposizioni in materia di indagini difensive*.

operated] have exceeded the limits of their defensive mandate, submitting to the most obscure strategies of the Mafia by corrupting both witnesses and experts and by mediating between their clients in prison under the hard prison regime regulated by the 41-*bis* article of the penal code and the bosses of other Mafia clans (cfr: for instance, the preventive detention orders issued by the GIP of Naples on September 20, 2010 and January 10, 2011, for – among others – Santonastaso Michele, the defending lawyer of Camorra boss Francesco Bidognetti). Together with a lawyer who usually assists Mafia witnesses, Santonastaso has been accused of having acquired secret information on statements by witnesses who were about to reveal information about his client.<sup>857</sup>

In 2001, right before the end of the legislature and after a long and heated parliamentary debate which received extensive coverage in the media, the reform of the witness protection program arrived. The new regulations established that, in order to have a probative value, witness statements had to be made within six months from the beginning of their formal collaboration with justice, and introduced several barriers to accessing the protection programs.<sup>858</sup> As the new law came into effect, antimafia prosecutors sounded again the alarm that “all Mafia trials are at risk.”<sup>859</sup> Marco Maria Alma, a prosecutor from the Milan Antimafia Prosecution Office, warned that, “The new regulations for witnesses that become effective today may have the first, immediate effect of paralyzing all Mafia trials in Milan,” where, on the very same morning that Alma spoke to the press, the indictment of the “Gemini Trial” was to begin which was one of the most important Mafia trials outside the southern regions during those years. Among the defendants were several *mafiosi* accused of having controlled the cocaine market in the Milanese hinterland between the early and mid-1990s. According to Alma, because of the new rules the trial might be delayed “even by a year, or a year and a half,” as the reform dictated that one lawyer could not assist more than one defendant not only within the same trial as with the previous procedure but also in related trials, which meant, in essence, a lawyer for each defendant. This was quite a problem in Milan, where law firms specialized in assisting Mafia witnesses were very few. As a consequence – continues Alma – “What will happen is absolutely unpredictable; the fact remains that in the Gemini Trial there are two brothers who have turned State informers and are being assisted by the same lawyer, who now will have to pick one of the two and disclaim the other; the new lawyer of the other

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<sup>857</sup> *Ordinanza di custodia cautelare emessa dal GIP presso il Tribunale di Napoli del 19/10/2010* reported in *Direzione Nazionale Antimafia, relazione annuale sulle attività svolte dal Procuratore nazionale antimafia e dalla Direzione nazionale antimafia nonché sulle dinamiche e strategie della criminalità organizzata di tipo mafioso nel periodo 1 luglio 2010 – 30 giugno 2011, Dicembre 2011*.

<sup>858</sup> *Atti parlamentari, Legge 13 febbraio 2001, n. 45, “Modifica della disciplina della protezione e del trattamento sanzionatorio di coloro che collaborano con la giustizia nonché disposizioni a favore delle persone che prestano testimonianza,”* which can be consulted on <http://www.camera.it/parlam/leggi/010451.htm> (accessed July 2017).

<sup>859</sup> *la Repubblica*, 26/3/2001.

*mafioso* will need time to study the trial papers, piles of sheets; it will take months before he is ready for a hearing; it would be as if, this morning, in my place another prosecutor came to court who, up until today, had never dealt with corruption: what would he say to the judges? I am sure that, understandably, the defense lawyers will ask for referrals; I can personally tell you that, as soon as I have the opportunity, I will denounce the unconstitutional illegitimacy of this law, as it seriously limits and damages the right to defense.”<sup>860</sup> Moreover, Alma also warned that the new rules triggered another paradox, as “the witnesses are penalized in their right to defense compared to the other *mafiosi* who have decided not to collaborate: the former, who have chosen legality, cannot have their trusted lawyer to defend them, while the latter, who instead have not chosen legality, can decide on whichever lawyer they want.”<sup>861</sup>

The new regulations also divided the witnesses into two categories, collaborators and deponents, the latter having been introduced by the new norm. Collaborators were those accused, or self-accused, of crimes they now repented for by formalizing their collaboration; deponents were those who had not committed any crime and whose collaboration was due to reasons different from potentially being offered penalty discounts. Among the magistrates who denounced the negative effects of the new witness protection program were, as usual, those from Palermo, the ones affected the most by the new norms. As the draft law was presented to the parliament, thus even before the law was passed, Palermo Chief Prosecutor Pietro Grasso commented, “With this law, if I were a *mafioso*, I would never become a witness.”<sup>862</sup> To support his accusations, Grasso referred to the police operation *Mafia e appalti* (the one analyzed in Chapter 3) which had revealed Cosa Nostra’s control over a huge number of public contracts: “If the new witness protection program had come into force before, this operation would have never been possible.”<sup>863</sup> Grasso explained that Angelo Siino, the main informer in the case, “was so slow in releasing his testimony, as he began to speak out only seven months after he had joined the witness protection program; the six months now established by the law as the maximum time for a witness to release all the information would not have been enough.”<sup>864</sup> As the reform was passed and its effects began to become tangible, Grasso could only repeat that “the reform of the witness protection program does not help those willing to collaborate with the State; it was supposed to rationalize and incentivize collaborations: instead, it has ended up limiting access to the witness program to certain

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<sup>860</sup> *la Repubblica*, 26/3/2001.

<sup>861</sup> *Ibid.*

<sup>862</sup> *Il Corriere della Sera*, 18/3/2001.

<sup>863</sup> *La Repubblica*, 14/3/2001.

<sup>864</sup> *Ibid.*

typologies only, as it has introduced more rigorous and severe sanctions that do not help Mafia witnesses at all.”<sup>865</sup>

The criticisms of the magistrates did not encounter any interruption in the next months. A Palermo prosecutor, Gaspare Sturzo, blamed the government for “not having, in the last ten years, kept even one of the promises made: neither that of a central station to regulate public contracts, nor that of a unified code for all public contracts, nor that of a structure of magistrates coordinated at a national level to exchange information, nor a national database to gather the information from the various police bodies, nor that of harsher penalties, not merely three years, for the crime of bid-tampering: we often confront people who have controlled public contracts and have bid-tampered for years; we magistrates are often forced to monitor the cartel managing the contract ourselves; the government has not given us any support, all we can do is simply rely on our goodwill.”<sup>866</sup> Thanks to a measure uniformly voted for by the parliamentary majority and opposition, the witness protection program, which had enabled prosecutors a global vision of Cosa Nostra and had cost the lives of Falcone and Borsellino, was now being totally dismantled. In the following years, Mafia witnesses, who already by 1998 prosecutor Ilda Boccassini ironically considered as an “optional,”<sup>867</sup> became increasingly rarer: having sensed the changed political climate, witnesses began to retreat their depositions and, eventually, preferred to avoid collaboration. Such a trend is confirmed by official data released by the government. According to the minister of the Interior, in the decade between 1996 and 2006 the number of Mafia witnesses progressively decreased from 1214 (of whom 428 were from Cosa Nostra) to 790 (including 250 from Cosa Nostra).<sup>868</sup> Between 1995 and 2007, witnesses for the Sicilian Cosa Nostra numbered 4602, an average of 354 per year.<sup>869</sup> Even the final report of the Parliamentary Antimafia Commission of the XIII Legislature, although the effects of the new witness protection program were not entirely evident by then, noted this negative trend. The report considered how, in their various public statements released between 1997 and 2001, the National Antimafia Chief Prosecutor Pier Luigi Vigna, the Head of the Palermo Prosecution Office Caselli, and the undersecretary to the Ministry of the Interior Massimo Brutti, as well as several other prosecutors from the DNA, were right in warning of “the danger of the end of the era of Mafia witnesses,” who had been “the principal reason for the great success achieved against criminal organizations” because they had

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<sup>865</sup> *Ibid.*

<sup>866</sup> *La Repubblica*, 14/13/2001

<sup>867</sup> *la Repubblica*, 5/12/1998.

<sup>868</sup> *Ministero dell'Interno, Relazioni sulle speciali misure di protezione, Dati riferiti al 31 dicembre di ogni anno.* The others were from the other southern Italian criminal organizations.

<sup>869</sup> *Ibid.*

“enabled the capture of many Mafia killers and associates and their prosecution in court.”<sup>870</sup> The report also noted that “the fugitives captured in Italy and abroad between 1992 and December 31, 2000, were 2569, quite a significant figure in absolute terms.”<sup>871</sup> Besides this, between January 1, 1996, and February 13, 2001, 100 fugitives, members of Cosa Nostra, were arrested, and 107 from the Camorra, 74 from the ‘Ndrangheta, and 17 from the Sacra Corona Unita, the Puglia mafia.<sup>872</sup> Compared to other historical phases, there is no doubt that in the last decade of the millennium the fight against the Mafia saw results never before achieved. However, in 2001, the parliamentary commission had to admit that the number of Mafia witnesses, that “avalanche that had struck at the heart of Cosa Nostra,”<sup>873</sup> was already steadily dwindling.<sup>874</sup> Moreover, besides the quantitative data, in itself enough to demonstrate the disincentive effects of the law passed in 2001, there is also a qualitative aspect of the “witnesses’ escape” that is worth analyzing. Between 2001 and 2006, in fact, there were no Mafia witnesses as important as those that came out in the period before 2001: although turning State evidence was still possible, it was no longer convenient.<sup>875</sup>

An interesting piece research conducted during the years in question helps us understanding how difficult the life of Mafia informers became after the reform of the witness protection program was passed. In February 2003, two professors from the University of Palermo announced the results of a survey they had conducted on a number of Mafia turncoats who had accepted answering their questions. The two professors defined their results as “dramatic:” Mafia witnesses were “depressed” and “on the verge of a nervous breakdown,” since they sensed that they had made “a choice without future;” they felt “isolated, worried, and bitter for the way in which they were treated, especially those who had testified and divulged revelations regarding powerful people, whatever they were politicians or business men; they suffer from anxiety, fear, and insomnia.”<sup>876</sup> According to the two psychologists, such results were not simply dramatic but also “surprising,” as “when they were members of Cosa Nostra, killed people and lived constantly with the fear of being killed themselves, they

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<sup>870</sup> *la Repubblica*, 3/8/1997, 27/9/1999, 17/1/2001, 27/2/2001.

<sup>871</sup> *Documento n. 2399, op. cit.*, pp. 39-40 and 428-429.

<sup>872</sup> Mafia fugitives were divided into three categories: the 30 most dangerous, another 500 considered dangerous, and the remainder (*Ibid.*, p. 426). See also *Documento n. 2433, XIII legislatura, elaborato e trasmesso dal Ministero della giustizia su dati della Direzione centrale della polizia criminale*.

<sup>873</sup> *la Repubblica*, 23/8/1996.

<sup>874</sup> See *Commissione parlamentare d’inchiesta sul fenomeno della mafia e delle altre associazioni criminali similari, relazione conclusiva, op. cit.*, p. 48. Concerning the subject of Mafia witnesses see A. Dino, (edited by), *Pentiti. I collaboratori di giustizia, le istituzioni, l’opinione pubblica*, Donzelli Editore, Rome, 2006; Gruppo Abele (edited by), *Dalla mafia allo Stato. I pentiti: analisi e storie*, Ega, Turin, 2005; A. Pecora, *Primo sangue, op. cit.*

<sup>875</sup> *Ibid.*

<sup>876</sup> *la Repubblica*, 2/2/2003.

never had problems of this kind,” while “now they sleep little and badly, dream of being persecuted by someone who kills them or wants to kill them, many of them fear for their children; and even their daytime thoughts are full of harsh realities.”<sup>877</sup> While life in the Mafia could be hard, it had never caused such problems; turning to State witness had, instead, brought them to the verge of depression. Among the former *mafiosi* who sat in front of the two professors were ex-killers and ex-professionals of the Mafia: “The former seem older than they are; they told us they were so even when they were younger; death has never quit crossing their lives: yesterday, they were giving it to others, today they fear it;”<sup>878</sup> the latter, instead, the white-collar *mafiosi*, “are more jovial, you can tell they have had a good life; they even boast at times.”<sup>879</sup> Thus, in terms of their welfare profile, the quality of life for those in the ranks of the *borghesia mafiosa* was much higher than that of the ‘military’ bosses: in each case, however, “initially they experienced a crisis, whatever the reason for joining the witness protection program be – fear of being killed, revenge against somebody else, or merely seeking a sentence discount – and then always remained guilt-free, as firstly they felt they were victims of destiny for having done the will of fate, and now they feel far too crushed by their personal tragedy.”<sup>880</sup> All of them, eventually, “had to experience a sense of eradication, since the Mafia was their root.”<sup>881</sup> The decision to become Mafia informers – the two professors concluded – had turned into a tragedy: “break of emotional ties, destruction of identity, relatives being killed.”<sup>882</sup>

Further discouraging *mafiosi* from turning State witnesses was also the fact that in October 2001, a few months after Berlusconi had returned to power, the failure to appoint an undersecretary to the Ministry of the Interior in charge of the Central Commission for Mafia Witnesses had led to a semi-paralysis of the witness protection program. As this occurred, the usual firing of accusations began which was as usual the symptom of the judiciary’s impotence in the face of government decisions. The National Antimafia Chief Prosecutor, Pier Luigi Vigna, said that there was an “alarming situation,” as everything regarding the management of the 5174 witnesses under protection was now blocked; the former President of the Parliamentary Antimafia Commission, Giuseppe Lumia, denounced “the lawful abolition of Mafia witnesses;” the former undersecretary to the Ministry of the Interior, Massimo Brutti,

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<sup>877</sup> *Ibid.*

<sup>878</sup> *Ibid.*

<sup>879</sup> *Ibid.*

<sup>880</sup> *Ibid.*

<sup>881</sup> *Ibid.*

<sup>882</sup> *Ibid.*

spoke of “sabotage of the witness protection program” and a “devastating situation.”<sup>883</sup> The effects of the program “paralysis” were such that Giovanni Brusca, one of the most important and controversial of all Mafia informers, had to ask his lawyer if “I am going to get my meals or if my mom will have to take care of it again;”<sup>884</sup> that an estimated 300 children of Mafia witnesses risked having their school enrollment (under a fake identity) suspended; that Angelo Siino, the so-called “Minister of the Public Works of Cosa Nostra” thanks to whose revelations it had been possible to shed light on a good part of the Mafia’s connivance with the worlds of politics, business, and finance, still did not know when he would be able to have his heart checked; and that some *mafiosi* who were willing to testify were waiting for the opening of the doors of a commission that still did not even exist.<sup>885</sup>

One should ask what the reasons for such sudden changes in the witness protection program were. According to all the political parties – which, as far as Mafia witnesses were concerned, shared the same views or conveniences – the measures were meant to improve the program. According to their critics, the real reason was quite different. A former MP and member of the Parliamentary Antimafia Commission, Alfredo Galasso said that, “When witnesses spoke of the homicides ordered by Riina and Provenzano, they were acclaimed; when they began to touch the nucleus of the Mafia system, namely the relationships with public and political apparatuses – in one word, with politics – they had to be discouraged.”<sup>886</sup>

### **5.3.4 1999-2001: Three years to draw conclusions**

We now want to quickly touch our attention upon one of the cornerstones of the thesis that denies the *trattativa*: that the Mafia chose Forza Italia because of a convergence of interests in judicial policy with Berlusconi’s party. Such an interpretation, as we have already hinted at, omits the non-negligible aspect that Berlusconi, from his first electoral win in 1994 to his second in 2001, remained in power for just seven months, as the anticipated fall of his first government in November 1994 was followed by five other governments, one “technical” and four “political.” For this reason, it begs the question why, then, all the governments opposing Berlusconi took measures that helped the Mafia and hindered law enforcement. The effects of

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<sup>883</sup> *la Repubblica*, 9/9/2001.

<sup>884</sup> *Ibid.*

<sup>885</sup> *Ibid.*

<sup>886</sup> *Ibid.*

a possible deal between Mafia and State remain evident, and, as we have seen in this chapter, were roundly denounced by those state officials fighting the Mafia. Refusing to consider this evidence, as well as putting all the responsibility solely on Berlusconi, does not seem convincing, as it leaves too many questions unanswered.

In this light, we shall now consider the last two years of the XIII Legislature. Being the final biennium of the legislature, the action of the center-left governments in terms of judicial policies can be fully evaluated. Furthermore, it should be remembered once again that in 1996, when the center-left coalition came to power, Cosa Nostra was living her worst moment in history and seriously risking defeat once for all. Such imminent defeat, by the admissions of several prosecutors committed to the fight against the Mafia, was widely perceived by *mafiosi*, who, between 1995 and 1996, even considered putting down their weapons and surrendering. Moreover, while Berlusconi personally took advantage of many of the laws passed by his government in the years between 2001-2006 – laws that, as we shall see in the next chapter, by undermining the work of judges and prosecutors led to a considerable advantage for organized crime – in the case of the center-left governments the help given to the Mafia cannot be accounted for by any personal advantage. Therefore, such policies can only be explained in two ways: either the center-left governments were so inept as to fail to understand the advantages their laws offered to Cosa Nostra and other criminal organizations, or they had to honor a previously made silent pact in which, in return for the Mafia's guns and dynamite remaining silent, laws were to be passed that were favorable to organized crime. Whatever the case, the result was that by 2001 Cosa Nostra, at risk of disappearing from the scene once and for all in 1995-1996, had survived, while the other dimension of the Mafia, the *borghesia mafiosa*, prospered more than ever before.

At the end of January 1999, when Caselli was about to leave his office as head of the Palermo Prosecution Office to be replaced by Pietro Grasso, the Supreme court made a decision that seriously hindered all Mafia trials. The court declared that if the formation of a court changed during a trial, the entire trial should start from scratch. The ruling put an infinite number of trials throughout the country at risk. To denounce the effects of such decision, Caselli even appeared on a popular television talk show alerting the Italian people that the Supreme court verdict, just to consider his office, meant starting some three years' worth of trials from scratch, among which was the one baptized by the press as the "trial of the century" with former Prime Minister Giulio Andreotti as its defendant.<sup>887</sup> It was the evening of

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<sup>887</sup> *la Repubblica*, 28/1/1999.

January 27 when Caselli made his appearance on the popular ‘Maurizio Costanzo Show.’ The following day, as more precise calculations of the court ruling’s effects were being released, the very first consequences for the destiny of Mafia trials could already be seen: just considering trials taking place in Palermo and excluding those of Trapani and Agrigento, two other cities where the Mafia was deeply rooted, 130 killers of Cosa Nostra were to be soon released from prison; consequently, “half a dozen” of the most important trials were at risk, including one involving Palermo’s most powerful bosses as its defendants, accused of the murder of Libero Grassi, an entrepreneur killed in 1991 for refusing to pay his extortionists and who thereafter became an icon of the resistance against the Mafia. In this trial, two judges had been changed: first, the President of the Tribunal, Innocenzo La Mantia, who was moved to the appeal court, then one by the name of Maria Giovanna Romeo, who had been promoted to the Palermo Prosecution Office and was replaced by an associate judge. Other trials at risk of starting from scratch were the one called *Mariano Agate + 59*, in which about 100 witnesses had already released their statements, resulting in the equivalent to a year’s waste of time; the trial called *Tempesta*, with its 81 defendants accused of various crimes including homicide (among which were those of Carabinieri captain Mario D’Aleo and another policeman by the name of Calogero Zucchetto), in which the President of the Tribunal, Salvatore Scaduti, was replaced; a trial in which the defendants were accused of killing Salvo Lima, which had begun under the presidency of La Mantia and had continued under Giuseppe Nobili; another, in which the accused were the killers of Don Pino Puglisi, the priest famous for his antimafia commitment assassinated in September 1993 (in this trial, the president of the Tribunal was initially La Mantia, but he was replaced by another judge); and the so-called “Sicilian Bribesville” trial, in which the 29 defendants were corrupt politicians who were close to being acquitted as the statute of limitations was about to come into effect. These were not the only trials at risk, merely those which, due to their importance, were in the national spotlight. There were also other dozens of less notorious trials in which, as a Palermo magistrate explained, “We will have to call upon again those traders and shop owners who have already testified against their extortionists, who, this time, will have to repeat their accusations with those whom they have accused being free, with the obvious consequence that they may be easily threatened.”<sup>888</sup>

In June 1999, just five months after the Supreme court verdict, the situation had not changed; if anything, it had worsened. This was because a draft law awaiting parliamentary

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<sup>888</sup> *la Repubblica*, 29/1/1999.

vote had established the incompatibility between the judge for the preliminary investigations and that for the preliminary hearing. Such new regulation would have affected 491 ongoing hearings throughout the country and 811 that were about to start but for which a judge had already been chosen, with the possible consequence of an out-and-out paralysis of the tribunals in nine of the major Italian cities for a total of 1302 trials in danger of being canceled.<sup>889</sup> Six months later, at the beginning of 2000, 300 lawyers and magistrates warned that the Palermo judicial offices were “running serious risks due to the perennial shortage of personnel,” which could lead to another “paralysis” of the judiciary.<sup>890</sup> The gravity of the situation was described by the President of the Palermo Tribunal, Carlo Rotolo, who told journalists, “Palermo is a very particular case because most trials that will continue to be judged by the courts are Mafia-related: thus, the judges cannot be diverted from such commitments to be single judges in other trials; without considering the high number of Mafia trials that are still in process and will commit the sections of the courts for many more months.”<sup>891</sup> In order to avoid such “judicial tourism,” as Rotolo dubbed it, it was decided to have the defendants attend the hearings by video conference from whichever prison they were being detained in. However, the trial calendar had to be drawn up by the DAP in charge of coordinating the presence of Mafia bosses in the trials around Sicily, and this was “the real unresolved problem,” as the “personnel headcount of the judging court” was “too different from that of the prosecution office” and “just as much needs to be done with the Tribunal;” moreover – said Rotolo – the fourth section of the Court of Assizes “exists just on paper, as it does not even have a president.”<sup>892</sup>

The year 2000 is the one that better accounts for what could be defined as the *normalization* process of the relationships between Mafia and State – by which we mean the return to a situation that is favorable to organized crime either because of the corruption or the inefficiency of State bureaucracy – which took place mostly under the center-left governments. The year began with the Palermo Chief Prosecutor, Pietro Grasso, announcing the arrest of two important bosses. However, while giving journalists the good news, Grasso leveled the accusation, “We are catching the bosses, but then they are released because of a legislation that favors this type of situation.”<sup>893</sup> The reference was to the recently introduced constitutional reform of the *Just Trial*. When Grasso said this, it was the end of January. He

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<sup>889</sup> *la Repubblica*, 17/6/1999.

<sup>890</sup> *Ibid.*

<sup>891</sup> *la Repubblica*, 3/1/2000.

<sup>892</sup> *Ibid.*

<sup>893</sup> *la Repubblica*, 25/1/2000.

did not have to wait long for confirmation of how arrests and sentences were significantly reduced by the new *Just Trial*. In April, a Mafia boss by the name of Vincenzo Buccafusca, who in 1999 had ordered the killing of a young hoodlum because he had dared to extort some businesses in “his” territory, after a brief detention was practically free, having been granted house arrest despite a life prison sentence. However, Buccafusca’s luxury apartment in the central Palermo street of Via Notarbartolo, right in front of the one that used to be Falcone’s, was riddled with bugs which gave investigators the opportunity to listen to him live as he presided over Mafia meetings, gave orders to his men, and managed the extortion racket of “his area.”<sup>894</sup> The DIA agents were able to discover that Cosa Nostra, after the police and Carabinieri round-ups in one of its most important districts, that called Central Palermo once under the command of bosses such as Pippo Calò, Totò Cancemi and Salvatore Cucuzza, had soon bounced back to become as powerful as before. Its new boss, who was Buccafusca, together with his *decine* (the branches of 10 men within each Mafia Family) of old and new men of honor, had returned to control their “zones of competence,” which included the neighborhoods of Borgo Vecchio, Capo, Kalsa, and the entire area from Piazza Politeama to Central Station and which meant extorting almost any economic activity. The investigators discovered how complete and capillary-like Mafia control over such territory was, as “everyone paid and nobody talked.”<sup>895</sup> Thanks to bugs and wiretaps, as well as one of the increasingly scarcer witnesses, prosecutors were able to nip in the bud a new war internal to Cosa Nostra and arrest some major bosses, such as Pietro Lo Jacono, the *reggente*<sup>896</sup> of the Santa Maria di Gesù Mafia district, Girolamo Buccafusca, Giovanni Lipari, Raffaele Miccichè, Francesco Paolo Desio, Tommaso Lo Presti, Vincenzo Arcoleo, Vincenzo Spadaro, Nunzio Reina, Castrenze, Marcello, and Luigi Lo Jacono.<sup>897</sup>

Even in 2000-2001 the magistrates continued to make their protest heard. Among the chorus of complaints, we choose to report that of a Palermo prosecutor, Massimo Russo, as it confirms a good amount of cohesion within the Palermo Prosecution Office regarding their criticisms of governments of all stripes and seems to neatly sum up the general situation of antimafia magistrates, as it is in perfect continuity with the complaints described so far but most importantly because it perfectly shows how the Antimafia was hampered by governments. While rejecting the contemptuous consideration made by the Minister of Justice Piero Fassino, who had just labeled an “opinion” the “loosening of tension” in the fight

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<sup>894</sup> *Ibid.*

<sup>895</sup> *la Repubblica*, 12/4/2000.

<sup>896</sup> The *mafioso* in charge of ruling over a Family or district after a boss is arrested.

<sup>897</sup> *Ibid.*

against the Mafia that many Sicilian magistrates were denouncing, Russo pointed out how “the great results in the fight against organized crime” of recent years had been obtained “also because there were life prison sentences, the hard prison regime, and sentence reductions for Mafia witnesses; now, all this no longer exists: life in prison has been de facto abolished, the high-security prisons of Pianosa and Asinara have been closed, and Mafia witnesses are ever more rare” although still “indispensable,” as without them “many serious facts and horrendous crimes would have never been discovered.”<sup>898</sup> Russo also noted that, since “any collaboration with justice is a victory for the State, as forcing a *mafioso* to become a “cop” is, in itself, a revolutionary fact,” there was the serious risk of “putting an end to pages drenched in the blood of innocent victims.”<sup>899</sup>

At the end of the year, a strange, although significant controversy arose. In November 2000, in a manifesto announcing an international conference on organized crime which was to take place in Palermo, the United Nations referred to the city as “the heart of a new Renaissance,” mostly due to the fact that “the Mafia has lost: today is in pieces, it is no longer a national emergency.”<sup>900</sup> To support their conclusion, the UN delegates quoted a documentary recently broadcasted by the BBC that described Palermo as “exciting,” its historic center now being “totally regenerated.”<sup>901</sup> However, such celebratory statements came just 10 days after the Palermo Chief Prosecutor, Pietro Grasso, had declared that “while the Mafia exists and is reinforcing itself, a decline in antimafia action, also due to an attempt at delegitimizing the magistrature, is always more evident;” just a week afterwards Borsellino’s sister, Rita, who of course could not relate to the UN delegates’ point of view, said scathingly, “They want us to believe that the Mafia does not exist anymore;” and on precisely the same day that the press reported on the complete failure of the regional Antimafia Commission established by the Region of Sicily, which, since December 22, 1999, had reunited only three times (and, when it did, it was never in Palermo), and had not even elected its president and vice-president.<sup>902</sup>

A couple of weeks after Palermo’s praises had been sung, the antimafia magistrates “rose up” again to denounce the dangers of the widespread perception that the Mafia was in retreat. They believed that “not only the Mafia continues to exist, but in Italy is underestimated in an irresponsible way” (they stipulated “in Italy” because their polemic was mainly directed at Pino Arlacchi, a sociologist and Mafia expert, who at that moment was the

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<sup>898</sup> *la Repubblica*, 24/5/2000.

<sup>899</sup> *Ibid.*

<sup>900</sup> *la Repubblica*, 29/11/2000.

<sup>901</sup> *Ibid.*

<sup>902</sup> *la Repubblica*, 19, 23, 29/11/2000.

head of the United Nations Antimafia Commission).<sup>903</sup>

On December 9, just three days before the international UN convention began in Palermo, the city's Antimafia Prosecution Office released a report that seemed to disprove the UN's belief that "the Mafia had lost." Based on investigations conducted over the previous few years not just in the city and its province but in the whole of Sicily and on the revelations of some 123 Mafia witnesses, the report showed evidence that there were 184 Mafia Families in Sicily, most of which (89, with a total of 3201 *mafiosi*) were concentrated in Palermo and its province; the largest Mafia Family was that of Brancaccio, with 203 affiliates, the smallest were those of the village of Santa Rosalia and the Vucciria neighborhood, made up of three and two *mafiosi* respectively. According to the report, the boss of Cosa Nostra was still Bernardo Provenzano, even though since the arrests of Riina and his men the power and influence of the Palermo Families had grown to the point that they were no longer now the 'servants' of the Corleonesi; the new boss of the Palermo mafia was Salvatore Lo Piccolo, from the San Lorenzo Family; in Corleone, among the 48 *mafiosi* that Provenzano could still rely on, were some of his old "friends" but also some new men of honor; the highest Mafia density, the ratio between number of inhabitants and *mafiosi*, was at San Giuseppe Jato, with 174 *mafiosi* for a total of 9000 inhabitants; nobody, or almost nobody, was firing guns anymore, neither in Palermo nor in its province, with the only exception of the small town of Belmonte Mezzagno, where in the 18 months before the report was released there were eight homicides. Behind Palermo, the branch of Cosa Nostra with the highest number of affiliates was that of Trapani, with 20 Families accounting for a total of 982 *mafiosi*: here, the organization was "closed:" it had a quite well-defined vertical structure and was still strong because it had not generated many witnesses. Similar was the situation at Agrigento, another city where Cosa Nostra had not been affected much by the internal fire of the informers, where there were 41 clans with a total of 461 men of honor. The fourth city in terms of Mafia density was Caltanissetta, with 17 Families and 272 affiliates. The rest of the provinces were those once called "*babbe*" (a term in the Sicilian dialect meaning *dummy*) for their lack of Mafia contamination, such as Catania, where the affiliates were now numbered 135 distributed amongst five Families, Messina, with 19 *mafiosi* and nine clans, and Syracuse, with an odd situation of three *mafiosi* and two Mafia Families. The only province in Sicily where Cosa Nostra was not present, according to the report, was Ragusa, but simply because here, the Mafia, went by another name: it was called "Stidda."<sup>904</sup>

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<sup>903</sup> *la Repubblica*, 13/12/2000.

<sup>904</sup> *la Repubblica*, 10/12/2000.

The report released by the Palermo Antimafia Prosecution Office is just one of the many sources disproving the UN delegates. In early 2001, as the end of the legislature approached, and while the press was reporting on how, through a network of dummy companies, Cosa Nostra's boss Bernardo Provenzano had been able to get control of 16,000 billion liras of funding granted from the European Union to the Region of Sicily, the Palermo Prosecution Office was "clogged with case files:" besides those on the Mafia, there were those relating to the ordinary administration of justice: thefts, snatchings, robberies; serious and less serious crimes to be taken care of.<sup>905</sup> Figures referring to the previous year showed that on the desks of Pietro Grasso and the 63 prosecutors of his office were almost 20,000 case files on persons who had either been investigated or were previously defendants in other trials and more than 8000 files on unknown persons. The prosecutor with the most files on his desk was a newly arrived magistrate by the name of Alessandro Di Taranto, with 1258 case files and 98 inquiries on unknowns to take care of. Behind him were Giuseppe Rizzo, with 1049 case files, and Gianfranco Scarfò, with 1016. The one who had carried out the most practices was Maurizio Agnello, with 113 case files already completed, but with 410 still to do. Moving to the antimafia prosecution offices, the average number of trials per prosecutor was 40. However, such a figure did not properly account for some very complex cases – those with numerous people investigated and ponderous evidentiary material: binders of statements released by witnesses, police records, and thousands of pages of wiretap transcripts – as well as it did not account for the implications of moving prosecutors from one city to another depending on the trial: for example, even though Ambrogio Cartosio had just one case to take care of, with more than 50 defendants that single trial was against practically the whole Agrigento mafia. Other prosecutors, in addition to the Mafia of Palermo and its province, had to coordinate the investigations on organized crime activity in other cities and provinces: Giovanni Di Leo had more than 40 case files, Claudio Siragusa, 73, Maurizio De Lucia and Michele Prestipinto had 27 and 61 respectively, Salvo De Luca and Franca Imbergamo 43 and 31 case files, Nico Gozzo had 70, Vittorio Teresi, 29, Massimo Russo, 20, Gabriele Paci, 36. For the newly arrived the situation was even worse: Marcello Musso had 241 cases to work on, both Mafia and non-Mafia related, Nino Di Matteo had 367, Egidio La Neve had 350 practices to take care of, Anna Maria Picozzi, 703, including Mafia cases.<sup>906</sup> These were the conditions in which the magistrates were forced to work, and this too explains why, at that time, in Sicily as well as in Italy, trials were so slow and the statute of limitations helped many

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<sup>905</sup> *la Repubblica*, 18/1/2001, 9/3/2001.

<sup>906</sup> *la Repubblica*, 9/3/2001.

criminals or potential criminals to be acquitted.

As these figures were released accounting for the magistrates' work overload, a five-year trial against the Mafia from Villabate, a small town near Palermo, had to be dropped and did the 40 years of prison to which the defendants had already been sentenced. Why? The Supreme court, on the basis of a legal error, had annulled all the sentences that had been issued. The technical reason was, and will remain forever, a solemn anthem to that labyrinth of bureaucracy that was the Italian State and which has practically always, and almost systematically, enabled the Mafia to win: when, in the first trial, the associate judge was moved to another court and had to be replaced by a new one, the new judging panel did not start the trial from scratch but, as reason would suggest, continued it from the proceedings of the trial that had been conducted until that point; however, the Supreme court sentenced otherwise and annulled the trial, ordering a new trial to be staged, thus also annulling the two guilty sentences that had already been passed for a dozen defendants, including the head of the Villabate mafia, Vincenzo Montalto, in that period one of the most important Cosa Nostra bosses.<sup>907</sup>

During that same March of 2001, Francesco Forgione, the leader of the Sicilian Regional Assembly, in reference to the promise to create a new structure capable of swiftly examining the requests for contributions presented by the family members of Mafia victims and by those traders, shop owners, and businessmen who had been killed for refusing to pay extortion money to the Mafia, lamented that, after “a year and a half, the regional government of Sicily has not yet applied the law, and this is a negative and dangerous message of lowering the guard against organized crime and the indicator of a precise political will to forget such an important theme as the fight against the Mafia.”<sup>908</sup> The law, unanimously approved by the regional assembly, established the creation of a regional office and nine provincial branches, but “today the situation is that in the regional office there are just two employees, and the provincial branches have not even been created.”<sup>909</sup>

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<sup>907</sup> *la Repubblica*, 9/3/2001.

<sup>908</sup> *la Repubblica*, 23/1/2001.

<sup>909</sup> *Ibid.*

## 5.4 Conclusions

Berlusconi's victory at the elections of March 1994 inaugurated a phase in which political production – laws, law proposals, debates, and public statements by politicians – was generally favorable to the Mafia. Since 1994, coinciding with the end of Mafia violence, the importance of the Mafia in public debate progressively declined to remain for the most part confined to the closed rooms of parliamentary commissions and sub-commissions. At the same time, verbal violence began to replace physical violence. The protagonists of these verbal attacks were not so much *mafiosi* as some politicians from Berlusconi's coalition, their main targets were magistrates and Mafia witnesses. The two targets seemed connected, as the latter, alongside wiretappings and bug investigations, allowed the former to put politicians and State officials on trial for Mafia and corruption-related crimes. The language of the parliamentary majority and of some government ministries ended up coinciding with that of the *mafiosi* in their rare, yet significant public statements. Never before, in Italian unitary history, had a government waged such a bitter fight against the judiciary, and never before had the convergence of interests between the Mafia and politics found its common ground so openly in judiciary policies aiming at impunity. The bitter polemic of magistrates and even police agents towards the government has seemed the best way to account for the almost lack of interest of Italy's governments in fighting the Mafia in the years between 1994 and 2006.

The political course that began in 1994 was characterized by what we could define as *institutional omertà*, in which the mainstream media talked about the Mafia almost exclusively to cover government attacks against the witness protection program and the 41-*bis* article of the penal code regulating the hard prison regime for *mafiosi* and other dangerous criminals. The only possible Mafia informer – the very first one in history to infiltrate Cosa Nostra on behalf of the State – who could have possibly broken the *omertà* and reveal the existence of a political pact to favor the Mafia, was murdered by *mafioso* killers just a few hours before joining the witness protection program, with nobody except the heads of the ROS Carabinieri being informed of his activity as an undercover in Cosa Nostra. The most controversial aspects of the bloodshed of the previous biennium, and in particular the subject of the covert instigators of the bombings, were almost totally ignored in public debate.

This attitude of minimizing the Mafia was evident not just in the media and the public statements made by politicians but also in the report of the Parliamentary Antimafia

Commission instituted by the parliament of the first legislature of the Second Republic, whose presidency was entrusted to a Forza Italia MP, Tiziana Parenti. The commission's final report could not better encapsulate the political *omertà* in force, especially since it was produced in the 1994-95 biennium when the wounds from the previous Mafia slaughters were still afire. The Antimafia Commission was thus weakened as much as possible in a biennium which coincided with the only period in history in which Cosa Nostra's very existence was at stake. The commission recovered its strength in the following legislature (1996-2001), when it produced much more reliable documentation if only because of the professionalism of its last president, the Left Democrat Giuseppe Lumia, against whom – further demonstrating his real commitment to the antimafia cause – Cosa Nostra also planned more than one attempt on his life.<sup>910</sup> However, in the five years that the center-left coalition remained in power, a dystonia existed between a parliament that legislated and acted in a way that was favorable or not unfavorable to the Mafia and a parliamentary commission of inquiry that, at the end of the legislature, could only help to point out the inefficacy of many, if not all, of the laws against organized crime enacted by the same parliament that such commission had established.

As the center-left coalition replaced Berlusconi in early 1996, the only thing that significantly changed in terms of judiciary policies compare to Berlusconi's first government was that no laws were passed aimed at safeguarding the interests of a single or a few persons. However, nothing changed in the general attitude of the government towards the Mafia. Between 1996 and 2001, both the laws passed by parliament and the draft laws debated that were about organized crime and corruption-related crimes give evidence of a political direction which did not present any significant break from the previous biennium.<sup>911</sup> Most, if not all, of the laws that were passed or even just drafted were always considered by antimafia prosecutors as “a gift to the Mafia.” Besides revealing the political attitude of the government towards organized crime, the combined effect of these new measures was, in fact, clearly that of hindering the work of antimafia prosecutors. The closure of top-security prisons, the new witness protection program which discouraged State collaboration rather than incentivize it, the summary judgement which, if approved, would have practically abolished life in prison, the new 513 article of the penal code which seemed to have been made in order to discourage witnesses, and other laws that instead of making trials faster were putting their very existence at stake, were all favorable to the Mafia. The analysis of the 2000-2001 biennium has

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<sup>910</sup> *Vita*, 20/9/2002; *Il Corriere della Sera*, 21/2/2007; *Antimafia 2000*, 10/4/2014.

<sup>911</sup> For a criticism of this law see A. Spataro, “La nuova legge sui collaboratori di giustizia,” in *Giustizia e Carità*, which can be consulted online: <http://www.giustiziacarita.it/archmag/pentiti.htm> (accessed June 2017).

demonstrated how negative were the effects of the new Antimafia legislation passed in the two legislatures analyzed in this chapter, and how such legislation, or attempted legislation, was poorly welcomed by the magistrates and warmly welcomed by the *mafiosi*. As years later admitted one MP who served during that legislature as a member of the Antimafia Parliamentary Commission, besides many of its points – those that could be passed without provoking a reaction from public opinion and the family members of Mafia victims – it was the ‘spirit’ of the *papello* that was substantially met.<sup>912</sup> As the MP put it, the experience of the Bicameral Commission, which we have analyzed in this chapter, was “destined to remain a symbol in the history of our country for being the narration of political cultures, institutional practices, and poor quality of parliamentary representation, and because of the fact that the spirit of this commission survived and, as a matter of fact, became one of the most influential approaches to Italian political life in the years following.”<sup>913</sup>

The political-judicial conditions that satisfied, or attempted to satisfy the requests of Cosa Nostra listed in Riina’s *papello* were thus recreated, in the first years of the Second Republic, primarily by the center-left government, with Berlusconi being relegated most of the time to the parliamentary benches of the opposition after the anticipated fall of his government just a few months after his victory at the election. It is for this reason that, in the early years following the violence of 1992-93, the magistrates who, together with the police forces, were gaining positive results against Cosa Nostra as had never happened before, did not miss a single occasion to accuse the government of preventing and hindering their efforts and of helping the Mafia. The judicial policies implemented by the center-left government between 1996 and 2001 are one more crucial factor that explains – much better than the perhaps simplistic consideration that the Mafia bosses had realized how negative the counter-effects of their blatant violence were and put all their odds on Berlusconi – why Cosa Nostra, even when the forces in power were different from those it had bet on, did not return to a frontal attack on the State but continued to weave its cautious web *through* it.

As all this happened, the strategy of the Mafia remained one of silence, prudence – we have seen how in this period Cosa Nostra even changed some her most traditional rules such as that of the ‘presentation’ of *mafiosi* and limited as much as possible internal circulation of information – and cohabitation with politics. Meanwhile, a new generation of *mafiosi* began to emerge who were in general more educated and with less propensity for blatant violence. They were also those who could better suit the task of leading Mafia operations at a very

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<sup>912</sup> N. Dalla Chiesa, *La convergenza*, *op. cit.*, p. 130.

<sup>913</sup> *Ibid.*

moment when State repression was becoming increasingly effective, although, as highlighted in this chapter, quite a considerable part of this increased effectiveness was limited by an inefficient State bureaucracy and, most importantly, by a general attitude of Italian politics aimed at disregarding the Mafia.

Between 1994 and 2001, the Sicilian Mafia began a process of transformation, forced by State repression and taking advantage of the fact that the judiciary policies of all governments which alternated in power in the early years of the Second Republic, deliberately or not, hindered the work of police agents and prosecutors. The evidence presented in this chapter seems to discredit any possible accusation of “rhetoric of catastrophism,”<sup>914</sup> as the successes of the State came too late, when the Mafia had already begun its liquefaction into her other dimension, the *borghesia mafiosa*.

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<sup>914</sup> The expression is by historian Salvatore Lupo, see S. Lupo, *La mafia non ha vinto, op. cit.*, p. 66.

## Chapter 6

# Mafia and politics in the Second Berlusconi Government

### 6.1 Going easy on the Mafia

With a solid mandate and a control over the media unprecedented in Italian history, Berlusconi made his strongest personal imprint on politics during the years of his second government. He also embittered the attacks against the magistrature and the media that wasn't aligned with him, dividing public opinion into a dichotomy: with, or against him.<sup>915</sup>

Since within the Parliamentary Antimafia Commission the views of the commissioners of the majority were the opposite to those from the minority on all the most important subjects and in particular the crucial nexus of the relationships between Mafia and politics, for the first time in years the commission released two final reports. The split between the commission's two factions came in the middle of 2003 and lasted until the end of the legislature. Quite significantly, the principal reason for it was the existence or not of hidden prompters to the 1992-1993 bombings. According to the commissioners of the parliamentary majority, "In order to talk of such prompters, one should have proof, and not base assertions on stereotypes that just make informative noise;" furthermore, "one such judgment should be based on a judiciary, and not a historical analysis."<sup>916</sup> On the contrary, their colleagues from the minority insisted that among the commission's task should also be investigating such prompters – whose existence, therefore, was somehow assumed – and put the magistrature in the best conditions to do likewise. The main motive for the division was thus precisely the principal argument that divides those claiming the existence of the *trattativa* from those who deny it, and it is interesting to notice the perfect coincidence between the latter and the report produced by the commissioners of the majority supporting Berlusconi, which, for reasons that

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<sup>915</sup> Concerning the debate on Berlusconi's 'soft regime' see N. Bobbio, *Etica e politica: Scritti di impegno civile*, *op. cit.*, (in particular the sections *Valori politici e dilemmi etici* and *Le forme della politica*); F. Cordero, *Le strane regole del Signor B.*, Milan, Garzanti, 2003; a historical account, limited to the years until 2001, can be found in P. Ginsborg, *Italy and Its Discontents, Family, Civil Society, State*, *op. cit.*, pp. 285-324; P. Ginsborg, *Silvio Berlusconi, Television, Power and Patrimony*, *op. cit.*; see also A. Stille, *The Sack of Rome*, *op. cit.*, although from a more journalistic perspective; M. Clark, *Modern Italy, 1871-to the Present*, *op. cit.*; D. Lane, *Berlusconi's Shadow*; A. Oxman, *Sotto Berlusconi. Diario di un'americana a Roma, 2001-2006*, Rome, Editori Riuniti, 2007; M. Travaglio, *Ad personam*, Chiarelettere, Milan, 2010 and G. Barbacetto, P. Gomez, M. Travaglio, *Mani Sporche*, Chiarelettere, Milan, 2007.

<sup>916</sup> *la Repubblica*, 31/7/2003.

will appear clear, can be considered a fabrication of history. In this regard, we read in the majority report of the parliamentary inquiry that “no great old man or politician has ever been able to influence the Mafia or address its actions;” whoever claims the opposite, simply puts forward a “theory advocated by those more or less excellent Mafia experts; such a theory is just the result of their deductions, or rather, perhaps, of their ruminations, which are far from reality.”<sup>917</sup> A further reason for the division within the commission was the Andreotti trial. The majority commissioners believed that the sentences released two years before they drafted their final report had “badly disproved the accusations of collusion with the Mafia: accusations that were, for the most part, the consequence of media debates that had replaced the trial.”<sup>918</sup> The congressmen of the minority, instead, accused their colleagues of delighting in “a return to investigations conducted with traditional methods” and in “the lessening occurrence of flattening prosecutors and magistrates with statements released by Mafia witnesses,” a method that “in the previous seasons of the fight against the Mafia laid at the origin of accusations that often turned out to be faulty.”<sup>919</sup> Most importantly, the denial of hidden prompters in the attacks of 1992-1993 for them simply constituted “an unreal picture,”<sup>920</sup> and for this reason they refused to sign the final draft handed in by the majority and, although with very little time available, drafted one of their own.

Both reports are polemic in tone: the Centaro report towards the magistrature, the Lumia report towards the attitude of their commission colleagues and the government.<sup>921</sup> We must, therefore, take into consideration that the principal source produced by the parliament to reconstruct the relationships between Mafia and politics between 2001 and 2006 doubles into two documents that tell us opposite stories: whereas the majority report in relation to the measures introduced and the decisions made by the government to regulate the fight against both corruption and organized crime defends the choices of the majority of which they were the expression, the minority report frames “the reforms launched by the parliamentary majority on the subject of justice as determined, in their timing and content, by the precise, personal, and procedural interests of the prime minister” and considers such reforms simply

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<sup>917</sup> *Ibid.*

<sup>918</sup> *Ibid.*

<sup>919</sup> *Ibid.*

<sup>920</sup> *Ibid.*

<sup>921</sup> *Senato della Repubblica, Camera dei deputati, Commissione parlamentare d'inchiesta sul fenomeno della criminalità organizzata mafiosa o similare, Relazione conclusiva, istituita ai sensi dell'articolo 1 della legge 19 ottobre 2001, n. 386 e approvata dalla Commissione nella seduta del 18 gennaio 2006, relatore: senatore Centaro, Doc. XXIII, n. 16, Tomo I e II; e Senato della Repubblica, Camera dei deputati, Commissione parlamentare d'inchiesta sul fenomeno della criminalità organizzata mafiosa o similare, Relazione conclusiva di minoranza, presentata nella seduta del 18 gennaio 2006, relatore: onorevole Lumia, Doc. XXIII, n. 16-bis. From now onwards simply *Relazione di maggioranza* and *Relazione di minoranza*.*

“laws of privilege” approved while trials against Berlusconi, Previti, and other exponents of the majority were ongoing, and in some case even in their final stages, in order to have them avoid prosecution by frustrating proof already gathered or changing the trial rules while these were in progress.”<sup>922</sup> Such laws, as we shall examine in the following pages, according to most magistrates also helped the Mafia, and for this reason, as these laws were being drafted, quite a few antimafia prosecutors publicly denounced their inconsistency in the hope of finding support, perhaps more so in public opinion than in a parliamentary opposition which, even though in a less visible way and without any *ad personam* type of justification, had done something of the sort in the previous legislature. Although it did not last long, a portion of public opinion responded to the Berlusconi government, perceived as a threat to democracy, with the so-called *movimento dei girotondi* (literally, “Ring Around the Rosie” movement, from the way the protest was conducted). The movement was mostly active in the first part of 2002 and did not last more than a year, by the beginning of 2003 it was already over.

### 6.1.1 The first measures

Between 1996 and 2001, while the center-left, although divided, was ferrying the country towards adopting the Euro from its introduction on January 1, 2001, Berlusconi prepared his return to power, perhaps having matured that political experience he had lacked at the time of his first experience as prime minister in 1994.<sup>923</sup> His victory at the 2001 elections was net, assisted by the heavy taxes imposed by the center-left government in the previous five years in order to respect the parameters of the Maastricht Treaty and join the Euro from its very first round, as well as by the internal divisions of his rivals, which at the 2001 elections were divided in three blocks: the Ulivo alliance of parties, the Neo-Communist party Rifondazione Comunista, and the Italia dei Valori, a new party founded by the former Milan prosecutor Antonio Di Pietro, one of the protagonists of the Clean Hands season of 1992-1993.<sup>924</sup> In Sicily, Berlusconi’s electoral victory was a plebiscite with no precedent in Italian history: his coalition won 61 of the 61 seats granted by the Region to the national parliament.<sup>925</sup>

Berlusconi’s new political legitimation was not limited to Italy. At an international

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<sup>922</sup> *Relazione di minoranza*, p. 119.

<sup>923</sup> *Il Sole 24 Ore*, 10/5/2012; *The Times Europe*, 10/5/2012.

<sup>924</sup> *Ministero dell’Interno, Archivio Storico delle Elezioni – Camera del 13 maggio 2001, and Ministero dell’Interno, Archivio Storico delle Elezioni – Senato del 13 maggio 2001.*

<sup>925</sup> *Il Corriere della Sera*, 14/5/2001.

level, this recognition of Berlusconi was favored by the main events of history: a few short months after the elections, the September 11 attack on the World Trade Center gave Berlusconi the opportunity to obtain that role in international geo-politics he had lacked in 1994, when he was still looked upon with skepticism not only by some segments of Italian society but also abroad (this was due to both the corruption trials he was involved in and his conflict of interests – his dual role as prime minister and owner of the only television company allowed to broadcast nationwide and of a bunch of publishing companies). Only a few weeks after his rise to power, Berlusconi in fact joined the United States and the UK in their crusade against international terrorism and their military action in Iraq and Afghanistan.<sup>926</sup> The only obstacle to him, the Italian constitution's prohibition on attacking other countries if they had not first attacked Italy, was bypassed by the expedient of presenting such expedition as a "mission of peace" to the vote of the parliament and to public opinion.<sup>927</sup> Having thus obtained brand new international recognition, Berlusconi could now concentrate his attention on what he seemed to consider as his main priority: putting the judiciary under his control.

The very first measures that the new government passed had the immediate effect of saving Berlusconi and some of his closest associates from the trials in which they were defendants and favoring the prime minister's companies. Such measures were accompanied by the harshest attack against the judiciary in Italian history: judges, and in particular prosecutors, became the target of a constant hammering, duly relaunched attacks, amplified by the media now under the complete control of the head of the government (Berlusconi had remained the owner of the main private television channels, newspapers and publishing houses in the country, and, as prime minister, also controlled RAI, which, since its establishment in 1954, had been under the control of the parties controlling the government). Judges and prosecutors were described, from time to time, as "factious," "crazy," "mentally disturbed," "anthropologically different from the rest of human race," "worse than Fascism," "fomenters of a civil war," "guilty of a coup," "associates in crime," and all manner of the same.<sup>928</sup> The effect of the assurances that Berlusconi's political opponents had – by their own admission – given to him in 1994 "that his television would not be touched regardless of

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<sup>926</sup> *Il Corriere della Sera*, 24/2001.

<sup>927</sup> *Il Domani*, 24/1/2005.

<sup>928</sup> *la Repubblica*, 13/11/2001, 29/1/2003, 30/4/2003, *Il Corriere della Sera*, 7/8/2003, 4/9/2003. A response to these attacks can be found in the preface written by G. Caselli to the book *Voglia di Mafia*, by E. Bellavia, S. Palazzolo, Carocci, Rome, 2007. Concerning the verbal attacks of politicians against magistrates in that periods see B. Tinti, *La questione immorale*, Chiarelettere, Milan, 2009.

whether he entered politics or not,” were now evident in all their negative consequences.<sup>929</sup>

The first measure taken by the parliament was the abolition of the inheritance tax on great heritage. Such an act gave Berlusconi, the richest man in the country, an enormous advantage, more so than any other citizen. However, this was just the first in a series of laws designed for the prime minister’s personal benefit which had the consequence of bending the State’s general interest to the private and personal interests of the ruling class and its leader. According to the minority report of the Parliamentary Antimafia Commission, such laws also had the effect of favoring the Mafia: both directly, for their immediate impact, and indirectly, for the idea of a “State” bent over private interests which they implied.<sup>930</sup> The result was a “progressive fading of the line between legality and illegality and a failing of the constitutional and judicial principles of legal certainty and equality of each citizen before the Law.”<sup>931</sup> We shall now examine these laws more closely in order to better understand their consequences on organized crime.

The first judiciary measure passed by the new parliament was the appointment of one of Berlusconi’s defending lawyers, Gaetano Pecorella, to the presidency of the Justice Commission of the Chamber of Deputies: a decision that seemed to clearly outline Berlusconi’s conception of a privatized judiciary, as Pecorella was also one of the prime minister’s defending lawyers.<sup>932</sup> These lawyers-turned-congressmen then introduced other measures in order to save Berlusconi *from* the trials in which he was a defendant rather than *in* such trials, since – as defending lawyers – they would have to demand that the judges apply those very same laws that they themselves – as congressmen – had drafted. Besides these lawyers, however, in the parliament elected in 2001 was also a “congruous number”<sup>933</sup> of lawyers who were defending, or had previously defended, some major Mafia bosses, such as Carlo Taormina, Nino Mormino, Vincenzo Fragalà (later assassinated in a mysterious Mafia ambush), Michele Saponara, Sergio Cola, Giancarlo Pittelli, and Mario Pepe. All of them were elected in southern constituencies, and now had the opportunity to submit to parliament laws that could favor their clients.<sup>934</sup>

According to the parliamentary inquiry minority report, such conflict of interests were rendered more dangerous by the fact that “those MPs may be blackmailed, pressured, or

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<sup>929</sup> As stated by the MP of the Left Democrats, Luciano Violante, in the course of the parliamentary sitting of 28/2/2002.

<sup>930</sup> This interpretation is provided, among others, by N. Dalla Chiesa, *La convergenza*, *op. cit.*, pp. 146-171.

<sup>931</sup> *Relazione di minoranza*, pp. 118-120.

<sup>932</sup> *Il Corriere della Sera*, 22/6/2001.

<sup>933</sup> *Relazione di minoranza*, p. 141.

<sup>934</sup> *Ibid.*

threatened by *mafiosi* who may expect their defending lawyers now MPs at the national parliament (probably elected also thanks to the vote of the families and friends of those *mafiosi*), to draft laws that meet their necessities rather than that of public interest, as some *mafiosi* themselves, in many cases, have clearly said.”<sup>935</sup> On the contrary, the commissioners of the majority of the Antimafia Commission did not see any incompatibility between the parliamentary mandate and the exercise of forensic action, and reduced such a clear conflict of interests to the sole possible expectation by the *mafiosi* of favorable laws being drafted in their favor. For this reason, the minority commissioners considered their colleagues as incapable of “distinguishing between the profession of defending lawyer in the trial and the quite different role of the public man in his institutional duties.”<sup>936</sup> The point is crucial, as the refusal to admit such an evident conflict of roles is one of the aspects that forces us to consider the report produced by the majority of that parliamentary inquiry as unreliable.<sup>937</sup>

This was just the beginning. As the legislature progressed, the music did not change.

### 6.1.2 Facing the Mafia without protection

On September 18, 2001, just one week after the attack on the World Trade Center, as all the rest of the world increased security measures, the Minister of the Interior, Claudio Scajola, reduced the bodyguards and the *tutele* (the security measures in which a magistrate was accompanied by an agent, either in an armored or normal car, in charge of surveilling the places most frequented by the protected) to both magistrates and politicians by one-third. The measure left unprotected those who were exposed the most to Mafia retaliation, including some prosecutors who had already been threatened by the *mafiosi*. As the decision was formalized, the parliamentary opposition, together with a large number of magistrates, voiced their protest by speaking of “stretching out a hand to the Mafia,” “senseless decisions,” “measures of an unprecedented seriousness,” “mitigation of the State’s commitment against the Mafia.”<sup>938</sup> Scajola’s reply was quite a difficult one to digest: he told them, in fact, that the

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<sup>935</sup> *Ibid.*

<sup>936</sup> *Relazione di maggioranza*, Tomo I, p. 168.

<sup>937</sup> For this interpretation see N. Tranfaglia, *Mafia, politica, affari. 1943-2008*, Laterza, Rome-Bari, 2008, p. 251. An interesting historical perspective, useful to understand the continuity of *mafioso* power, can be found in E. Pontieri, *Il tramonto del baronaggio siciliano*, *op. cit.*, p. 37 and p. 40; and C. Dollo, *Modelli scientifici e filosofici nella Sicilia Spagnola*, Guida Editori, Naples, 1984, p. 253.

<sup>938</sup> *la Repubblica*, 20/9/2001.

bodyguards were just a “status symbol, a national shame.”<sup>939</sup> The situation was rendered more alarming as on September 5, just a few days before the decision was announced, any form of protection was revoked for those State officials no longer in office but still in the Mafia’s viewfinder. These included the former Mayor of Palermo, Leoluca Orlando; the journalist, former MP of the European Parliament and son of a Mafia victim, Claudio Fava; and the former president of the Parliamentary Antimafia Inquiry of the previous legislature, Giuseppe Lumia, who “until a few weeks ago had been hyper-protected” after being repeatedly threatened by the Mafia. Lumia’s case well demonstrates the consequences of the government’s decision. A few days after his protection was withdrawn, he was interviewed by a journalist who had run into him incidentally while he was waiting to board a plane at Palermo Airport with his wife, holding one of his sons in his arms and the other by the hand. As the journalist began to question him, Lumia said he was not intimidated by the decision of the government and intended to continue the fight against a Mafia that “is not weakened” but, more simply, “in transformation” (a further indicator which suggests that we be on our guard against making the possible mistake of misinterpreting a transformation as a defeat).<sup>940</sup>

The first magistrates whose protection was rescinded were those supporting the indictment against the prime minister in some of his corruption trials (Boccassini, Colombo, and Greco), and those committed to the fight against both the Mafia and international terrorism.<sup>941</sup> Ilda Boccassini had experienced both types of the aforementioned prosecutions, as she was one of Berlusconi’s accusing magistrates and had previously been the prosecutor who had successfully led the investigations and put Falcone’s killers behind bars. She knew perfectly well that the Mafia does not forget, and on the occasion of a public intervention she admitted her fear as she said, “I am human, I am scared.”<sup>942</sup> In October, the CSM sounded the alarm that, in Palermo, bodyguards had been removed “for all magistrates” including a “relevant number” of those in charge of Mafia trials who are now “without any sort of protection.”<sup>943</sup> Fearing for their lives, these prosecutors reacted by threatening to abandon their offices en masse, in Milan the magistrates most exposed – Borrelli, D’Ambrosio, and Boccassini – protested against the government’s decision by refusing the *tutela* surveillance type of protection.<sup>944</sup> In November, it became clear that the cut in bodyguards had even

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<sup>939</sup> *la Repubblica*, 21/9/2001.

<sup>940</sup> *la Repubblica*, 6/9/2001.

<sup>941</sup> *la Repubblica*, 12/1/2002, *Il Cannocchiale*, 11/2/2008 *Antimafia 2000*, n. 17, and *Left, Avvenimenti. Settimanale dell’altritalia*, 3/9/11/2006.

<sup>942</sup> *la Repubblica*, 24/11/2001.

<sup>943</sup> *la Repubblica*, 25, 27/10/2001.

<sup>944</sup> *la Repubblica*, 21/10/2001.

affected the judges and not just the prosecutors; among the former were also those who had recently condemned some of the most important Mafia bosses to life in prison, most of whom were condemned *in absentia* and thus potentially able to retaliate such as Domenico Raccuglia, Nicolò Di Trapani, Bernardo Provenzano, Nino Giuffrè, Matteo Messina Denaro, and Giuseppe Balsano: basically, the entire Commission – the governing body – of Cosa Nostra. The only protection that remained for these judges now called to pass judgment on some of the most dangerous criminals in the world was the *tutela*, the “occasional” surveillance of their homes by police.<sup>945</sup> The biggest concern was for the magistrates working in the preliminary investigations office of the Palermo Tribunal. At the end of December 2001, six of them had reached the end of their mandate term and were supposed to leave office. While waiting for their replacements, and without any protection, their colleagues were forced to cope with their trials, which was quite dangerous as in many cases the accusations demanded heavy sentences. Some of these overburdened magistrates were Silvana Saguto, who had just presided over the court that sentenced Corleone boss Leoluca Bagarella to 26 years in prison for trafficking drugs and weapons and attempted murder, and her colleagues in the preventive measures office in charge of judging the seizure and confiscation of Mafia boss assets: Fabrizio La Cascia, for whom even the *tutela* protection had been removed, and Guglielmo Nicastro, who never even got it.<sup>946</sup> But they were just some of the magistrates who had to decide on “defendants who were being given life sentences one after the other and whose assets were often seized or confiscated even on the sole basis of being suspected of being in the Mafia” and, for such reasons, were those motivated the most to take revenge.<sup>947</sup>

Still in November 2001, the *tutela* was even lifted from a magistrate who was about to judge on one of the last maxi trials against Cosa Nostra in which the evidence against the defendants was so strong that a guilty verdict, which meant an interminable series of life sentences, could have easily been predicted: now, he had to “return home alone, every single day.”<sup>948</sup> In such a situation, feeling the heat of being the target of Mafia retaliation, all these magistrates could do was to denounce the dangers that they were facing and try to look for solutions. One was the decision to approach the Committee of Order and Security, the body in charge of the protection of government officials. Several complaints were made before this committee: one was made by Laura Vaccaro, who reported that one of her relatives who lived in the small Sicilian town of Favara, in the province of Agrigento where the Mafia had been

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<sup>945</sup> *Ibid.*

<sup>946</sup> *Ibid.*, and *la Repubblica*, 14/11/2001.

<sup>947</sup> *Ibid.*

<sup>948</sup> *Ibid.*

present for at least 150 years since the times it controlled the sulfur mines, had already been threatened several times.<sup>949</sup> While refusing the *tutela* type of protection, which they perceived merely as the government's alms for their protests, magistrates could not help observing that not even one of those politicians whom they accused of putting their lives at risk had been affected by similar measures: many of their politicians, instead, "even in times of airport cuts and restrictions, retained the privilege of being picked up at the airport when traveling."<sup>950</sup>

The situation worsened the following year. On January 14, 2002 in Palermo, a torchlight procession held in solidarity with both police agents and magistrates left "unprotected by the government" was led – quite surprisingly, given the fact that he had been elected from the ranks of Forza Italia, the party mainly responsible for the cuts in protective measures – by Palermo Mayor Diego Cammarata, who proposed himself as the mediator between the protesters and the Minister of the Interior Claudio Scajola. The protest was promoted by both magistrates and policemen in order to launch a national dispute against the government for its decision.<sup>951</sup> Even though, initially, the initiative led to some results, as three days later the minister made a partial step back by revoking the cut to the magistrates fighting the Mafia, the government later continued its direction. In December 2002, the controversy having faded and been replaced by others of a similar kind, amidst the general media silence and with public opinion more concerned with Christmas celebrations, Michele Barillaro, the judge for the preliminary investigation at the Nicosia Tribunal, a small town in the internal Sicilian province of Enna, in charge of the trial for the failed attempt on Falcone's life at Addaura in 1989, was left without a bodyguard. The same happened to Pietro Falcone, the president of the Nicosia Tribunal and also the former president of the section of the Caltanissetta Assizes in charge of the Borsellino-*bis* trial, the second trial for the Via D'Amelio bombing. But they were not the only ones: the chronicles of those days, in fact, report that "quite a number of magistrates in charge of Mafia cases have been left unprotected."<sup>952</sup>

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<sup>949</sup> *Ibid.*

<sup>950</sup> *Ibid.*

<sup>951</sup> *la Repubblica*, 15/1/2002.

<sup>952</sup> *la Repubblica*, 18/1/2002, 6/12/2002.

### 6.1.3 “Cohabiting with the Mafia”

At the end of August of 2002, Pietro Lunardi, minister of Public Works – a ministry by its very nature considered important by the Mafia for the public contracts that it managed – released a public statement in which he announced that “Mafia and Camorra have always existed, and it is necessary to learn to cohabit with them,” and advised “each entrepreneur to solve such problem as he believes best.”<sup>953</sup> Such a statement had an enormous impact even on a public opinion with quite a high degree of addiction to anything corruption-related and put the Mafia back in the spotlight of public debate. Moreover, the impact of this statement was made more serious by the fact that Lunardi pronounced such words during a State visit to Palermo, the capital of *mafioso* power. The obvious effect of Lunardi’s words was thus seeming – and in all probability, being – the public pronouncement of a state of non-belligerence between the government and the Mafia, the public admission of the lack of any real political will to fight against both the Mafia and corruption. The magistrates’ reaction was obvious and predictable: they said to be “bewildered, preoccupied, and alarmed” by a “minister of the Republic” that they “could not believe could ever pronounce such words,” and that they refused to surrender to the idea of “cohabiting with the Mafia and the Camorra.”<sup>954</sup> The parliamentary opposition demanded Lunardi’s resignation, which he rejected upon receiving public support from his peers. It was these public justifications that communicated more about the government’s attitude than Lunardi’s statement itself: now, even officially, the fight against the Mafia was entirely delegated to law enforcement agents, whose instruments to conduct such fight were in the meantime being removed or blunted.<sup>955</sup> It is for all these reasons that the analysis of the political climate made by a Sicilian magistrate called Gioacchino Natoli does not seem groundless. Natoli claimed, “The mistake that all of us have committed, as citizens, has been that of believing that the more serious line of civil dignity that we took in 1992-1993 was a point of no return, whereas, instead, it was just a flash in the pan; as soon as the general situation has returned to a normal – that false normal in which blanket extortions are being made without anybody denouncing them and people are

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<sup>953</sup> *la Repubblica*, 24/8/2001.

<sup>954</sup> *la Repubblica*, 24/8/2001.

<sup>955</sup> We read in the Lumia report: “It is huge damage to Justice made by the serious decision by the Minister of Justice, Castelli to not implement the procedures for the competition to access a career in the magistrature of other 1000 magistrates, after the Ulivo government had approved a law in order to have an extra staff dei concorsi per consentire l’ingresso in Magistratura di altri mille magistrati, dopo che il governo dell’Ulivo aveva approvato la legge di aumento di organico as well as the relevant regulation,” in *Relazione di minoranza*, p. 117. Concerning the consequences of the government policy towards the DIA and DNA see *Ibid.*, pp. 116-119.

murdered either by sawn-off shotgun or anyway in such a way as to make the least noise possible – the historical connivance between the Mafia and political power has been reconstituted.”<sup>956</sup>

It may now be worth opening a digression. Lunardi’s words had an important precedent in Mafia history, as they recalled those pronounced in 1925 by Vittorio Emanuele Orlando, the prime minister who led Italy to victory in the Great War: “If, by Mafia, we mean the sense of honor pushed to exaggeration, the intolerance towards any bullying and oppression pushed to paroxysm, the generosity that faces the strong but indulges the weak, the loyalty to friendship which is stronger than anything, even death: if, by Mafia, we mean all such feelings and attitudes, even though turned to excess, well, those are individual marks of the Sicilian soul, and thus I declare being *mafioso* myself and I am proud of it.”<sup>957</sup> However, Lunardi’s statement was a quantum leap forward compared to Vittorio Emanuele Orlando’s, and for this, under certain aspects perhaps paradoxically, it can be considered as a break in the continuity. Both statements, in fact, should be analyzed in their historical context. Although it is impossible to think that he was not aware of his mystification, Orlando at least cared to premise that “his” Mafia was behavior in defense of the weak against the arrogance of the powerful, in line with a conception that was quite widespread during his time mainly thanks to Pitrè’s theorization that we presented in the first chapter of this work (a conception that, although not so prevalent, was destined to a new fortune and be adapted to other historical contexts).<sup>958</sup> When he made his apology, Orlando had just severed ties with Mussolini and was simply making use of *Sicilianism* – the typical political attitude of the Sicilian leading classes of calling on Sicilian pride when convenient in order to maintain their power – as the last political resource available in the 1925 elections in which he was running as a candidate against the Fascist Party (and it did not even work, as the Fascist list obtained more votes).<sup>959</sup> Lunardi’s words, instead, came at a moment when, right after the bloodshed of 1992-93 and the previous one of 1979-1983, the idea that the Mafia embodied “intolerance towards oppression” or a “spirit of generosity” was not credible anymore. Hence, the “cohabiting with the Mafia” articulated by Berlusconi’s minister can only appear as the admission of the *normal* – perhaps the necessity, if we consider it from the perspective of a certain type of

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<sup>956</sup> *la Repubblica*, 2/9/2001.

<sup>957</sup> G. C. Marino, *Storia della mafia*, *op. cit.*, p. 128.

<sup>958</sup> See Chapter 1 of this work and S. Lupo, *Storia della mafia*, *op. cit.*, pp. 21-22; concerning the myth of a good Mafia see U. Santino, “Tramonta l’ultimo padrino, l’allarme antimafia resta alto,” in *la Repubblica*, 12/4/2012; and P. Pezzino, “Sciascia e il mito della mafia buona,” in *Il Corriere della Sera*, 3/6/2005, p. 33.

<sup>959</sup> This interpretation can be found in S. Lupo, *Potere criminale*, *op. cit.*, p. 68. Concerning the *sicilianismo* as a political resource see *L’ideologia sicilianista: Dall’età dei lumi al Risorgimento*, S. F. Flaccovio, Palermo, 1972; *Storia del separatismo siciliano*, Editori Riuniti, Rome, 1979.

politicians – of exercising political power in a certain way, of living together with the Mafia admitting it into the division of public contracts and inside the power system. Lunardi's statement should be interpreted in the context of the unprecedented insolence of the political language which originated in correspondence with the beginning of the Second Republic. Such insolence, among the many examples available, could be accounted for by the aforementioned attacks and offenses launched by Prime Minister Berlusconi against the judiciary; by Berlusconi and Dell'Utri's calling of the *mafioso* killer Vittorio Mangano a "hero," perhaps for dying in prison without breaching the wall of *omertà* against the two of them;<sup>960</sup> or finally, by the words of Giulio Andreotti, who, in 2012, a few years after being acquitted of the charge of Mafia, commented on the death of Giorgio Ambrosoli – the lawyer gunned down by Cosa Nostra in 1979 while investigating the malpractice of Mafia banker Michele Sindona – by saying, "He had it coming:"<sup>961</sup> a simply unthinkable comment from a politician in the years of the First Republic. It is this loss of any sobriety in the political language which accompanied the Second Republic from its very beginning and seemed to be mostly the consequence of the climate of impunity that parties and politicians – regardless of the side or party they belonged to and in spite of some exceptions and modulations depending on the coalition, party, or politician – the best frame within which we should interpret Lunardi's words. With politicians now even flaunting their immorality without worrying – or overly much – about public opinion, the old Catholic decency, which was at least a formal, often hypocritical mask with which politicians still had to come to terms with, was now gone forever. There was not much *new* in the Second Republic: if there ever had been anything, this was a degeneration of the *old*. And it is within this degeneration that the change of the Mafia should be interpreted.

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<sup>960</sup> *la Repubblica*, 8/4/2008. Concerning Dell'Utri's statement see the interview of Salvatore Lupo in *Il Fatto Quotidiano*, 2/7/2010. Concerning Mangano see M. Travaglio, "Tutti i santi di Silvio," in *L'Espresso*, 18/4/2008.

<sup>961</sup> *la Repubblica*, 9/9/2012.

#### 6.1.4 False accounting and rogatory letters

The ministerial circular that conformed to this line of non-belligerence with the Mafia was the one that, on February 15, 2002 the minister of the Interior sent to all the functionaries of his ministry. The top three priorities of the government listed in the circular were, in decreasing order of importance: home burglaries, prostitution, and bag-snatchings. The fight against the Mafia (which the document identifies only with Cosa Nostra) and organized crime (identified with the Camorra, whose status was thus reduced from Mafia to that of organized crime) came in seventh place: the last item on the list.<sup>962</sup> Moreover, in his keynote speech to parliament giving notice of these priorities, the prime minister did not even use the word “Mafia.”<sup>963</sup> Considering that most government action had to do with justice, such blatant non-interest seems to be a further indicator of the a convergence of interests with the Mafia and is thus another piece of proof showing the effects of a pact of connivance.

In 2001, two other laws that, if approved, would have saved Berlusconi and some of his associates from trials that seemed destined to an unfavorable outcome for all of them began their legislative cycle. The first was a draft law regulating false accounting and decriminalizing it by shortening the statute limitation period in such a way as to prevent Berlusconi’s condemnation. Quite suspiciously, the new norms came under scrutiny by the Senate Commission of Justice and Finance on September 12, the day after the attack on the World Trade Center in New York: in spite of the request by the parliamentary minority to open a debate on the most important event that had happened in history since the end of the Second World War, the majority aimed straight at passing the law as soon as possible (it was then ratified by parliament in January 2002), justifying such rush by claiming that the best way to honor the victims of New York was by “continuing to work.”<sup>964</sup> Three years later, these regulations having now produced their effects, a report released by the minority commissioners of the Parliamentary Antimafia Commission observed that the new accounting fraud law had given further opportunity for an illegal economy to flourish, as “it has made the whole Italian economic system much less transparent and reliable.”<sup>965</sup> In support of this argument, the report cited the “conclusions of the European Court of Justice, which considers

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<sup>962</sup> See L. Violante, *Larticolo.it – Criminalità*, in *lucianoviolante.it*; see also L. Baldarelli, *Una fiaccolata per illuminare il futuro*, in *Polizia e Democrazia*, January/February 2010.

<sup>963</sup> *Relazione di minoranza*, p. 119.

<sup>964</sup> Reported in N. Dalla Chiesa, *La convergenza*, *op. cit.*, p. 149.

<sup>965</sup> *Relazione di minoranza*, p. 125.

that the sanctions for the accounting fraud law are, after the reform, in contrast with EU law because they lack force, efficacy, and proportionality in order to repair to the damage caused to the victims and the economic system.”<sup>966</sup>

The second law was that regulating the use of letter rogatory transcripts in criminal trials, which was passed in October 2001. Motivated by an alleged respect of the guarantees of the defendant in a trial, the new regulations limited the opportunity to use evidence from abroad in court. The two Antimafia Commission reports offer opposite judgments of these new measures. Whereas the majority report presents “the jurisprudential interpretation as obvious and aligned with the intentions of the legislator,” the minority report considers such an interpretation as “laughable” and sees the measures as the government’s attempt to “annul proof legitimately gathered in the context of trials of politicians from the coalition of parties led by Berlusconi.”<sup>967</sup> The help that the new regulations gave to the Mafia was explained just three weeks after the approval of the new law by Gianni Di Cagno, the president of the commission on organized crime for CSM, and by Milan prosecutor Gherardo D’Ambrosio. The former, while framing the new norms within the context of the many hairy laws passed by the parliament that had already helped the Mafia, warned that their most serious immediate effect was that of exponentially increasing the possibility that *mafiosi* would be released from prison due to the period of preventive detention expiring. As an example, Di Cagno mentioned a case that took place in Bari, in which, given the impossibility of using proof obtained by rogatory letters, many important Mafia trials, such as those against the Mafia bosses Francesco Prudentino and Sandro Cuomo or that against Michele Gallo – all accused of smuggling and international drug-trafficking – were at risk of being canceled. Di Cagno concluded that the new law “helps the Mafia because, nowadays, given the transnational dimension of organized crime, almost any trial is based on international rogatory letters; it is easy to predict that the defending lawyers will take advantage of these new measures, yet it is not their fault but the fault of those who introduced them.”<sup>968</sup> D’Ambrosio, for his part, spoke of “norms that overwhelm an objective pursued for years, that of facilitating international judiciary cooperation, and doing so at the very point in which it has become quite evident that transnational crime is a reality, and while in Europe the largest collaboration between the various national law enforcement agents is being pursued to combat such phenomena, in Italy incomprehensible decisions are being taken that go against this general trend and new, rigid

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<sup>966</sup> *Ibid.*

<sup>967</sup> See *Relazione di maggioranza*, Tomo II, pp. 442-444, and *Relazione di minoranza*, p. 124.

<sup>968</sup> *la Repubblica*, 26/9/2001.

and formalistic rules on the exchange of letter rogatory transcripts are being passed which have no respect for either the essence of things or other European countries; in short, in Italy, only the documents exchanged with certain faultfinding procedures have value; last but not least, such new rules come into force retroactively.”<sup>969</sup> Straight out, D’Ambrosio denounced a “great gift to both terrorists and criminal organizations; even though the irrefutable guilt of a defendant may emerge from transcripts of a trial, it will no longer be possible to make use of such proof, nor even of the testimonies that follow, just because a stamp is missing; we are neglecting the very essence of things and giving enormous value to formal irregularities; this is a fact of the gravest seriousness that goes against fundamental principles such as that of the preservation of proof; (...) the common will of Europe is that of demolishing frontiers; we, instead, restore barricades.”<sup>970</sup>

The effects predicted by Di Cagno and D’Ambrosio were not slow to arrive. In November 2001, a wealthy businessman from northern Italy by the name of Giovanni Pozzi, a man with “red hair, elegant clothes and a beautiful house in Brunello, near Varese,” who was accused of laundering 75 billion liras into Swiss banks over the previous seven years, became the first Italian to be freed thanks to the new regulations, as the letter rogatory against him “dissolved” in the hands of the prosecutor who was accusing him.<sup>971</sup> The only thing that the Swiss prosecutor who was working in conjunction with his Italian counterparts at the Milan Prosecution Office could do was express his “concern for the new Italian law” which “may destroy years of work.”<sup>972</sup> In December, the lawyers of Cesare Previti, accused with Berlusconi of judicial corruption, similarly to what the lawyers of Puglia mafia boss Francesco Prudentino had done just a few weeks before, demanded Previti be cleared of the criminal charges against him, as the letter rogatory transcripts which were the basis of the accusation against him could no longer be used. While submitting the request to the Milan Prosecution Office, Previti’s lawyer attached the entire transcript of the sentence that had freed Giovanni Pozzi the month before. Whether or not Pozzi had laundered 75 billion liras was destined to remain a mystery.<sup>973</sup>

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<sup>969</sup> *la Repubblica*, 22/9/2001.

<sup>970</sup> *Ibid.*

<sup>971</sup> *la Repubblica*, 15/11/2001.

<sup>972</sup> *Ibid.*

<sup>973</sup> *Ibid.*, and *la Repubblica*, 5/12/2001.

### 6.1.5 Money repatriation and other bureaucratic cavils

On November 23, 2001, following a bitter fight in both parliamentary chambers, decree No. 350 was converted into law. By establishing that money could now return to Italy under guaranteed anonymity just by paying a tax of 2.5% of the returning sum, the new measure had the effect of allowing the repatriation of illegal capitals exported abroad. As the law was approved, the parliamentary opposition, in the words of its expert on judiciary issues, Francesco Bonito, accused the government of having enacted another measure that “seems to have just been made for criminal organizations.”<sup>974</sup> Bonito was not the only critical voice on what he considered a “gift” to the Mafia. In the days before the approval, as the new regulations were being debated in parliament, Di Cagno had already warned of the “serious risk of giving an advantage to organized crime” with norms that “can allow high-ranking criminals to do lucrative business: (...) usually, those who have large sums of money and the prospect of billionaire accounts in Switzerland are either a criminal or a white-collar.”<sup>975</sup> While referring to the combination of a possible “legal” repatriation of illegal capitals as the primary effect of the new regulations introduced by the government, Di Cagno said that “we will waste so much time in staging the trials, and even the statute of limitations is not a secondary problem; the time that passes is not simply a loss for justice and citizens, but, most importantly, is an ally for those who want the statute of limitations to run out, and thus, for dangerous criminals who want to be set free.”<sup>976</sup> However, not much could be done at this point except to organize a few conventions to debate the problem, such as the one that took place in January 2001 in Palermo promoted by the journals *Micromega* and *Antimafia Duemila*, by the SLI and CGIL worker unions, and some civic associations such as ARCI. The convention bore a title that could not be more emblematic: *The Mafia Gives Thanks*.<sup>977</sup>

Even with regard to this law, the two Antimafia Commission reports give opposite interpretations. According to the warped, unclear, pointless language of the majority report that, paradoxically, its translation into English can only improve, “there are no negative effects (...) as it has been confirmed before this committee by the collaboration started in such a sector between the Italian Exchange Office [the government body established in 1945 with the task of supervising the capital movements, which was suppressed in 2008] and the

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<sup>974</sup> *la Repubblica*, 23/10/2001.

<sup>975</sup> *la Repubblica*, 26/10/2001.

<sup>976</sup> *Ibid.*

<sup>977</sup> *la Repubblica*, 15/1/2001.

National Antimafia Prosecution Office, as well as by the verification that followed: the result of the monitoring of such activities (opaque only for fiscal purposes, but permeable to penal investigations) has consisted of about 60 lines of inquiry sent to the various prosecution offices territorially competent for further elaborations.”<sup>978</sup> On the contrary, the minority report interprets the new law as a humiliation for all the honest citizens who have “kept their capital in Italy, paying taxes regularly,” and as a legitimation and an encouragement for “those who have broken the law;” furthermore, the effects of the new regulations was even more serious since the “tax shield” offered by the law is “an instrument that facilitates the laundering of profits deriving from criminal activity,” and “it is very likely that capital illegally made through, or which is the result of, Mafia activities such as the trafficking of drugs, smuggling of weapons and cigarettes and so on, has already returned to Italy, without anybody being able to know of its origin, since the money was laundered and legitimized by State law.”<sup>979</sup>

Even the interpretation of this law should be contextualized within the time period. In a meeting held by the European Parliament in December 2001 on the subject of the European arrest warrant, which had just been introduced to replace the former extradition procedure in place, and attended by delegations from all the European Union member states, the Italian delegates demanded the reduction of the 32 typologies of crime liable for an international arrest warrant upon which all the other states had already agreed, to six: they wanted to exclude all the crimes related to corruption, fraud, and money laundering.<sup>980</sup> On December 31, 2001, as anyone was preparing to celebrate New Year’s Eve, the Minister of Justice, Roberto Caselli, upon request of Previti’s defending lawyers and against any usual procedure, denied prorogation to the judge Guido Brambilla, a member of the court in charge of deciding on the Sme-Ariosto trial in which both Previti and Berlusconi were defendants. The minister ordered Brambilla to be “moved immediately” to another court, to which he had already been assigned but where he was due to arrive only a few months later, preventing him from completing the Sme-Ariosto trial, which, for this reason, had to be begun again from scratch. The attempt, eventually, did not work, since the president of the Court of Appeal in charge of the decision ruled that Brambilla remain in his court until the end of the year; however, it risked having strong implications for Mafia trials (and, no doubt, sent the Mafia a favorable message).<sup>981</sup> As Berlusconi’s lawyers won the appeal, in fact, the precedent created had the consequence of putting hundreds of trials throughout the country at risk, including such important Mafia trials

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<sup>978</sup> *Relazione di maggioranza*, Tomo II, p. 426.

<sup>979</sup> *Relazione di minoranza*, p. 121.

<sup>980</sup> *Senato della Repubblica, XIV Legislatura, Resoconto stenografico della seduta n. 086 del 5/12/2001*.

<sup>981</sup> *Il Corriere della Sera*, 6/1/2002.

as that in which Marcello Dell'Utri was the defendant and another one considered “the most important trial against Provenzano’s entrepreneurial Mafia” denominated “trash” in code, which had begun three years before and had 30 defendants including politicians, businessmen, and Mafia bosses alike. The judges in charge of beginning the trial were now “incompatible” with it because they had already dealt with the inquiry, and therefore the trial, “in which some of the defendants – such as Bernardo Provenzano, Francesco Caldarone, Manlio Orobello, Franz Gorgone and Romano Tronci – are high-profile criminals, and for which long hearings are expected given the high number of witnesses that will be called to testify by both the accused and defense – about 200 according to the magistrates who had staged the trial – has already switched twice, from the fifth to the fourth section of the court, and after that from the fourth to the second, with the consequence of perennially slowing the hearings.”<sup>982</sup> In May the situation was still the same, and in an attempt to solve it the magistrates held a debate whose only scope was to repeat to the government that if the reforms that they had requested “are not passed, the effects on Mafia trials will be devastating.”<sup>983</sup>

It was because of all these laws, perceived as a threat to democracy, that in 2002 a revolt began to germinate in public opinion that was destined to materialize in the so-called “Ring Around the Rosie” (*girotondi*) movement, named after the way in which the protest was conducted. Born of the initiative of two professors from the University of Florence, Francesco Pardi and the historian Paul Ginsborg, the movement was joined by many common people as well as by famous entertainers and journalists (its leader later became the movie director Nanni Moretti). Although against the government, the movement presented itself as oblique to politics. In the view of its leaders, in fact, political parties remained the most legitimate way to channel political consensus; however, the idea of giving them a delegation with unrestricted powers was refused and a critical attitude, even towards Berlusconi’s parliamentary opposition, was always maintained. One of the leaders of the opposition, the Left Democrat Massimo D’Alema, was, in fact, invited to a meeting organized by the two professors. In the course of the assembly, D’Alema affirmed he did not believe that “in Italy there is the risk of becoming a regime,” although he confessed sharing with the movement “a concern about attrition and the weakening of Italian democracy.”<sup>984</sup> D’Alema uttered these words sitting by a banner placed by some of those in attendance upon which, in a provocative reference to the

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<sup>982</sup> *la Repubblica*, 4, 5, 11, 13/1/2002 and 3/4/2003. The decision was motivated also with the fact that article 111 of the constitution, which ruled for “a reasonable length of the trials,” was not respected. On the contrary, we read in one of the articles quoted published by *la Repubblica* that the average length of trials had risen from 266 days to 433 between 2001 and 2002.

<sup>983</sup> *la Repubblica*, 19/5/2002.

<sup>984</sup> *la Repubblica*, 25/2/2002.

contradiction of his being the leader of a political party once mainly supported by the working class while sharing a passion for sailing like the wealthy, it was written: “Where were you, D’Alema, perhaps on your boat?”<sup>985</sup>

The demonstrations against the Berlusconi government, organized by the supporters of the *girotondi* movement in all the major Italian cities, were the first real protests since 1992-1993 carried out by a consistent sector of the Italian public against the degeneration of public morals. The movement dissolved in the space of a few months, but its spirit in defense of the fundamental values of democracy remained alive and it reappeared in later years, although in different forms, as the indignation of a large sector of public opinion towards political parties of any sort began to coagulate with the *girotondi* movement.<sup>986</sup>

### 6.1.6 Dissociation

As all this was happening, the *mafiosi* in prison continued to plot, looking for new ways to circumvent the hard prison regime surveillance systems and studying new approaches to lobbying for the introduction of dissociation. To elude the severity of the hard prison regime, they had discovered quite an ingenious system: one of them, Salvatore Biondino, had managed to get employed as a garbage man in the Roman prison of Rebibbia, and so had been able to get in touch and communicate with other *mafiosi* in isolation. However, the Head of DAP Inspectorate, Alfonso Sabella, discovered the expedient and reported it to his boss, DAP Director Giovanni Tinebra, the former head of the Caltanissetta Prosecution Office who had retained the revelations of the fake witness Vincenzo Scarantino as credible, which had constituted the basis for all the trials on the Via D’Amelio bombing. After being told about the expedient, however, Tinebra made quite an unusual decision: he ordered the suppression of the inspectorate, and consequently removed Sabella from office; then, he re-established the inspectorate but assigned its direction to another magistrate.<sup>987</sup>

The draft law on the dissociation for *mafiosi* was presented a second time in 2002 (the first was drafted during the course of the previous legislature but was unsuccessful) by those congressmen who were also, or had been in the past, *mafiosi* defending lawyers. Such a

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<sup>985</sup> *Ibid.*

<sup>986</sup> A critical and commented analysis of these facts can be found in N. Dalla Chiesa, *La legge sono io. L'anno dei girotondi*, Napoli, Filema, 2003, and F. Cordero, *Nere lune d'Italia*, Milan, Garzanti, 2004; P. Pardi, *La spina nel fianco*, Milan; Garzanti, 2004.

<sup>987</sup> *la Repubblica*, 28/12/2001; *Il Fatto Quotidiano*, 10,12/11/2009.

proposal coincided with the protests of some of the bosses in prison under the harsh regime, who, in the voice of Corleonese boss Leoluca Bagarella, launched a generic accusation to politicians of “not keeping their promises” and using them as “bargaining chips.”<sup>988</sup> Once again, we notice how the language of the Mafia implied the existence of some sort of pact with politics over the hard prison regime, or at least the expectation by the *mafiosi* that politicians would help them to solve their prison problems. Before this new dissociation proposal was presented to parliament, Mafia boss Pietro Aglieri proposed himself as the mediator between the *mafiosi* and the government to lobby for the introduction of the measure. On March 28, 2002, while serving several life sentences, Aglieri sent a letter to the National Antimafia Chief Prosecutor, Pierluigi Vigna, and the Palermo Chief Prosecutor Pietro Grasso, in which he demanded, in the language of the most experienced politician (he was “hoping for alternative, general solutions, and farsighted interlocutors”), the opportunity for the Mafia bosses to obtain “more just investigations” and the “revision of trials” in exchange for their admission to being *mafiosi* and giving up their weapons.<sup>989</sup> Such a measure, which in Italy was taken for the first time for terrorists in 1980, it is worth repeating was the most advantageous for the Mafia of all those requested by Riina in his *papello* as it would allow the bosses to dissociate from Cosa Nostra simply by releasing a formal statement, without releasing any information on the criminal organization in exchange, and obtain in return a series of benefits such as the revocation of the hard prison regime and permission to enjoy the same privileges as normal inmates. In short, the same conditions offered to Mafia witnesses but without any collaboration with justice. Although eventually the law was not approved, mainly thanks to Caselli’s uncompromising opposition, by now the general director of DAP, its sole proposal was a clear attempt at meeting Cosa Nostra’s requests.<sup>990</sup>

In addition to the dissociation measure, others arose in 2002 that helped or would have helped the Mafia. In the summer, Antonio Patrono, president of the ANM, sent a report to the National Antimafia Chief Prosecutor, Pierluigi Vigna, detailing the effects of the so-called “Saving Berlusconi Reform” that had been presented to parliament in the previous month of April. The reform, which proposed to introduce punishments of up to 18 years in prison for magistrates responsible for issuing the “wrong” verdicts, also provided “a myriad of adjustments that will render trials more difficult and longer,” such a considerable help for

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<sup>988</sup> *Il Corriere della Sera*, 8/2004

<sup>989</sup> *la Repubblica*, 23/4/2002.

<sup>990</sup> Concerning the *dissociazione* see *Relazione di maggioranza*, Tomo I, pp. 254 and 265, and Tomo II, pp. 855-6 and *Relazione di minoranza*, pp. 107-108. See also P. Gomez, L. Abbate, *I complici*, op. cit., pp. 246-280, and N. Biondo, S. Ranucci, *Il patto. Da Ciancimino a Dell'Utri. La trattativa Stato e mafia nel racconto di un infiltrato*, op. cit., pp. 218-225.

criminal organizations. Moreover, the reform proposed the abolition of the 238-*bis* article of the code of penal procedure, which would have had the consequence of preventing the judges from using previous sentences in their rulings.<sup>991</sup> As Patrono explained, “Today, if I put a *mafioso* on trial, I do not need to demonstrate that the Mafia exists, that her name is Cosa Nostra, that it is governed by a body called Commission, and so on; I can rely on previous final judgments that demonstrate the so-called Buscetta theorem and are the starting point of any Mafia trial; with this reform, instead, before condemning whoever for Mafia, there is the risk that we have to start everything from scratch and demonstrate, every single time, that the Mafia exists.”<sup>992</sup> Furthermore, the proposed changes to the 275 article of the code of criminal procedure would make preventive detention much more complicated: “Today, for Mafia-related crimes it is not necessary, as it is in any other trial, to demonstrate the peril of escape, of evidence-tampering and repeat offences, and this is precisely because of the *mafiosi*’s specific capacity for disguise; in the future, Mafia crimes will be treated like any other, with no fast track for arrest, as if the Mafia were not a specific typology of crime.”<sup>993</sup> Patrono also detected “serious” consequences even for the trial hearings, because of the reform which prevented the statements of one or more defendants from confirming those of other defendants in cases lacking other forms of confirmation, which would be applied to any typology of crime including Mafia-related ones: “Let us consider, for instance, the case of ten robbers who have just carried out a bank heist; nine of them confess the crime and have the tenth arrested; the ninth confirm that the tenth was part of the group; with the reform proposed by Pittelli, if further evidence on the guilt of the tenth bandit is not found he would be acquitted, unless he is so stupid as to confess the crime; in short, with this reform, in order to be condemned, it will be necessary to wish for it badly!”<sup>994</sup> Not even this law was passed eventually, but it was re-proposed quite a few times in the following years, thus giving evidence of a repeated attempt at introducing a series of norms that, according to the magistrates, would have consistently helped the Mafia and substantially destroyed the judiciary.

According to antimafia prosecutors, another opportunity arrived for the *mafiosi* with the draft law presented on July 9 by MP Melchiorre Cirami and later approved by parliament on November 7. Known as the “Legitimate Suspicion Law,” this act established the opportunity for a defendant to demand to be judged by another court or judge in cases where he “suspected” that the court or the judge that he had been assigned to was, for whatever

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<sup>991</sup> *Il Corriere della Sera*, 5/4/2002.

<sup>992</sup> *la Repubblica*, 14/8/2002.

<sup>993</sup> *Ibid.*

<sup>994</sup> *Ibid.*

reason that had to be judged by a special court, biased.<sup>995</sup> Bitterly criticized by the parliamentary opposition for being another law *ad personam* made exclusively in the interests of the prime minister, the Cirami Law was immediately “invoked” by Berlusconi’s defending lawyers in two of the trials in which the prime minister was a defendant, as well as by *mafiosi* defending lawyers and other defendants accused of homicide. At the end of 2002, a spokesperson for the registry of the first section of the Supreme court in charge of ruling over the appeals to move trials announced that there were already 56 such demands throughout the country. On December 1, 2002, 60 defendants in a Mafia trial who were accused of 24 homicides committed between 1988 and 1992, and to whom nine life prison sentences and others ranging from 20 to 30 years in prison had been issued in the first instance, obtained a suspension of the appeal trial since, according to their lawyers, the case was built on the basis of revelations made by some Mafia informers, and in particular by a boss by the name of Luigi Sparacio, who – they claimed – “had been manipulated.”<sup>996</sup> Three days later, on December 4, in Naples, one Saverio Senese, defending lawyer of the notorious boss of the Neapolitan Camorra Francesco Schiavone, known as *Sandokan*, obtained a trial suspension by convincing the Supreme court that the court in charge of the ruling was “composed of honest and well-prepared judges, but biased because they are under the pressure of a hammering press campaign.”<sup>997</sup> Among the “frozen” trials were also those against Rocco Chindamo, a *mafioso* from Calabria accused of slaughter; a Neapolitan guy by the name of Francesco Mollo, accused of both homicide and collusion with the Mafia, whose lawyers had obtained the move since the trial could have been affected by the fact that “one of the court judges has previously served as the judge for the preliminary hearing in another tribunal, and thus has already judged my defendant;”<sup>998</sup> one Antonio Bianco, accused of both extortion and Mafia; the three brothers Carmine, Romano and Francesco Chirillo, who, while in prison under the accusation of homicide, had obtained a trial suspension after a previous demand for suspension had been rejected. Other trials were also halted which, while not Mafia-related, were still important. One was that on the *foibe* massacres which was taking place in Rome and in which the lawyers defending Oskar Piskulic, whose defensive strategy was based on the assumption that the Slav partisans were recognized as an army by the Allies, had accused the judges of possibly being “biased” as “they did not know much about history.”<sup>999</sup> Another was

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<sup>995</sup> *la Repubblica*, 3/8/2002.

<sup>996</sup> *la Repubblica*, 25/1/2003.

<sup>997</sup> *Ibid.*

<sup>998</sup> *Ibid.*

<sup>999</sup> *Ibid.*

that taking place in the northern Italian city of Bolzano in which one Rudolf Schonegger, accused of fraudulent bankruptcy, could now benefit from the new law and have his trial moved; yet another was that going on in another northern Italian city, Udine, in which two young men accused of rape and gang sexual abuse obtained permission to be judged by another court; a final example occurred in Pescara, on the Adriatic coast, where one Carlo Viggiani, accused of pedophilia, was to be judged by a court different from the one he had been initially assigned.<sup>1000</sup> It was for all these reasons that the former Milan prosecutor, Gherardo D'Ambrosio, defined the Cirami Law as a “monstrosity” and, in the same way as his ANM colleagues, accused the parliament of passing a law “full of unconstitutional profiles.”<sup>1001</sup>

In conclusion, at times when politics was declaring to be committed to “solving” the problems of justice, beginning with the excessive length of trials (and in particular criminal trials), laws that instead of shortening trials further lengthened them were passed, at a great advantage to all defendants, including – and perhaps first of all – the *mafiosi*.

### 6.1.7 The hard prison regime

At the end of 2002, during a *Serie B* match (the Italian second division), right before the soccer leagues went on Christmas break, a banner appeared in the home team grandstands of Palermo stadium. Upon the banner was written something that did not have much to do with the game nor football in general. For reasons that will be soon clear to the reader, the banner’s message will be first reported in its original language: “*Uniti contro il 41-bis: Berlusconi dimentica la Sicilia.*”<sup>1002</sup> Since the Italian word *dimentica* can be either the present tense or the imperative form of the verb *dimenticare* (to forget), the banner could be interpreted in two ways: either the translation could be “United against the 41-bis, Berlusconi forgets Sicily,” in which case the message would mean that the government had “forgotten” to keep certain promises made for the hard prison regime; or the message could be read as “United against the 41-bis: Berlusconi, (you can) forget Sicily,” in which case the meaning would be that whoever held the banner, or had it put up, wanted the prime minister to be aware that Sicily was ready

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<sup>1000</sup> *Ibid.*

<sup>1001</sup> *la Repubblica*, 14/7/2003.

<sup>1002</sup> *la Repubblica*, 23/12/2002. See also L. Abbate, P. Gomez, *I complici, op. cit.*, pp. 262-266. Concerning the 41-bis see *Relazione di maggioranza*, pp. 317-359; *Relazione di minoranza*, pp. 104-114.

to withdraw its support to the government as it had not kept its promises on the hard prison regime or had betrayed expectations on the abolition or the mitigation of it.<sup>1003</sup> Whatever the meaning, the Palermo fans timed their warning well, as the following day the parliament passed a law, which had been proposed by the government the previous May, stabilizing the hard prison regime. Until then, the measure had to be renewed every six months for each prison inmate in isolation. The new law confirmed that the inmates under the 41-*bis* had to be confined to special and isolated departments, could receive just one postage parcel per month, have two meetings with family members every four weeks (and always separated from their visitor by bulletproof glass), were not permitted (or only sporadically) to maintain a rapport with other detainees (up to a maximum of five), and were only allowed to enjoy four hours in the open air per month. As the law was passed, Berlusconi commented that it was a “necessary” act even though it responded to an “illiberal philosophy.”<sup>1004</sup>

However, what may at first sight appear to be a measure that was unfavorable to the Mafia could not be such if viewed through a magnifying glass. According to the magistrates, in fact, the hard prison regime that the government stabilized was just a watered-down version of the original one demanded by Falcone and Borsellino and passed right after their deaths, since its efficacy had by now been undermined by the fact that the *mafiosi* in prison under the 41-*bis* could easily exchange information, as highlighted in the Antimafia Commission minority report as well as other sources.<sup>1005</sup> For example, as early as 1997 Mafia informer Giovan Battista Ferrante described his experience of the hard prison in these words: “I was assigned the 41-*bis* regime when I began to collaborate; I shared my cell with three other detainees, and there were about 35-40 of us during yard time.”<sup>1006</sup> In that same year, an antimafia prosecutor said that, “The 41-*bis* exists only in theory; in practice in the Asinara prison [one of the two prison islands where the application of the hard prison was supposed to be the most severe, for which Riina in his *papello* demanded the closure] and in other top-security prisons it is just not being applied,” and, “as a matter of fact, it is never applied in the way that the legislator intended it; this is just a symptom of the disempowerment in the fight against the Mafia.”<sup>1007</sup> Also in 1997, after it had emerged that in the prison of Marsala a group of bosses including some who were detainees and others who were fugitives had conducted

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<sup>1003</sup> A critical analysis of such case can be found in U. Santino, *Don Vito a Gomorra*, *op. cit.*, p. 78.

<sup>1004</sup> *Antimafia 2000*, n. 28.

<sup>1005</sup> See N. Dalla Chiesa, *La convergenza*, *op. cit.*, pp. 158-160; L. Abbate, P. Gomez, *I complici*, *op. cit.*, pp. 266-268; *Il Fatto Quotidiano*, 27/10/2010. The Lumia report highlights how the *mafiosi* could communicate with each other inside the prisons, see *Relazione di minoranza*, p. 242. See also *Relazione di maggioranza*, Tomo II, p. 332, which admits such fallacies in the application of the hard prison regime too.

<sup>1006</sup> *la Repubblica*, 5/2/1997.

<sup>1007</sup> *Ibid.*

meetings in which they deliberated over homicides and strategies to adjust trials,<sup>1008</sup> former Palermo Chief Prosecutor Caselli had already denounced the inefficacy of the 41-*bis* by calling it an “empty box.”<sup>1009</sup> One such statement had provoked the reaction of the Minister of Justice, Giovanni Maria Flick, who in turn had accused the branch of the magistrature in charge of detainee surveillance of “dismantling” the hard prison and of “having ruled, in the last weeks, for the partial disapplication of the modalities of the 41-*bis*.”<sup>1010</sup> Even before the harsh regime was stabilized, the Palermo Attorney General, Vincenzo Rovello, and public prosecutor Ilda Boccassini had denounced its progressive inefficacy from the time it had been introduced. Speaking in 1998, Rovello accused the hard prison of being by now completely “distorted,” while Boccassini said that “less severe than today’s 41-*bis*, watered-down like a cheap rotgut wine, there is only the prison of the old days, so lavish that *mafiosi* used to call it the ‘grand hotel’: the original version of the 41-*bis*, in fact, provided total isolation on an island, one colloquy per month, and no contact of any kind between detainees, while now the *mafiosi* even have the opportunity to socialize for an hour; moreover, they may be content with this, but they are not, they want more: they want to get together and organize a negotiation table, they are willing to rebuild their power, and there are those, in the government and parliament who, it seems, give them credit.”<sup>1011</sup>

The Parliamentary Antimafia minority commissioners investigated the matter deeply and interpreted the passing of the law that stabilized the hard prison regime (Law no. 279) precisely in the context of the *trattativa* between the Mafia and the State. They noted the inefficacy of the harsh regime between 2003 and 2005, the first two years after its stabilization,<sup>1012</sup> and highlighted how “the initiatives of the *mafiosi* in prison were aimed at urging sectors of the parliamentary majority to fulfill commitments that had been made previously.”<sup>1013</sup> They also pointed out the proclamation made before the Trapani Assize Court by Leoluca Bagarella in July 2002: “I speak in the name of all the detainees under the 41-*bis* regime of the prison of L’Aquila who are tired of being exploited, humiliated, harassed, used as a bargaining chip... we got played; the promises made have not been kept...we intend to inform this court that, from July 1, we have issued a civilized and peaceful protest by reducing

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<sup>1008</sup> *la Repubblica*, 12/2/1997.

<sup>1009</sup> *la Repubblica*, 5/4/1997.

<sup>1010</sup> *Ibid.*

<sup>1011</sup> *la Repubblica*, 13/1/1998 and 21/5/2002.

<sup>1012</sup> The law that rendered stable the hard prison regime regulated by the 41-*bis* article of the penal code was approved on December 23, 2002, while the Parliamentary Antimafia Commission reported its results to the parliament on January 18, 2006: for this reason, such considerations refer to the period between 2003 and 2005.

<sup>1013</sup> *Relazione di minoranza*, p. 105 e p. 107.

our fresh air and food.”<sup>1014</sup> Such proclamation was similar to that made in the same days by another boss under the harsh prison regime, Cristoforo Cannella, who had sent a threatening warning to those parliamentary congressmen who were also *mafiosi* defense lawyers: “Where are the lawyers elected in the southern regions who have defended lots of *mafiosi* and who now have a seat in parliament and are at the top of the committees in charge of these laws?”<sup>1015</sup> One final case mentioned in the report is the “attempt at opening a 'negotiation'” with the State, such as the proposal made by Mafia boss Pietro Aglieri to reach a soft solution to the 41-*bis*.<sup>1016</sup> The minority commissioners considered the government responsible for the failure in applying the harsh regime. Such failure was described as being due to the limited resources provided to the law enforcement agencies and the many “fallacies” of the harsh regime, “promptly documented and acknowledged even by the majority.”<sup>1017</sup> Furthermore, the definitive approval of Law no. 279 presented two great advantages for the parliament and government in dealing with the measure: first, it exempted the parliament – and thus, even those congressmen who were also *mafiosi* defense lawyers and who had been threatened by them – to the heavy pressure that they were subjected to every six months when the hard prison had to be renewed; second, the stabilization made it easier to obtain a revocation of the measure, since before the new law, given the never-ending bureaucratic procedures that there were every time a revocation request was issued, in most cases these were rejected as they went over the six-monthly renewal period, with the consequence that the procedure had to start from scratch. However, both reports, even the majority one, admit that the government and parliamentary majority had pushed to maintain the temporary nature of the harsh regime, but in the end the parliament had to bow in favor of the parliamentary commission: the fear of a possible retaliation of the Mafia remained, even though the 41-*bis* that was being made permanent was a long way from its original version.<sup>1018</sup>

The attacks on the harsh regime continued even after its stabilization. In January 2003, not even a month after the 41-*bis* was made stable, a book was released with all the

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<sup>1014</sup> *Ibid.*

<sup>1015</sup> *Ibid.*

<sup>1016</sup> *Ibid.*

<sup>1017</sup> The report highlights how the enforcement was ineffective, the necessity to apply the rules with rigor (which denotes a lack of it), the numerous and often successful attempts at circumvent the most restrictive measures, as well as the reductions in the application of the 41-*bis*. See *Relazione di minoranza*, pp. 107-108, and p. 113. The accuse against the government is on p. 317; the accuse of having left the DIA and the DNA without adequate means is on p. 116. Concerning the fallacies in the application of the 41-*bis* see also *Relazione di maggioranza*, Tomo II, pp. 317-359 and in particular p. 332.

<sup>1018</sup> See *Relazione di minoranza*, p. 104, and *Relazione di maggioranza*, Tomo II, p. 318, which both report about the act passed by the Senate, n. 1487, that is the draft law presented by the Minister of Justice, Castelli, which did not establish the measure of the hard prison.

testimonies of those who had “suffered” from hard prison detention.<sup>1019</sup> Even though most of the people who had consented to be interviewed by the book's authors agreed that the harsh regime was “a torture device,” it should be noted that such a voice was biased, as by the time the book was released investigations reported that the *mafiosi* had already been able to find quite a number of ways to elude the severity of such a “torture device:” either by attending the prison Mass at the same time, or getting in touch with each other during the hearing displacements held in cities different to those where they were being detained, or with whatever other ruse they could think of, such as the one devised by the Madonia bosses whose common relative, Mariangela, “benefiting from the meetings that all detainees had the right to, regularly met her brothers-in-law Nino and Giuseppe and her father-in-law, Francesco, and could then reported to one and then the others, as well as to the rest of the family outside, the thoughts, suggestions, orders and decisions made by the bosses in prison such as, for example, the order of killing one Giovanni Bonanno, the *reggente* of the San Lorenzo Mafia district in Palermo.”<sup>1020</sup> Moreover, by the time the new 41-*bis* was passed, and in the months afterwards, the harsh regime was revoked for many *mafiosi*: in some cases even for some high-ranking boss, such as the former head of the governing body of Cosa Nostra – the Commission – Michele Greco, who returned to serve prison time under the normal regime on January 23, 2004 at the same time as it was revoked for other 64 bosses.<sup>1021</sup> That fallacies in the application of the harsh prison regime remained even after its stabilization is demonstrated also by the fact that the alarm of “authorized breaks of the 41-*bis*” launched by the Antimafia Commission had forced the Minister of Justice, Roberto Castelli, to issue a formal justification by parliament for not having controlled 72 *mafiosi* after they had the measure revoked. Among these *mafiosi* were bosses including some who had participated to the killing of prosecutors Borsellino, Livatino, and Saetta, and of a journalist from the Neopolitan newspaper *Il Mattino*, Giancarlo Siani.<sup>1022</sup> Amid the various accusations against the failure of the 41-*bis*, an editorial written by Luca Tescaroli, the prosecutor who had the Capaci bombing killers arrested, stands out. The editorial appeared in *la Repubblica* in the early days of 2004: in it, Tescaroli noted, “The government does not look at the issue of excessive discretion attributed to the penitentiary administration regarding the application of the harsh regime regulated by the 41-*bis*,” and contentiously asked, “Why don't the attitude and approach towards Cosa Nostra change? Why doesn't the government put aside some of its men who

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<sup>1019</sup> *la Repubblica*, 11/1/2003.

<sup>1020</sup> *la Repubblica*, 16/11/2003, 21/7/2004, 26/11/2008.

<sup>1021</sup> *la Repubblica*, 24/1/2004.

<sup>1022</sup> *la Repubblica*, 12/5/2004.

seem to be willing to interact with the Mafia, as well as its theories on the autonomy between Cosa Nostra and politics?”<sup>1023</sup> One year later, nothing had been done to solve the alarming situation raised by Tescaroli: in May 2005, a “scandal” broke out in response to the ease with which *mafiosi* detained under the harsh regime in Palermo's prison could still interact.<sup>1024</sup>

In short, according to most antimafia prosecutors, as well as the Antimafia Commission minority report and even to some of the *mafiosi* who experienced the hard prison detention, the pride of the Berlusconi government in the fight against the Mafia – the stabilization of the hard prison regime – cracked substantially on all fronts.<sup>1025</sup>

### 6.1.8 *Ad and contra personam*

In December 2002, just a few days before the 41-*bis* was rendered stable, Antonino Caponnetto, a symbol of the fight against the Mafia being the prosecutor who together with Falcone, Borsellino and others had staged the Maxi Trial against Cosa Nostra in the 1980s, died. In keeping with its polemic against the magistrature, the government did not send a single representative to give a final salute to such a high-ranking State official, although, on the day of the funeral, four ministers were reported to have attended the election of Miss Padania: contemplating female beauty was, evidently, more important for the government than offering their respects to a figure who had defeated Cosa Nostra in court.<sup>1026</sup> As well as a few politicians from opposition parties, Caponnetto's funeral was attended by some of the magistrates who had, while risking their lives, shared the experience of fighting the Mafia with him. Caponnetto's heir, Gian Carlo Caselli, spoke in their name. His words sounded like a shout of pride of those State servants described as “mild in their smile but intransigent in their will, respectful towards everyone but never willing to compromise, ready to put themselves out there but without giving privilege to anyone.”<sup>1027</sup>

As those magistrates mourned the loss of one of their symbols, the parliament continued to draft laws that undermined their work. One of these was a law designed to prolong the careers of certain judges and prosecutors and ease the early retirement of others. With rather

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<sup>1023</sup> *la Repubblica*, 29/1/2004.

<sup>1024</sup> *la Repubblica*, 19/5/2005. This refers to the Palermo ‘Pagliarelli’ prison, not the ‘Ucciardone’ (the principal prison of the city).

<sup>1025</sup> *la Repubblica*, 12/5/2004.

<sup>1026</sup> *la Repubblica*, 10/12/2002, 13/7/2008.

<sup>1027</sup> *la Repubblica*, 9/12/2002.

suspicious timing (two of those who had dismantled the tangle of corruption between politics and business in Italy, Borrelli and D'Ambrosio, had in fact retired just a few days before the new measures were submitted to the parliament for vote), and in defiance of what was happening in most other European countries, a draft law provided the retirement age for magistrates to be raised from 72 to 75. The measure gave the chance for all magistrates with leading positions to prolong their employment period. One of these magistrates was the president of the Supreme court, Nicola Marvulli, who was about to turn 72 and end his career when he was given the opportunity to postpone his retirement and be the Chair of the College of the Joint Sections of the Supreme court, which, at the beginning of the following year, would rule over Berlusconi and Previti's request to move their trials from Milan to Brescia previously begun by Borrelli and D'Ambrosio considered enemies by Berlusconi and his peers: if the measure had been approved just a few days earlier, the latter would have remained in charge of the trial.<sup>1028</sup> As this attempt was rejected by the Supreme court, which ruled over the maintenance of the trials in Milan, Berlusconi responded by sending a message that, both for its content and the way in which it was communicated, was reminiscent of those preceding a coup, saying: "In a liberal democracy, whoever is in power, by the sovereign will of the electorate, can be judged, when in office, only by his peers, that is, those elected by the people, since both common practice and immunity offer him protection from the risk of political persecution conducted through judicial trials: it happens all over the world, but not in our country."<sup>1029</sup> His speech was broadcast simultaneously by all of his television networks, with no journalist showing him that it was not true that all over the world "both common practice and immunity" offer to whoever is in power "protection from the risk of political persecution conducted through judicial trials."<sup>1030</sup>

Finally, and simultaneously, a series of laws *ad personam* – acts specifically devised in favor of a single person – were passed. Among these were not just those favoring Berlusconi but also one which, at the end of 2002, seemed to have been drafted in favor of Corrado Carnevale, the Supreme court judge known as the 'sentence-killer' for his tendency to declare mistrials in Mafia trials on the basis of minor technicalities, who was acquitted after a long, controversial trial of the criminal charge of collusion with the Mafia. Through a short

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<sup>1028</sup> *Il Corriere della Sera*, 24/8/2005.

<sup>1029</sup> *la Repubblica*, 29/1/2003

<sup>1030</sup> *Ibid.*, 24/8/2005; concerning such facts see N. Dalla Chiesa, *op. cit.*, p. 150-152; concerning the so called "laws of privilege" and their effects on organized crime see *Relazione di minoranza*, pp. 119-136. An accurate critical analysis of these laws can be found in M. Travaglio, *Ad personam, op. cit.* Concerning the laws that excluded some magistrates through an age criteria see G. C. Caselli, *Un magistrato fuori legge*, Milan, Melampo, 2005.

amendment hidden between the lines of the budget law, the parliament ruled so as to reintegrate Carnevale in the magistrature, allowing him to recoup his age of retirement and even the years he had lost while being suspended from office after his condemn in the appeal trial was reversed when the Supreme court definitively acquitted him of the charge of collusion with the Mafia. After an almost three-year dispute with the CSM (the judiciary governing council), the Supreme court ruled Carnevale's definitive reinstatement in the magistrature. The 'sentence-killer' was even given a promotion and became the chair of a civil section of the Supreme court: an office that, with another law that seemed to have his name written over it, was later extended until he reached the age of 83.<sup>1031</sup>

### **6.1.9 Pardon, career separation, collusion with the Mafia**

At the beginning of 2003, what little remained in the public debate about the Mafia focused upon the so-called *indultino*, an Italian word literally meaning "minor pardon" (the "pardon" being different from the amnesty in that the latter extinguishes both the crime and the punishment while the former merely the punishment). The *indultino* would have suspended the enforcement of prison sentence for a maximum limit of two years. As the parliament began to debate its possible introduction, Nino Mormino, one of those congressmen who was also a *mafioso* defense lawyer (he had been elected from the ranks of Forza Italia), and his colleague Nino Fragalà – he, too, a lawyer to Mafia bosses but from the right-wing party of National Alliance – proposed to the special commission on justice established within the parliament, of which both of them were members, to extend the measure to the *mafiosi*. As the commission approved it, public rejection followed, and consequently Fragalà, called to order by his own party, had to resign from his role as leader within the commission for National Alliance. Even those from the opposition parties who voted in favor of the extension, such as the Left Democrats Anna Finocchiaro and Francesco Bonito, had to clarify that the measure would not affect *Mafiosi*, although at least for one of them rectification was not enough: like his colleague Fragalà, Bonito had to resign from his role of leader of his party within the commission. The measure was not passed; however, it shows evidence of another attempt at helping the Mafia; so openly, in fact, that those responsible for it had to resign.<sup>1032</sup>

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<sup>1031</sup> *la Repubblica*, 29/6/2001, 31/10/2002, 13/10/2008, *Il Corriere della Sera*, 15/7/2005.

<sup>1032</sup> *la Repubblica*, 17,18/1/2003.

Although not extended to the *mafiosi*, on August 1, 2003, in the hope of solving the problem of perennially overcrowded prisons, the parliament voted in favor of introducing the *indultino*. One year later, the only effect that such a measure seemed to have had was demonstrating the ineffectiveness and inefficiency of the government as far as judiciary policies were concerned. In most prisons, in fact, and especially the top-security ones, the problem of suicide committed by detainees who had been totally abandoned by the State continued; inmates were often reported to be suffering from the cold; Palermo's two main prisons, Ucciardone and Pagliarelli, were still overcrowded, as were most other prisons throughout the country.<sup>1033</sup> At the beginning of the following year, not even six months after the *indultino* had been approved, the Attorney General of the Region of Tuscany, Gaetano Ruello, in his speech responding to the state of justice in Tuscany, defined Italy as “the country of the crimes with no punishment.”<sup>1034</sup> Even though the *indultino* had not affected the *mafiosi*, it is not difficult to imagine the effect that such words could have on them.

Other proposals whose effects would have been controversial, to say the least – even though the Minister of Justice, Roberto Castelli, and right-wing Senator Luigi Bobbio who drafted them presented such proposals as “historic” – were those that constituted the package of laws that were supposed to reform some of the principal aspects in the administration of justice. The drafts submitted to parliament at the beginning of 2004 provided for, among other measures, the separation between the careers of judge and prosecutor, the introduction of a common career based on competitions with tests and qualifications, and limited the right of association for the magistrates.<sup>1035</sup> As these proposals were issued, the magistrates saw “dangers” and called for a strike. Their most serious concern was the combination of a hierarchy for prosecution offices (the reform provided the attribution of “super powers” to both the Attorney General and the prosecution offices) and the new norm that introduced the possibility for the government to revoke undesirable inquiries, which would allow the executive power to take “total control of criminal action,” considering that the reform also stipulated the nomination of the Attorney General in accordance with the minister of Justice, who could also exercise disciplinary action.<sup>1036</sup> Other “dangers” were that separating the careers of judges and prosecutors would distance the latter from exercising jurisdiction and create the ideal conditions for limiting the independence of the magistrature and thus favor political control over it; that a career based on competitions on the basis of qualifications and

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<sup>1033</sup> *la Repubblica*, 16/1/2004.

<sup>1034</sup> *Ibid.*

<sup>1035</sup> *la Repubblica*, 22/1/2004.

<sup>1036</sup> *Ibid.*

tests would *per se* imply an abstract, theoretical instruction, forcing magistrates into a theoretical approach and preventing them from doing their job as it should be done. As a consequence, the CSM would be deprived of some of its essential powers in both the formation and careers of the magistrates, and the effectiveness and organization of the offices would be hampered, since the reform also provided for the replacement of the deputy prosecutor with a “vicar” directly nominated by the prosecutor; a final fallacy was that the reform introduced limits for the magistrates’ right to association, participation, and expression of thoughts, which would eventually lead to a mortification of their civil rights and expose them to the risk of disciplinary actions.<sup>1037</sup>

Who were the magistrates taking the strongest stance against this attempted reform? They were those who felt most exposed to the changes that this reform would have introduced: those of Palermo who had to deal with Mafia cases. On May 24, 2004, Palermo prosecutors made it known that the strike they had instigated against the government’s proposal had been joined by more than 85% of the 431 in their district and now by 100% of those of the Palermo Prosecution Office, the only prosecutor who had previously announced his dissent having agreed upon second thought in the early afternoon of that same day. Amid the protesting magistrates were young prosecutors as well as Supreme court judges, more experienced prosecutors, and civil as well as penal court judges. What the exact reasons were for such a protest was explained by the president of the Palermo branch of the ANM, the National Association of Magistrates, Massimo Russo: “In a district like that of Palermo, where the presence of the Mafia is so strong, any miscarriage of justice is perceived by the citizens as a sort of failure of the State in guaranteeing rapid and efficient protection and, *de facto*, it translates into an increase in the power of Cosa Nostra.”<sup>1038</sup> Another reason for the protest was that the reform was “based on merciless careerism: a magistrate will work to build a career, write books, prepare for contests, study and take care of his economic and juridical status: there is the risk that in the prosecution offices, which could be considered like trenches on the front line and where today there are even prosecutors who have the status of counselors in the Supreme court, only the newest magistrates will remain and, since we are in Palermo, how and how much will this affect the fight against the Mafia? Only the young magistrates will serve in the prosecution offices, and after three years they will request a transfer; not to mention the risk of a Super Prosecutor, totally unadaptable to offices like ours where only

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<sup>1037</sup> *Ibid.*

<sup>1038</sup> *la Repubblica*, 25/5/2004.

democratic management can guarantee transparency and efficiency.”<sup>1039</sup> Eventually, this reform, which the Palermo prosecutors believed would have resulted in a victory of Cosa Nostra, was not passed; however, it shows evidence of another of the countless attempts which, deliberately or not, would have resolved in help for the Mafia.

In December 2004, just 10 days after Forza Italia senator Marcello Dell’Utri was condemned in the first instance to nine years in prison for collusion with the Mafia, a proposal was made to go over that crime that, in the same way as Mafia membership, was regulated by the 416-*bis* article of the penal code and was known as *concorso esterno in associazione mafiosa*, i.e., external participation in the Mafia. On the very day that the court issued Dell’Utri’s guilty verdict, Luigi Bobbio, a senator from the National Alliance party, defined the *concorso esterno* as a “pseudo, fake crime, a non-crime; a juridical shame which, for too long, has been used to persecute whoever was unwelcome, for whatever reason, by this or that prosecutor.”<sup>1040</sup> On these grounds, Bobbio proposed to reform the *concorso esterno*, a proposal which was met with controversy by opposition politicians who accused the government of trying to save Dell’Utri. Bobbio was forced to rectify that he had made the proposal on “his own personal initiative:” the protests, and the echo they made in the media, led to the surrender of those who had tried to propose abolishing the crime of collusion with the Mafia.<sup>1041</sup> However, the attempt at helping the Mafia, even in this case, remains evident, especially considering that the power of the Mafia lied precisely in its external relations, and the norm regulating the *concorso esterno in associazione mafiosa*, the crime of collusion with the Mafia, was the only one that could effectively prosecute such a type of relationships.

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<sup>1039</sup> *Ibid.*

<sup>1040</sup> *la Repubblica*, 22/12/2004.

<sup>1041</sup> *Ibid.*

### 6.1.10 Goods “confiscated, forgotten, and left to the Mafia”

Another aspect that seemed to indicate how the ‘spirit’ of the *papello* was met by the Italian government regarded the management of the money and assets seized and confiscated from the Mafia.

On October 16, 2005, the government presented a draft law on the seizure and confiscation of assets belonging to Mafia bosses, which the following day was debated in the Chamber of Deputies. As the congressmen discussed this possible new law, the antimafia association Libera, headed by Don Luigi Ciotti, a priest known for his commitment to legality and to fighting the Mafia, together with the association of Mafia victim relatives stood up and defined the government’s proposal as a “trap” made in the name of a “mistaken *garantism*” (the commitment to the defense of individual rights) since, should the proposed law be approved, “no confiscation will ever be definitive anymore.”<sup>1042</sup> Since 1996, when thanks to Libera’s efforts, which had gathered one million signatures to lobby for a change of the old norm regulating the destination of assets confiscated from *mafiosi* and their social re-use, properties totaling €150 million in value had been confiscated from criminal organizations and subsequently converted to social purposes. Among such properties were Totò Riina’s villa in Corleone, which had been transformed into a school; lands formerly belonging to Provenzano, where a few social cooperatives were now producing oil and other agricultural products; lands that used to belong to the Vitale Mafia Family from Partinico as well as others confiscated from Cosa Nostra in the area between Corleone, Monreale, Piana degli Albanesi, and San Giuseppe Jato. From being a source of Mafia revenue, hundreds of acres of land had been transformed into a job opportunity for the unemployed. By the end of 2003, almost 5000 properties and 150 companies had been confiscated from the Mafia. Now, according to Libera’s president Don Ciotti, “There is the risk that the parliament approves a law which, amid the many other questionable aspects that it presents, provides for the possibility of a revision, without any time limit and upon the request of anyone with a legitimate judicial interest, of any definitive confiscation (...), and because of this, all the goods seized or confiscated would end up in a limbo of absolute uncertainty.”<sup>1043</sup> The situation was further aggravated by the recent decision, made by the government without consulting the parliament, to suppress the Special Government Office for the Management and Destination of Goods

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<sup>1042</sup> *la Repubblica*, 17/10/2005.

<sup>1043</sup> *Ibid.*

Confiscated from Criminal Organizations. Since January 1, 2004, when the office had ceased to exist, during the waiting period for the parliament to approve a law that would transfer its delicate task of deciding upon the destination of *mafiosi* assets to the State Domain Agency, everything was blocked. In such a situation, as some Sicilian mayors of cities or towns pointed out, Cosa Nostra could easily re-appropriate her old properties.<sup>1044</sup> One month later, on January 31, on the occasion of the opening of the Judicial Year, the *Corte dei Conti*, the Italian Court of Auditors responsible for supervising the State's balance, presented its report on the previous year. The report highlighted "the bad management of confiscated goods" as well as their "missed re-use for social purposes" and an "insane management of the wealth confiscated."<sup>1045</sup>

Even the chronicles of the period decry the poor political management of seized and confiscated assets. Newspapers wrote of assets "seized but left in the control of the Mafia," or confiscated but "unusable," or "confiscated and forgotten."<sup>1046</sup> Although in 2003 Sicily was the region in Italy with the highest number of seized and confiscated assets, it was also the one with the highest rate of squandered wealth: 1544 of the properties confiscated – lands, palaces, villas and apartments for a total value of €15 billion – were in steady deterioration since, in most cases, the administration offices that had requested their assignment to the Domain Agency did not have the money to restructure them and thus such properties could not be re-assigned for social use, the average time for the definitive allocation for social purposes of the confiscated assets being on average ten years since the first seizure and not 120 days as provided by the law. The slowness of State bureaucracy was, therefore, the crucial factor aiding Cosa Nostra and other criminal organizations, as it "favored the clans' many hidden attempts to get their old properties back."<sup>1047</sup> It was also thanks to such lethargy that the Mafia was able to find a strategy to "save" its old wealth, taking advantage of a fallacy in the law which consisted of the simple trick of dividing up the properties seized: it was enough, for instance, for a small parcel of a land drawn up in the name of someone not traceable to any Mafia boss, to interrupt the process of confiscation and re-allocation for months or even

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<sup>1044</sup> Law no. 109/1996 introduced the social use – through the formation of cooperatives and associations – of the assets confiscated to the Mafia. In the 1996–98 biennium, the assets confiscated to the Mafia – intended as the four many criminal organizations operating in the country: Cosa Nostra, the Camorra, the 'Ndrangheta and the Sacra Corona Unita – were 86, for a total of 48.220.100.000 billion liras (approximately 24 million Euros); between 1989 and 1996, the assets confiscated were 34 for a total value of 14.374.200.000 billion liras (approximately 7 million Euros). See also *la Repubblica*, 1/2/2005.

<sup>1045</sup> *Ibid.*

<sup>1046</sup> *la Repubblica*, 9/7/2003, 1/8/2003, 21/10/2003.

<sup>1047</sup> *la Repubblica*, 21/10/2003.

years.<sup>1048</sup>

Three years after the new law had been enacted the alarms sounded by Don Ciotti were proven to have been warranted. On March 31 and April 1, 2007, magistrates and criminal lawyers gathered to analyze the “multiple causes of the inefficiency in the dispute over Mafia assets” and why “there has been a collapse in the confiscated assets over the last few years.”<sup>1049</sup> The figures disclosed in this meeting well accounted for such a demise. Between July 1997 and June 2001, 1696 assets were confiscated from Cosa Nostra, and 3732 seized; 1683 and 3060 respectively from the 'Ndrangheta; 843 and 1079 from the Camorra; and 445 and 1489 from the criminal organizations in Puglia. Between July 2001 and June 2005 such figures had dropped to 1358 and 3100 for the Sicilian Cosa Nostra, 780 and 468 for the 'Ndrangheta, 328 and 659 for the Camorra, and 1047 and 962 for the Sacra Corona Unita. Therefore, it could be deduced that the seizure of assets from criminal organizations dropped in percentages varying from 20% for the Sicilian Mafia to peaks of more than 50% for the 'Ndrangheta. The same decline can be observed by examining the figures relative to the goods confiscated, with decreasing percentages reaching a peak of 60% in the case of the Camorra. Such a trend was confirmed by the *Report on the State of Assets Confiscated from Criminal Organizations* handed in on September 27, 2005 by the Director of the Domain Agency, Elisabetta Spitz. In the report, we read that the figure of confiscated assets decreased from 310 in 2001 to only ten in 2004; that the assets destined for social use were only 2962 out of 6556; and that the companies confiscated and destined for social use numbered 227 out of 671, of which only 54 were active at the time the report was issued.<sup>1050</sup> In substance, even regarding the assets seized and confiscated from the Mafia, nothing or not much was done to prevent their possible return to the hands of their original, illegitimate owners.

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<sup>1048</sup> *Ibid.*

<sup>1049</sup> *la Repubblica*, 23/5/2007.

<sup>1050</sup> *Relazione di minoranza*, p. 27 e p. 38. Also important is the figure about the Neapolitan Camorra (about 40% less) and the Sacra Corona Unita (about 40% less), see *Rapporto del Ministero dell'interno sullo stato della sicurezza in Italia*, 15 agosto, 2005.

## 6.2 The Mafia in the media

Between 2001 and 2006, attempts at muzzling the media escalated. On occasion of a press conference of June 2001, the Ordine Nazionale dei Giornalisti, the National Association of Journalists in charge of the monitoring and safeguarding of journalists, released data on damages claimed for opinions, comments, and reports published by the press or broadcast on television deemed to be slanderous or injurious to personal dignity. The pool analyzed the previous few years and its result were astonishing, as the claims totaled 3500 billion liras (the calculation was made in liras, since the Euro had only been introduced a few months earlier). The report also showed that, in the Palermo Tribunal alone, ten out of 11 lawsuits for libel had concluded with the condemnation of the journalists or authors who had signed the articles or reports. Among those sentenced to pay, two cases are worth analyzing: those of university professor Claudio Riolo and Umberto Santino, president of the Center of Documentation and Study on the Mafia dedicated to Giuseppe Impastato, the journalist murdered in 1978 by Cosa Nostra for breaching the *omertà*. Riolo owed 118 million liras to Francesco Musotto, the former president of the Province of Palermo whose case we analyzed in the previous chapter; Santino 11 million liras to Calogero Mannino, also a character already mentioned in our tale as the one suspected by the Palermo prosecutors to have started the *trattativa* between the Mafia and the State, although of such criminal charge Mannino was acquitted in the State-Mafia deal trial.<sup>1051</sup> Both Ruolo and Santino had appealed; however, by June 28, 2001, when the National Association of Journalists released the results of its survey, the former was already having money deducted from his salary for his 1994 article published in the specialized journal *Narcomafie* (the article was also re-published, in solidarity, by the newspaper *Il Messaggero*, complete with the signatures of all the newspaper's journalists), while the latter had to pay 20 million liras for having published passages by an anonymous writer circulated in 1992 in his book *L'alleanza e il compromesso* on the collusion between Mafia and politics.

How much these two cases are emblematic of how inconvenient and dangerous it was to write about the Mafia in those years, even for two of the most accredited experts on the subject who could not be unaware of the risks of such an activity, is demonstrated by the fact that these two cases led to the institution of a special solidarity fund for the freedom of the

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<sup>1051</sup> Precisely, the accusation against Mannino was "threat against a body of the State."

press in the fight against the Mafia. The fund was established on the initiative of a group of journalists and antimafia activists and was not meant to be “a collection made for two poor fellows, but a way of mobilizing people’s conscience on the issue of freedom of the press and the intimidating power of a series of millionaire lawsuits filed against whoever, in his research or profession, deals with the Mafia.”<sup>1052</sup> Among the promoters and supporters of the fund were Don Luigi Ciotti, Borsellino’s sister Rita, a journalist from the left-wing newspaper *Il Manifesto* by the name of Valentino Parlato, as well as associations and specialized publications such as Don Ciotti’s *Libera*, ARCI, UISP, the Center of Documentation and Study on the Mafia entitled to Giuseppe Impastato run by Santino himself, the journals *Micromega*, *Narcomafie* and *Segno*, the newspaper *Il Manifesto*, antimafia associations such as Palermo Anno Uno and Promemoria Palermo, and even the Rome-based training school for police and penitentiary administration personnel named after the most excellent of all Mafia victims, Giovanni Falcone. Whoever wanted to, could subscribe for a minimum of 100,000 liras upon specifying the reason “campaign for the freedom of the press in the fight against the Mafia.”<sup>1053</sup> According to Claudio Ruolo, one of the victims of this attack on whoever tried to break the wall of silence surrounding the Mafia through the media that used lawsuits as its favorite weapon, such a “new offensive made by politicians in order to threaten the freedom of the press, criticism, and opinion” was an “initiative that intends to address not the judiciary but the parliament, which needs to pass soon a new regulation for the crime of libel equally applicable in civil and criminal trials.”<sup>1054</sup> As Rita Borsellino stated, the core problem of the issue was the media *omertà* on the Mafia – “the eloquent silence on these matters” – of which such censorship was the best demonstration. To support her conclusion, Rita Borsellino brought up the cases of Don Ciotti and Giuseppina Zacco La Torre – the widow of Pio La Torre, the MP killed in 1982 by Cosa Nostra for having proposed to parliament the antimafia law which still bears his name – who, along with others, had been sued more than once and, having been declared guilty, “had to pay double.”<sup>1055</sup> If this was not enough, 2002 saw the first “Mafia historiography crime,” perhaps the only one thing missing in Mafia history. A historian by the name of Giuseppe Casarrubea was sued for libel by one Salvatore Giallombardo, at the time of the events a young Carabinieri captain, for having questioned the judiciary outcome of the Portella della Ginestra attack of 1947 (an outcome that, however, was disproved in the turn of a few years later by another historian, Nicola Tranfaglia, whose

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<sup>1052</sup> *la Repubblica*, 29/6/2001.

<sup>1053</sup> *Ibid.*

<sup>1054</sup> *Ibid.*

<sup>1055</sup> *Ibid.*

research conducted in the archives of the US government in Washington DC proved that Casarubba was not in the wrong).<sup>1056</sup>

In short, for the first time in the history of the Mafia, some of the journals and associations most committed to the fight against the Mafia launched a campaign for the freedom of the press since they figured that such freedom either didn't exist or, at best, was in grave danger, as their adversaries used every possible means to prevail and impose the *omertà* on this subject. The campaign promoters realized that the way in which censorship was exercised was through the systematic filing of threatening lawsuits which, if won, could ruin or create serious problems for those who had dared to breach the wall of silence; if lost, succeeded in intimidating them anyway.

It is worth addressing here the issue of whether or not there were other possible reasons for such censorship other than that of keeping the subject of the Mafia off the public agenda as much as possible. According to one of the protagonists of our case, Umberto Santino (who said he was condemned for “simply limiting myself to the critical analysis of an anonymous script, even distancing myself from it”), the whole issue had to be framed within the broader context of “a climate of revenge in the country” that was at the base of “the retaliation of politics against whoever dared to oppose its recovered power.”<sup>1057</sup> Santino was not the only one who felt this way, as even Alfredo Galasso, a plaintiff's attorney in the Maxi Trial and also the recipient of three lawsuits for slander, was convinced that “there is the will to re-write both the history of the Mafia and the antimafia.”<sup>1058</sup> That there was an ongoing attempt at controlling and aligning the press and preventing the media to cover the Mafia in its most controversial aspects, that such control was much stricter in the case of television compared to other media, and that the first impetus for such censorship came from the prime minister, could be insinuated in the first instance by Berlusconi's famous “Bulgarian edict.” On April 18, 2002, on occasion of a press conference during a State visit to Bulgaria, Berlusconi, in control of about 90% of the national broadcast, accused two television journalists, Enzo Biagi and Michele Santoro, and a comedian, Daniele Luttazzi, of using public television in a “criminal way.” The reason for the attack was that the three of them, during the previous electoral campaign, had dared to discuss Berlusconi's legal problems (Luttazzi's show even addressed the mysterious origins of Berlusconi's fortunes and the possible role played by the Mafia in it). In his speech to an audience of both Italian and

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<sup>1056</sup> *la Repubblica*, 4/10/2002.

<sup>1057</sup> *Ibid.*

<sup>1058</sup> *Ibid.*

international reporters, Berlusconi said that he hoped that “the new management of RAI would prevent certain things from happening again.”<sup>1059</sup> The three journalists were soon excluded from RAI’s palimpsest, only to be re-admitted a few years later.

What censorship targeted the most were the relations between the Mafia and politics. In the newspapers chronicles of those days we read, for example, that an episode of the national television program *Blue Notte*, whose subject was supposed to be based on Mafia and politics, had been “suspended,” that is, had been cancelled before being aired: in the language of the *new Republic*, the old, derogatory term of “censorship” had to be replaced with a more encouraging one: “suspended.” The censorship, however, was so clear that a few days afterwards the program’s anchor, Carlo Lucarelli, signed an editorial in *la Repubblica* titled, “Who do we bother when we talk of the Mafia?” A similar case came a year later, when another television program, *Report*, conducted by investigative journalist Milena Gabbanelli and this time aired, became a national controversy as its content was harshly criticized by the President of the Region of Sicily, Totò Cuffarò. According to Cuffaro, who spoke while indicted for collusion with the Mafia, showing the nation an entrepreneur leaving Sicily after his bar had been set on fire for the third time because he had refused to pay the Mafia, or the mayor of Gela, a small town on the south-eastern coast of Sicily, denouncing that 70% of the public contracts in his area were controlled by the Mafia, or the headmistress of a school whose car was set alight after she had been threatened by the local *mafioso*, or finally the boss of a small village in the province of Palermo who even extorted almond-pickers and, at the same time, reportedly had the power to negotiate with local politicians to save the myriad small companies of *his* area that worked in conjunction with Fiat, the largest Italian car company which had one of its largest manufacturing plants with some 5000 employees there, was “just another example of Media looting the entire Sicilian productive system.”<sup>1060</sup> What cultural weapon did Cuffaro use to spearhead his attack? Once again, that of *Sicilianism* – as we know, the attitude, typical of the Sicilian leading classes any time their power is questioned of reverting to Sicilian pride *offended* by Italians or generally by foreigners whenever their privileges are in danger. Later condemned to seven years’ prison for collusion with the Mafia, Cuffaro felt the duty to come out and publicly defend “his” Sicily against

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<sup>1059</sup> *Il Corriere della Sera*, 19/4/2002. See also M. Travaglio, *La scomparsa dei fatti*, *op. cit.*, p. 175. Rai motivated the decision to exclude the three journalists with the fact that the programming had to be reorganized. Concerning censorship in Italian journalism during this period see M. Travaglio, P. Gomez, *Regime*, *op. cit.*; see also E. Biagi, *Quello che non si doveva dire*, Rizzoli, Milan, 2006. Concerning the shadows on the beginning of Berlusconi’s career see the already mentioned D. Lane, *Berlusconi’s Shadow*, *op. cit.*

<sup>1060</sup> *la Repubblica*, 17,18/1/2005.

unmotivated televised attacks.<sup>1061</sup> While intertwining, the two cases we have just outlined offer an unequivocal picture of the situation: at a time when the line to follow was that of minimizing the Mafia as much as possible, showing the real face of Sicily – or at least one different from that which the government was trying to put forward – and the power the Mafia still held there, was anything but “media looting.” And when someone dared to refuse to align, better then to solve the problem with a phone call to “suspend” an already scheduled television program.

It was in such a climate – which one of the prosecutors most committed to fighting the Mafia, Luca Tescaroli, believed to be “a prevailing ‘normalization’ masked by simplifications made by the media that reduce the Mafia to the mysterious figure of Provenzano”<sup>1062</sup> – that on September 2, 2005 the government proposed, on the basis of alleged urgency, a decree law laying down punishments from one to three years in prison, or a fine of up to €5000 Euro, for reporters who published wiretap transcripts. Although the decree was never converted into law, it still shows how covering up certain subjects had to be avoided at all costs. In 2006, Prodi having replaced Berlusconi again as prime minister and Provenzano having already been arrested, definitive proof emerged that the attacks on the freedom of the press were part of a carefully prepared strategy. In the fall of that year, in fact, investigators searched the SISMI offices (until 2007, Italy’s military intelligence agency), and found a file named *Traumatic Operations*. Analyzing the file, the Milan prosecutors who had ordered the search discovered that the aim of the Berlusconi government was to “disarticulate,” “neutralize,” and “reduce,” even “through traumatic actions,” a series of magistrates, politicians, and intellectuals considered as not aligned. Magistrates could even discover, if needed, who were those amongst them least wanted by the government: some from the same Milan Prosecution Office that had just ordered the search, such as Edmondo Bruti Liberati and Gherardo Colombo, and those of the Palermo Prosecution Office who were conducting investigations on the relations between the Mafia and politics: Gian Carlo Caselli, Antonio Ingroia, and Giocchino Natoli.<sup>1063</sup>

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<sup>1061</sup> *Ibid.*

<sup>1062</sup> *la Repubblica*, 2/11/2005.

<sup>1063</sup> *La Stampa*, 26/9/2006.

### 6.3 Strong Mafia, “desert” antimafia, weak State bureaucracy

In an article published by *The Financial Times* at the beginning of March 2002, we find written, in reference to the city of Palermo, that “tourists can now stroll night and day through the streets of the historic center without any danger; the wounds inflicted by the Mafia 10 years ago seem to have now healed.”<sup>1064</sup> The article was the handiwork of David Lane, a journalist with a solid background on both Italian and Mafia history, having published several books and articles for major English publishers and newspapers on the subjects. However, Lane’s conclusion was not unanimously shared in Italy. A few weeks before the article appeared in *The Financial Times* to be then followed by Italian media, the Italian version of *The Financial Times*, *Il Sole 24 Ore*, had published an article in which it judged Palermo as “the least livable” city in Italy.<sup>1065</sup> Although the two financial newspapers gave different verdicts, they shared a common characteristic: the shadow of the Mafia in judging the city. They also, perhaps unwillingly, started a debate destined to re-emerge from time to time over the next few years, and whenever it did, the presence of the Mafia remained a crucial factor in describing or commenting on the city.<sup>1066</sup>

The newspaper chronicles of the years before and after the article was published at first sight may seem to give some credit to Lane’s conclusion and more generally to the view that the Mafia in Sicily was in retreat. For example, at the end of 2001, a DIA operation led to the numerous arrests and seizure of more than five billion liras.<sup>1067</sup> Just a few days beforehand, in Agrigento, a city in the southern coast of Sicily, a trial named *Akragas* had ended with a verdict proclaimed as “historic” by the prosecutors who had staged the public accusation, as 21 Mafia bosses were found guilty of two dozen crimes committed since 1980 and were condemned to life in prison: among the offenses finally brought to justice was the Alessandria della Rocca massacre, in which a 15-year-old by the name of Vincenzo Mulè had been assassinated on the order of Riina simply because, in the course of the so-called Second Mafia War that in the late 1970s and early 1980s led to the affirmation of the Corleonese within Cosa Nostra, he had witnessed a murder.<sup>1068</sup> Other cases that may give credit to Lane’s point

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<sup>1064</sup> *The Economist*, 2/3/2002. Amongst Lane’s publication is worth mentioning again D. Lane, *Into the Heart of the Mafia*, *op. cit.*; see also his *Berlusconi’s Shadows. Crime, Justice and the Pursuit of Power*, *op. cit.*

<sup>1065</sup> *la Repubblica*, 18/12/2001.

<sup>1066</sup> *Il Giornale di Sicilia*, 15/12/2009.

<sup>1067</sup> *Adkronos*, 9/8/2001.

<sup>1068</sup> *la Repubblica*, 19/7/2001.

came in the years following with the arrests of important Mafia bosses, such as Santo Schimmenti and Pino Lipari, respectively the former president of the Sicily's branch of ANCE, the Italian association of builders, and Bernardo Provenzano's financial consultant;<sup>1069</sup> further evidence could be the many important Mafia Families and *mandamenti* of Cosa Nostra that were dismantled between the end of the 1990s and the early years of the new millennium, such as for example that of San Lorenzo, which comprised the Palermo Family of San Lorenzo and those of Capaci, Cinisi, Villagrazia, and Carini, in whose territory some of the top bosses of Cosa Nostra such as Salvatore Lo Piccolo and his son Sandro were in hiding;<sup>1070</sup> or additionally, the successful police operations that were made throughout Sicily, such as that denominated *Arcipelago* which, in 2005, led to the arrest of 46 *mafiosi* in Messina and its province on the eastern coast of Sicily;<sup>1071</sup> or the one called *Dioniso*, which in Catania, also on the eastern coast of Sicily and still in 2005, brought to court more than 80 *mafiosi* among whom was one Francesco La Rocca, in charge of Cosa Nostra in the town of Caltagirone and one of the key *mafiosi* in Sicily's east;<sup>1072</sup> or that which, in 2005 in the province of Caltanissetta, led to 42 orders of preventive detention against Mafia bosses, local politicians and entrepreneurs, including the president of the Riesi City Council, Vincenzo Giannone, a powerful business man from Gela, Francesco Russello, and a boss by the name of Francesco Cammarata: the charges against them varied from collusion with the Mafia to homicide, extortion, and damage;<sup>1073</sup> or finally, the operation that in 2006, just one month before Provenzano's arrest, thanks to the joint action of the police and the *Guardia di Finanza* (Italy's financial police), made it possible to identify ten of Salvatore Lo Piccolo's dummies, as we know the most powerful of the Palermo bosses, all unsuspected entrepreneurs from whom prosecutors seized assets worth a total of €334 million including a 114-apartment resort and an eighteenth-century villa.<sup>1074</sup> Although such results are undeniable, a more careful interpretation suggests much less optimistic conclusions than that of Lane and others who, during those years as well as the years subsequent, maintained that the Sicilian Mafia, after the 1992-1993 bombings and the law enforcement repression that followed, was in retreat to the point of being almost defeated. We should get to the bottom of this point in depth, as it is central to our analysis. There are many other cases that demonstrate how, in the face of the police's numerous successes, it was the antimafia rather than the Mafia that was in retreat. In

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<sup>1069</sup> *la Repubblica*, 23/10/2002 and 14/12/2003.

<sup>1070</sup> *la Repubblica*, 8/3/2005.

<sup>1071</sup> *la Repubblica*, 8/6/2005.

<sup>1072</sup> *la Repubblica*, 7/7/2005.

<sup>1073</sup> *la Repubblica*, 22/11/2005.

<sup>1074</sup> *la Repubblica*, 1/3/2006.

February 2004, the Regional Antimafia Commission of Sicily existed only in name, but did not even have a website.<sup>1075</sup> In the same month, the government had to send inspectors to Sicily to check if there were delays in the trial for Salvatore Gallina, the boss of the of the small town of Carini in the province of Palermo: in spite of his sentence to 23 years in prison, there was a strong possibility that he was being released from prison.<sup>1076</sup> In May, one Giuseppe Vitale, an artisan from the small village of Ribera in the province of Agrigento, hit the headlines of both local and national newspapers for his strange, extreme protest “against the Italian State:” after he had repeatedly denounced Mafia extortion with the only result of “ending up with nothing, totally abandoned by the institutions” since the State had rejected all his requests for compensation, he walked the 50 kilometers from Ribera to Agrigento barefoot and, once in Agrigento, chained himself in front of the prefecture.<sup>1077</sup> In October, it was discovered that the noises that had forced Palermo Tribunal to close down for a general check-up were not due to “the spirit of Garibaldi,” who was believed to have slept in the building during his 1860 expedition that led to Italy’s unification, but “to the complete disbelief of magistrates, prosecutors and reporters” they were due to the presence of rats.<sup>1078</sup> Towards the end of the year, the effects of the government’s cuts to prosecution offices and police forces became evident: in the cities affected most by the cuts, such as Naples and Bari in the South, the “emergency situation due to organized crime activity was escalating” to the point that the offices of the Bari Prosecution Office didn’t even have paper to send faxes and in many cases the city’s police had to pay gas for patrols on their own.<sup>1079</sup> When all this happened it was 2004: by the following year nothing had changed. In April 2005, the Supreme court, “following the longest jury room in its entire history,”<sup>1080</sup> annulled 52 life prison sentences and 32 sentences to 30 years for homicide that were previously issued by the appeal court in a Mafia trial code-named *Tempesta*: “in contrast to the so-called “Buscetta theorem,” which established the responsibility of Mafia bosses for all the crimes ordered by its Commission,” the Supreme court ruled that the sentence issued by the Palermo Court of Appeal was insufficiently substantiated, for which reason some of the highest-ranking bosses of Cosa Nostra – Bernardo Provenzano, Pietro Aglieri, Giuseppe Farinella and Filippo Graviano – were to be judged again by another Court of Appeal. It was in coincidence with this verdict that newspapers reported of a possible “domino effect” that could soon lead to a new

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<sup>1075</sup> *la Repubblica*, 25/2/2004.

<sup>1076</sup> *la Repubblica*, 28/2/2004.

<sup>1077</sup> *la Repubblica*, 9/5/2004.

<sup>1078</sup> *la Repubblica*, 14/10/2004.

<sup>1079</sup> *la Repubblica*, 12/11/2004 and 8/12/2004.

<sup>1080</sup> *la Repubblica*, 21, 22, 23/4/2005.

“nightmare of people being released from prison:” for example, one Giuseppe Panzeca, a boss already condemned for Mafia in the first degree and who had later been acquitted of homicide but was still on trial as charged with bid-tempering, had to be set free because the Supreme court had ruled that the terms of his preventive detention had expired. For the same reason, in another trial, a group of alleged killers – Antonio and Bartolomeo Spatola, Antonio Tarantino, Francesco Spina and Paolo Giuseppe Alfano – were released. Yet these are just few of the cases reported by newspapers at the time, to the point that we can trace another parallelism useful to offer a historical understanding of another continuity, recalling here the words pronounced in 1900 by a police deputy by the name of Antonino Cuntrera, because they could not be more appropriate to describe the situation even 100 years later: “When clamorous, blatant facts happen, there is much talking of the Mafia, with accusations launched and measures thought and taken; in other times, even the very existence of the Mafia is questioned.”<sup>1081</sup>

To demonstrate how Cuntrera’s words were still relevant, and how the antimafia was in retreat at all levels in spite of the many successes achieved by the law enforcement agencies, is also the fact that the various commemoration ceremonies held in honor of Mafia victims, as well as many other initiatives against the Mafia that were instigated in those years, never had any real success and were left to a marginalized section of public opinion. Such failures, it should be added, were in a sharp contrast with the successful events and occurrences organized or promoted by those in the Mafia or rumored to be so. On September 3, 2002, in Palermo, a ceremony to remember General Carlo Alberto Dalla Chiesa was attended by so few people that the newspapers talked about an “absent city.” Just five months beforehand, instead, in Caltanissetta, a “huge crowd” had attended the inauguration of *Il Circolo*, an association presided over by Marcello Dell’Utri to coordinate his electoral campaign. Among those who had responded to Dell’Utri’s invitation were Totò Messina, the city mayor elected from the ranks of the coalition opposing Berlusconi, two high-ranking Carabinieri officials, the city prefect, a commander from the *Guardia di Finanza* financial police and a law enforcement officer: not bad for a senator on trial for Mafia.<sup>1082</sup> In the months following, other events promoted by the so-called antimafia suffered a different type of misfortune. In 2003, a ceremony held to commemorate the Capaci bombing, although attended by thousands of people, was snubbed by the government, which did not even send one of its representative to Palermo. In January 2005, the first-ever meeting promoted in

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<sup>1081</sup> *la Repubblica*, 8/3/2002.

<sup>1082</sup> *la Repubblica*, 5/9/2002 and 7/4/2002.

conjunction by industrials and magistrates in order to debate and find solutions to the problem of extortions was held in a “desert” room. The same word, “desert,” was frequently used by newspapers to report on similar type of events devised against organized crime, such as, for example, a 2005 session of the Regional Antimafia Commission of Sicily that was supposed to address the subject of Provenzano’s absconding.<sup>1083</sup>

We should now have all the elements necessary to offer an exhaustive answer to our initial question as to why there was so much pessimism voiced by both magistrates and policemen in the face of the numerous successes of which they were the chief architects. The best answer is that an antimafia weak in both political response and public opinion involvement corresponded with a Mafia that, in spite of all the arrests and convictions that occurred in circumstances made more and more complicated by mistaken political decisions and bureaucratic procedures, was still quite strong and compact throughout all of Sicily and, most importantly, seemed to be still perceived as winning by the people: not just the people of Sicily, but of all of Italy. It should also be added that, in the same period, the other Italian mafias such as the Camorra and the ’Ndrangheta experienced huge growth both in terms of their political connections and financial activities. Once again, all the evidence points to the fact that the successes of the law enforcements, rather than the weakness of the Mafia, had the paradoxical effect of exposing the weakness of that same State that such unprecedented successes was obtaining, and that even during the repression the Mafia remained strong. At the beginning of 2003, a police operation called *Ombra* led by the Agrigento flying squad exposed a situation in which “the new Mafia, thanks to a strategy based on the abandonment of the law of guns and its replacement exclusively with the equally tough law of the extortion racket, has the entire city in its hands.”<sup>1084</sup> In Agrigento, nobody could avoid paying Cosa Nostra, which primarily targeted companies and firms operating in the field of public contracts. According to the investigators, in most cases the entrepreneurs, to begin with those who had the richest companies, were the very ones who approached the *mafiosi*, whose job was thus solely that of establishing the price to pay, usually 2% of the overall amount of the contract in the case of public works, and threaten the very few who did not show up of their own free will.<sup>1085</sup> Investigations also revealed the affiliation of new men of honor in the families of Agrigento, Racalmuto and Favara as well as the appointment of new bosses within such families: which fact, if interpreted in the light of what previously reported, meant that in

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<sup>1083</sup> *la Repubblica*, 22/1/2005 and 17/3/2005.

<sup>1084</sup> *la Repubblica*, 18/2/2003.

<sup>1085</sup> *Ibid.*

this part of Sicily, by 2003, the Mafia was in expansion. Confirmation of this came one year after, when the chief of police in Favara issued a formal request to disband the local municipality for its collusion with the Mafia.<sup>1086</sup>

Like in Agrigento, the Mafia was also growing in power in other parts of Sicily, including Palermo and its province where the repression was harsher. In 2001, a police operation had discovered that in the Sicilian capital “nine out of ten business operators were still paying Cosa Nostra;” such figure accounted for almost all of the entrepreneurs and shopkeepers of the city and the neighboring towns: without any considerable exception, Cosa Nostra was still able to impose her territorial seignery more or less anywhere in Palermo and its province, the money being paid to it either in cash or with regular invoices for “services” inflated by the extorted companies which, for whatever reason, could not afford to pay off the books.<sup>1087</sup> Three years later, in 2004, nothing had changed: rather, the situation had grown worse. With the introduction of the Euro in 2001, following a general national trend that the *mafioso* seemed to have intuited perfectly, even the price of the extortions had doubled: from an average of 500,000 liras per month per (small) business (approximately the equivalent of €250), *mafiosi* now wanted €500. Everyone, or almost everyone, paid “in resigned silence,” as “no business owner considers it convenient to report the pressure of the extortionists to the police,” as the Palermo Chief Prosecutor, Pietro Grasso, had to resentfully admit. In spite of all the successes that his office was achieving, all Grasso could do was take note of the State’s failure in terms of credibility for the people of Sicily. A year afterwards such a trend had become even stronger: as more official data on extortions were released, it emerged that in Palermo and Catania 80% of businesses paid Cosa Nostra, while in the rest of Sicily the quota dropped to 70% (it also emerged that, beside small businesses and larger companies, even prostitutes conceded a part of their profits to the Mafia).<sup>1088</sup> Thus, there is plenty of evidence that the Mafia’s territorial power and prestige had not been much affected, if at all, by State repression, however successful police operations were. For this reason, the Palermo prosecutor Antonio Ingroia was probably right when he said that Palermo was a city “bowed” to a Mafia, which after the repression that followed 1992-1993 “has rekindled” and was faced by an antimafia that “is limping.”<sup>1089</sup>

As with the major cities, the situation was also serious in the smaller ones. In 2004 in Gela, the mayor Rosario Crocetta had to admit that, in spite of all his efforts, “here everyone

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<sup>1086</sup> *Ibid.* and *la Repubblica*, 30/3/2004.

<sup>1087</sup> *la Repubblica*, 19/10/2001.

<sup>1088</sup> *la Repubblica*, 28/4/2002 and 22/5/2005.

<sup>1089</sup> *la Repubblica*, 21/9/2003; 8/1/2004; 9, 15/2/2004.

still pays the Mafia.”<sup>1090</sup> In central Sicily the extortion had remained “epidemic, and no shop owner talks;”<sup>1091</sup> also in 2004, the Caltanissetta Chief Prosecutor, Francesco Messineo, expressed his surprise in discovering that “extortion is not perceived as an imposition by the extorted but almost as the fair payment for a service that has been provided, and we have never received any information useful to our investigations by an extorted entrepreneur.”<sup>1092</sup> On the western side of the island, Villabate and Castellammare, two small towns along the north-western coast respectively in the provinces of Palermo and Trapani, continued to be “in the hands of the bosses” even after both town councils had been disbanded for Mafia. On the southern coast, in Licata, on February 14, 2005 a police raid showed that the local clans had regained total control of practically all economic activities. As prosecutors Anna Palma and Pietro Grasso reported to journalists at the press conference following the raid, here the local Mafia Family managed all public contracts, from those for the construction of sewage systems, bridges and streets, to all others, to the point of “determining a real disruption of the free market” by forcing all entrepreneurs to pay for its “services.”<sup>1093</sup> The Mafia Family in Licata did not only control public contracts but also the labor market, material supplies, the lorries, and even decided on who would drive them: whoever refused to submit had to face retaliation, as it happened to one Salvatore Bennici, an entrepreneur killed for refusing to pay.<sup>1094</sup>

In Trapani and its province, too, the Mafia had remained rooted and powerful, in control of both territory and local administrations, taking advantage of the fact that the repression had concentrated more on Palermo and less in this part of Sicily, where not many Mafia witnesses had come out. On the eastern coast, the situation was more or less the same: in Catania, investigations and trials exposed Mafia control extending to large-scale commercial distribution and the transport system; in Messina, the power of the Mafia was so evident that, as we shall see, even a parliamentary commission split on practically every issue like that established by the Italian parliament in 2001 had to unanimously agree that “here the Mafia rules,” and did so thanks to its ability to infiltrate local governments, administrations, and institutions.

Another characteristic common to all cities around Sicily was that the *borghesia mafiosa* played a leading role. In May 2005, DIA agents discovered that Messina was the

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<sup>1090</sup> *la Repubblica*, 5/3/2004.

<sup>1091</sup> *Ibid.*

<sup>1092</sup> *Ibid.*

<sup>1093</sup> *la Repubblica*, 15/2/2005.

<sup>1094</sup> *Ibid.*

“brain” from which hundreds of millions of dollars were transferred all over the world for the construction of airports, ports, real estate investments and trafficking of weapons to half of Europe and over to the Caribbean, bringing back the money laundered.<sup>1095</sup> As well as the Mafia and her white-collars, the terrorist organization Al Qaeda was also involved in the business.<sup>1096</sup> The principal protagonists of the criminal activities discovered by the DIA investigators were businessmen, magistrates, police agents, bank managers and *mafiosi* alike. The “director” of all operations was not a *mafioso* of the organization’s “military” branch but an entrepreneur by the name of Salvatore Siracusano who had business relations with Youssef Nada, according to the CIA one of Bin Laden’s financiers. To give an idea of the extent of corruption is the fact that also involved in the business were the president of the civil section of the Messina Tribunal, Giuseppe Savoca, the Vice Chief of the city’s Police, Alfio Lombardo, the former president of the city football team and son of the president of the Messina branch of the industrial association *Assindunstria*, Antonino Puglisi, the director of the city branch of the Credito Italiano Bank, Salvatore Ramela, a Mafia boss, Michelangelo Alfano, the former undersecretary to the Financial Minister, Santino Pagano, another businessman, Rosario Spadaro, whose activity spanned Sicily to the Netherlands Antilles and who by that time was already “rumored to be in the Mafia,” and even a prosecutor from the Messina district of the National Antimafia Prosecution Office, Vincenzo Barbaro.<sup>1097</sup> The police operation that brought this criminal group to face justice had not been easy at all, as those under investigation had a mole among the prosecutors, either in Reggio Calabria or in Messina, informing them of each step in the investigations in real time. Through audio surveillance, wiretaps, and conversations bugged inside Messina Prosecution Office, the DIA agents discovered that Siracusano was the link between the Palermo and the Catania mafias and had invested millions of Euro belonging to Cosa Nostra and generated by the fraudulent real estate deals he had made with the complicity of judge Giuseppe Savoca in Poland, the Caribbean, and Romania, where he could rely on the collusion of local politicians and magistrates. All the protagonists in this case turned out to be involved in weapon trafficking of every type, which were sold all over the world, principally in the Middle East, Afghanistan, and Africa.<sup>1098</sup>

An analysis going beyond solely quantitative data provides further evidence of how

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<sup>1095</sup> See R. Sciarone (edited by), *Alleanze nell'ombra*, *op. cit.*, pp. 175-222 and 223-304; and *la Repubblica*, 8/6/2005.

<sup>1096</sup> *La Gazzetta del Mezzogiorno*, 9/5/2005, *la Repubblica*, 10/5/2005.

<sup>1097</sup> *Ibid.*

<sup>1098</sup> *Ibid.*

strong the Mafia power syndicate was and how weak State prestige remained in the years between 2001 and 2006. In this regard, some qualitative aspects are worth outlining here to complete the picture. Amid the abundant food for thought that the chronicles of those years offer, there are two cases that seem to account for the situation better than any other in terms of how deeply rooted the Mafia remained in both Palermo and Sicily. The first is a Palermo homicide of April 27, 2002, one of the rare murders committed by Cosa Nostra after 1993. The circumstances in which this homicide was committed offer perfect insight into how strong and feared the Mafia remained and how, thanks to the extreme weakness of the law and regardless of the arrests it had to cope with, it could still flaunt her power and impunity. The two victims were stabbed to death in a central Palermo square, right beside the Politeama Theater and Piazza del Borgo Vecchio, in the presence of hundreds of witnesses “dumb as the poor fritter man described by Sciascia in his famous novel *The Day of the Owl*.”<sup>1099</sup> The second case is the testimony of Giovanni Ferro, a MP of the Sicilian Regional Assembly, the governing body of the Region of Sicily, released exactly 10 years after the Capaci and the Via D’Amelio bombings, which seems to perfectly pick the Mafia’s turn:

A reinforced presence of Mafia territorial control is so concrete and visible that the Mafia can afford to make use of the renewed presence of “men of respect” in the streets and neighborhoods of Palermo, Catania, Trapani and Agrigento, as well as in the squares of smaller town and villages in the provinces of these cities. Such a control creates a serious effect in terms of denying citizens their rights and liberties, beginning with their right to conduct a regular business without suffering from the harassment of the intimidation and blackmail of extortion. This control fuels illegal financial fluxes, provides the Mafia with ostentatious and unjustified wealth, and even allows Cosa Nostra to have her interests represented politically (...). The awareness of this solid control over the territory by the Mafia families is coupled with the rather strong sensation that the economic and financial interests of Cosa Nostra have by now consistently multiplied and involve a large part of the leading class of Italy, much more concerned with making money and accumulating capital than with the ethical principles of legality and transparency. (...) It seems that the phase of transition that Cosa Nostra is currently experiencing – mostly based on submersion and invisibility – is preparing the Mafia’s turn for the new millennium, thanks to the reconversion and integration of a large part of the criminal economy into legitimate national and European economies. (...) Do we really want to believe that the Mafia’s potential has suddenly become extinct with the arrests of Riina and Bagarella? Do we really want to go back to considering the Mafia as a problem of public order, limited to a bunch of assassins and criminals? Or, rather, do we want to make an effort and ask ourselves about the consistency of the responsibilities of the leading classes of our country with regard to the affirmation of a principle of legality in both the economy and financial markets? To tell the truth, I am under the impression that the current government majority, both in Rome and Palermo, has no interest in such issues. Indeed, it seems to me that Berlusconi and his associates are much more concerned with the prostitution emergency rather than

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<sup>1099</sup> *Ibid.*

with the Mafia infiltration of public contracts and the economy. Neither does it seem to me that a section of Berlusconi's political rivals in the center-left coalition are more concerned about such problems than Berlusconi himself, as they seem more preoccupied with the consequences of an antimafia commitment upon electoral campaigns, which, as we have experienced, penalize the candidates more exposed in the line of moralization and the defense of legality.<sup>1100</sup>

Thus, according to this MP of the Sicilian assembly, the principal responsibilities were to be attributed to politics and, once again, in an oblique way, Berlusconi being just the extreme case of a widespread situation in which the parliamentary opposition was little different or an invalid alternative in terms of antimafia policies. It is worth noting the importance of the last passage, in which the rejection by most citizens of a real antimafia commitment by political forces makes a political offer in terms of legality and transparency inconvenient, for which reason it was avoided by all parties. Whereas the choice of legality was not remotely convenient but actually counter-productive, one of illegality seemed to pay much more, and it was because of this that, according to Ferro, there was no substantial difference between the two political sides competing for power in terms of their attitudes towards organized crime, as the following case of a left-wing politician demonstrates.

On December 19, 2001 micro-cameras hidden inside the Garden Hotel in Pergusa, a small town of the province of Enna in the Sicilian Interior, filmed a *mafioso* of the new "white-collar generation," a lawyer by the name of Raffaele Bevilacqua, entering from the main door. Being subject to special surveillance by the police, Bevilacqua was not allowed to leave his town of residence, which was nearby in a small town called Barrafranca. However, evidently for him such surveillance was not too strict.<sup>1101</sup> Shortly after his arrival at the hotel, the investigators' cameras captured one of the most powerful men in Sicily, Vladimiro Crisafulli, a counselor for the province of Enna elected from the ranks of the center-left coalition opposing Berlusconi. Crisafulli stepped inside the hotel, reached Bevilacqua, and affectionately kissed his cheeks. They then headed to a reserved meeting room where other micro-cameras continued to record. The conversation between the most powerful man of the Left in Sicily and the new boss of the province of Enna (Bevilacqua was the head of the provincial *mandamento*, the local Mafia district) was all about politics: after agreeing to find a solution to an administrative issue concerning the city's Piazza Amerina, the two men addressed the issue of public contracts. Although the tone was relaxed, familiar, and friendly, the investigators could not help noticing that in some passages Bevilacqua, who had just been

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<sup>1100</sup> *la Repubblica*, 1/8/2002.

<sup>1101</sup> *Il Corriere della Sera*, 27/2/2014.

released from prison after being convicted for Mafia in 1995, observed a certain reverence towards Crisafulli, the former being the one to ask questions, the latter giving answers in a bossy tone. In 2003, the Left Democrat Crisafulli, who according to investigators seemed to have more power than the boss Bevilacqua, was put on trial for Mafia. It was only then that a few militants of the Left Democrats raised their voices and asked the leaders of the party for clarification which were not late to arrive: a few days after the notification of the indictment, even before the trial began, the head of the party in Sicily, Antonello Cracolici, gave his personal “political” acquittal of Crisafulli, which meant acquittal by the whole party: in his opinion, the bugs and the films made by the police were an “extremely serious political mistake” and it was impossible “to see where the crime was,”<sup>1102</sup> and although Crisafulli may still have made an “extremely serious mistake,” this was not enough to charge him with any sort of political responsibility or have him expelled from the party. When all this happened, it was the summer of 2003. A few weeks later, at the end of October, everything had already been forgotten, Crisafulli could promote a convention in his city to prepare his candidacy for the European Parliament: the meeting, which soon transformed into “massed crowd,” ended with a standing ovation; in honor of the politician on trial for Mafia, even the doors of the university’s Great Hall were opened to be entered by, among many others, the President of the Province, Cataldo Salerno, mayors and politicians elected from the ranks of the Left Democrats who “came from every corner of Sicily: Assoro, Centuripe, Piazza Armerina, Vittoria, Messina, Catania, from the provinces of Caltanissetta, Gela, from Niscemi, Mazzarino, and Santa Caterina,”<sup>1103</sup> the regional council leader of the Left Democrats, Lillo Speziale, the regional congressmen Gianfranco Zanna, Angelo Villari, and Gioacchino Silvestro, the regional leaders of the Confederation of Agriculture and Confederation of the Artisans, Carmelo Gurrieri and Mario Filippello; there was, of course, even the leader of the Left Democrats in Sicily, Cracolici, the one who had talked of an “extremely serious mistake,” although one should ask if those who made such an “extremely serious mistake” were the police or Crisafulli. What is clear is that, during the course of the convention, the subjects of the Mafia and Crisafulli’s trial were not even mentioned.<sup>1104</sup>

The case of Crisafulli, who was later convicted as the Mafia boss of Enna, is just one of many pieces of evidence available that proves correct the account provided by the MP of the Region of Sicily Giovanni Ferro that we have analyzed before. Among these pieces of

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<sup>1102</sup> *la Repubblica*, 26, 29/7/2003 and 30/9/2003.

<sup>1103</sup> *Ibid.*

<sup>1104</sup> *Ibid.*

evidence, we choose to highlight three more that seem to perfectly mirror the general situation, as they are drawn from different institutional representatives. The first is an admission made in April 2004 by the Palermo Chief Prosecutor, Pietro Grasso. Speaking directly after a series of arrests of quite a number of fugitives and the confiscation of assets amounting to millions of Euro, Grasso – once again – said the opposite that one would have expected after a such success: he described himself as feeling “helpless” as he could not help noticing “with surprise that politicians and administrators investigated for Mafia, later acquitted from major criminal charges but still condemned for less serious crimes such as bid-tampering, have returned to their offices as winners, even acclaimed by the people.”<sup>1105</sup> The second is the observation that the few who tried to publicly oppose the Mafia political dimension remained isolated, such as for example the mayor of Gela, Rosario Crocetta, who, since he was elected in 2003 upon proclaiming – similar to Mussolini’s “Iron Prefect,” Cesare Mori, and General Carlo Alberto Dalla Chiesa, as well as many others who shared a destiny of defeat – to “clean up not just to the edge of the sidewalks but all the way down to the end, according to the principles of ethics and legality,” was reported to be living like “a lay missionary” due to constant Mafia threats.<sup>1106</sup> Finally, there is the fact that, in spite of all the arrests and convictions, the Mafia continued to make staggering amounts of money. In 2004, Eurispes, one of the principal research centers on political, economic, and social studies, released figures for which the Mafia’s “estimated turnover” – by which it meant the four main Italian criminal organizations: Cosa Nostra, the ’Ndrangheta, the Camorra, and the Sacra Corona Unita – was €100 billion per year, about 10% of the Italian gross national product. According to the *Ufficio Italiano Cambi*, the body of the Italian National Bank until 2007 in charge of monitoring the movement of capital and the management of Italian gold reserves, the Sicilian Mafia had laundered, in the previous year alone, about €7 billion, which would have generated an estimated €50 billion. With a turnover of €43 billion – more than the double the budget of the Region of Sicily – Cosa Nostra led the national ranks for criminal control over the economy.<sup>1107</sup> Another report released in 2005 by Censis, the government institute in charge of socio-economic research since 1964, on the basis of data provided by the government, read that Cosa Nostra could still rely on 5500 affiliates (about 2000 more than two years before, if we credit the other report mentioned previously) and its estimate financial resources would amount to a turnover of about €30,000 million, which corresponded to 39%

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<sup>1105</sup> *la Repubblica*, 1/5/2004.

<sup>1106</sup> *la Repubblica*, 29/2/2004.

<sup>1107</sup> *la Repubblica*, 3/3/2004. The figure remained the same the following year, see *la Repubblica*, 19/1/2005.

of Sicily's internal gross product.<sup>1108</sup> In the light of these figures, and in spite of the discrepancies between the two reports, the Mafia did not really seem to have been much weakened by the repression.

The entrepreneurial success of the Mafia, not just the Sicilian Cosa Nostra but also the other mafias of southern Italy, affected all fields. As well as control over the concrete industry and extortions, in fact, the entire agricultural sector of the South remained under the control of organized crime, for an estimated revenue of some tens of billion of euro. A report released in 2004 demonstrated that even around the turn of the century *mafiosi* kept on doing undisturbed what they had always done: steal olive trees with a value of about €10,000 each to decorate their villa parks; steal buffalos to produce mozzarella; purchase, through their dummies, acres of land, often in proximity to groundwater, to be used as illegal landfills for toxic substances; disassemble tractors or other machinery to barter them for weapons, drugs, or prostitutes in Eastern markets; and slaughter animals in makeshift farmhouses to then sell the meat in the market without any health or hygiene control.<sup>1109</sup> According to the report, “there is no agricultural holding able escape the threat of organized crime” and the damages caused by criminal organizations to the agricultural holdings of the six southern Italian regions – Campania, Basilicata, Puglia, Calabria, Sicilia, and Sardinia – were estimated to be €5 billion per year, although such figures could only be considered “optimistic” by researchers at CESAR – the Italian foundation in charge of rural and agricultural development, which had commissioned the survey – since they accounted for only 10% of the situation because only in two of the regions surveyed (Campania and Puglia) had farmers agreed to be interviewed, and for this reason the calculation did not take into consideration “the already notorious European Union scams and laundering of money through the purchase of agricultural firms.”<sup>1110</sup> The only possible conclusion for the researchers was that organized crime had “control over the entire agricultural sector of southern Italy.”<sup>1111</sup> Such control was so effective, that at the beginning of 2004 the National Antimafia Chief Prosecutor, Pierluigi Vigna, had to introduce a new special office to face “a phenomenon that, so far, we have underestimated.”<sup>1112</sup> The agricultural businesses also proved useful for other criminal activities, big and small, such as the clandestine meat market, the storage of cocaine, and the hiding of fugitives.<sup>1113</sup>

In conclusion, after about a decade from the beginning of the Second Republic, under

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<sup>1108</sup> *la Repubblica*, 6/9/2005.

<sup>1109</sup> *la Repubblica*, 4/2/2004.

<sup>1110</sup> *Ibid.*

<sup>1111</sup> *Ibid.*

<sup>1112</sup> *Ibid.*

<sup>1113</sup> *Ibid.*

both profiles of territorial control and the volume of its businesses, nothing had really changed for the Sicilian Mafia compared to previous periods. If there ever were a change, it was rather for the worse, and, if so, it was in the opposite direction from that claimed by those who believe that arrests and convictions limited the Mafia's power. The arrests and trials were, in fact, perhaps a problem for the *mafiosi* who had to face them, but were less so for the Mafia as a whole, as the repression was counterbalanced by the fact that governments of every political side, deliberately or not, did nothing to solve the inefficiencies of a bureaucratic State machine, while they did everything they could to make the situation worse for those committed to the fight against the Mafia. Regardless of the usual "virtuous minority" who fought sincerely and did their duty unstintingly, and often even won, it was precisely the government's attitude – not just Berlusconi's – that lay at the base of a "decrease" of tension in the fight against the Mafia. It was because of this that, with very few exceptions, public opinion did not get much involved in the Mafia, as far as violence disappeared, at least in its most blatant aspects. It does not now seem difficult to understand how effective the message was that "the Mafia and Camorra have always existed and it is necessary to cohabit with them" and "anyone can solve the problem as he best believes". Perhaps, the Italian people had grasped its historic significance long before Berlusconi's minister, Lunardi, with that mix of naivety and honesty that is often the most revealing evidence, reflecting a general trend of breaking any barrier of decency, publicly conveyed it to the people he was in charge of governing.

## 6.4 Andreotti

On May 2, 2003, the Palermo Court of Appeal issued the verdict for the trial of Giulio Andreotti. Accused of collusion with the Mafia, Andreotti had already been convicted in appeal in November 2002 for instigating the homicide of journalist Carmine Pecorelli committed by Cosa Nostra (in 2003, the Supreme court reversed the guilty verdict and acquitted Andreotti). The sentence, which was confirmed one year later by the Supreme court, was destined to remain controversial, both for its content and the timing of its release.<sup>1114</sup> According to the court, in fact, Andreotti's "real participation in the Mafia continued for quite a long time,"<sup>1115</sup> as he was "at the disposal" of Cosa Nostra until the spring of 1980 (the crime of Mafia was introduced only in 1982), while he was acquitted for the years following due to lack of evidence. Most interestingly, the acquittal occurred thanks to the statute of limitations, and, had the court released the sentence by December 20, 2002, Andreotti would have been sentenced guilty for collusion with the Mafia and served prison time: the extreme slowness of Italian justice system had the effect of saving the most powerful politician of the First Republic from a conviction for Mafia, which means, conspiracy against the State. As the verdict was issued, Andreotti continued to serve as senator for life, without feeling the need to resign even though the court had established that

With his conduct (...not merely fictitious) [Andreotti] has, not without personal profit, consciously and deliberately, cultivated a stable relationship with the Mafia and reinforced it by manifesting his will to favor the *mafiosi*. Ultimately, the Court considers that the crime of conspiracy can be ascribed to a prominent politician, with a great influence on the political life of the country, who, for quite a long time and beyond an explicit negotiation of electoral support in return for actions benefitting a criminal organization extremely rooted in the island, did the following:

- a) Asked to members of Cosa Nostra para-legal interventions, although for a not reprehensible purpose, and received such help from them;
- b) Repeatedly met with Mafia bosses;
- c) Formed friendly relations with them, reinforcing their influence even towards other branches of the criminal organization which were excluded from such relations;
- d) Manifested his real interest in facts that were particularly delicate for the life of the criminal

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<sup>1114</sup> On the Andreotti Trial see P. Arlacchi, *Il processo*, Rizzoli, Milan, 1995; N. Tranfaglia, *La sentenza Andreotti*, Garzanti, Milan, 2001; L. Pepino, *Andreotti e la mafia, i processi*, Ega, Turin, 2005; S. Lupo, *Andreotti, la mafia, la storia d'Italia, op. cit.*, and S. Lupo, *Processo Andreotti e dintorni, in Cos'è la mafia, op. cit.*, pp. 37-70; a history of the Andreotti Mafia trials can be found in M. Travaglio, *Intoccabili, op. cit.*, pp. 159-250.

<sup>1115</sup> *Ibid.*, p. 486.

- organization;
- e) Suggested the way forward to *mafiosi*, in relation to such facts, and even spoke with them about extremely serious crimes they had committed, without them worrying about being sued or facing legal charges;
  - f) Omitted to report to the judiciary authority facts that were useful to shed light on particular serious facts that he had come to know from his direct contact with the *mafiosi* [the “facts particularly delicate for the life of Cosa Nostra and the “extremely serious facts” previously mentioned refer to the story of Piersanti Mattarella, President of the Region of Sicily, a courageous Christian Democrat politician committed to the moralization of his party which led the Mafia to kill him on January 6, 1980];
  - g) Essentially gave to *mafiosi* authentic – and not merely fictitious – signs of friendly availability that, even regardless of specific and effective interventions contributing to the reinforcement of the criminal organization but simply because of his great political authoritativeness, gave them the impression of being protected by the highest level of political power.<sup>1116</sup>

Rather than using this sentence for its historic meaning – which, of course, is not of secondary importance and presents some important question for history<sup>1117</sup> but regarding a period that is not the object of our analysis – we are interested in the reactions that such a verdict provoked and the way in which the news of Andreotti’s acquittal was reported by the media. As the verdict came at a time when politics was accusing the magistrature of hatching a plot against it, from the perspective of Italian politicians the case of Andreotti was emblematic, since the charge against him was unprecedented, perhaps more discreditable and slanderous than any other possible: this time, and for the first time, the highest level of political power was accused (and even proven guilty) of plotting with the Mafia. Quite interestingly, and perhaps oddly, after the acquittal politicians from every party and coalition, accompanied by the chorus of the entire mainstream media, manipulated the trial outcome to their own interests and attributed to a guilty verdict the significance of the complete acquittal of an innocent who had to defend himself in a ten-year trial not from a criminal charge, however proved, but from a judiciary conspiring against him with a “fabricated theorem.”<sup>1118</sup> Although the sentence established Andreotti’s “real participation in Cosa Nostra,” the former Christian Democrat

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<sup>1116</sup> *Sentenza della 1<sup>a</sup> Sezione Penale della Corte d'Appello di Palermo, anno 02/05/2003, N. 1564 Sent., N. 2774/2000 R.G., N. 3538/1994 N.R.*, pp. 483-484.

<sup>1117</sup> As historian Nicola Tranfaglia wrote, the sentence provides us with a “very arguable historic interpretation,” because “it does not explain what happened during the 1980s” between Andreotti and the Mafia, nor “why the former mayor of Palermo, Salvo Lima, and the Christian Democrat, Ignazio Salvo, were killed by Cosa Nostra in 1992, and not years later.” See N. Tranfaglia, *La resistibile ascesa di Silvio B. Dieci anni alle prese con la corte dei miracoli*, Baldini Castoldi Dalai Editore, Milan, 2004, p. 102 and pp.106-107.

<sup>1118</sup> *Il Corriere della Sera*, 16/10/2004; *Il Giornale*, 16/10/2004; *La Stampa*, 16/10/2004; *la Repubblica*, 16/10/2004; *Il sole 24 Ore*; *Il Riformista*, 16/10/2004. It was also considered how the acquittal was reported by Rai's TG2 and the Italian Associated Press ANSA.

leader became a symbol of innocence: the once most powerful man in the country who had been “at the disposal of Cosa Nostra” was turned into a “persecuted” man who had finally managed to put an end to his legal calvary.

It is worth reporting a few of these celebrations to enable better insight. “The news of the acquittal of senator for life Giulio Andreotti fills me with joy, even though it does not surprise me much, as I have always been convinced of his innocence,” said the Vice President of the Chamber of Deputies, Clemente Mastella; “It seems good news to me, I am very happy:” Romano Prodi, former Italy’s prime minister and now president of the European Commission; “I wish to express to President Andreotti my affectionate solidarity:” President of the Region of Lazio, Francesco Storace; “I am very happy for him:” Prime Minister Silvio Berlusconi; “I want to express my great friendship and esteem for a great statesman:” Minister of Agriculture, Rocco Buttiglione. These manifestations of “esteem” and “solidarity” were expressed across political beliefs and parties, and were similar, if not perfectly aligned, in their tone and substance. However, it does not seem that they could justify the triumphant celebrations following the announcement of the sentence. Politicians, television and the press, with few exceptions and different tones depending on the case, exploited the sensation to intensify their attacks on the magistrature, in this way further contributing to the decline of the season of the “Great Mafia Trials,”<sup>1119</sup> those begun after the last season of Mafia violence in which the defendants were powerful politician or government officials.<sup>1120</sup>

The considerable number of pages (380) that the majority report of the Parliamentary Antimafia Commission of the XIV Legislature dedicates to the Andreotti trials should be read in this light.<sup>1121</sup> In the report, the commissioners write that “the media debate on the Andreotti case has overridden and replaced the trial on the base of political belief,” and that the entire trial has become “an attempt at condemning and labeling Andreotti as a *mafioso*, promptly disproved by the verdicts of the various courts.”<sup>1122</sup> A deliberate fabrication of history clearly emerges from this passage, as the court detailed Andreotti’s political responsibility for his and his party’s collusion with the Mafia, and even a criminal responsibility, although cancelled by the statute of limitations (since Andreotti “participated in the criminal association Cosa Nostra until the spring of 1980,” it cannot be true that the “attempt at condemning and labeling

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<sup>1119</sup> See *Relazione di minoranza*, p. 157

<sup>1120</sup> This interpretation can be found in S. Lupo, *Processo Andreotti e dintorni, dieci anni dopo* (2006), in *Cos'è la mafia*, op. cit., pp. 75-76. Concerning the political-*mafioso* trial of those years also see S. Lodato, M. Travaglio, *Intoccabili*, op. cit., pp. 159-250.

<sup>1121</sup> *Relazione di maggioranza*, TOMO II, pp. 499-948.

<sup>1122</sup> *Relazione della Commissione parlamentare antimafia, presidenza Centaro, 30 luglio 2003; approvata a maggioranza*; see also *Il corriere della Sera*, 31/7/2003. The minority report considers as inopportune the stance taken by the majority in favor of Andreotti as well as the way such stance was taken.

Andreotti as a *mafioso*” was “promptly disproved by the verdicts of the various courts”). However, what appears the most interesting is the language of the report, convoluted and incomprehensible to the extent of leaving the impression of being an attempt to hide inside the labyrinth of indecipherable syntax, devoid of any significance, as it describes the responsibility of a defendant who by definition was the incarnation of Power. To clarify this point, we report a passage to challenge the reader to find a way out of the labyrinth and grasp some sort of meaning from it:

Although the evidentiary material that has endured the trial was documentarily organized in a generally organic way, the structure of the investigation itself could just as constantly refer to the detection of specific – almost atomic – situations that the prosecutor had considered efficient and effective for his accusation, an immediate arrangement of which it is not always possible to pick at first sight.

The reading of the chapters of the verdict in the first instance, for example, puts the reader in front of a generally uneven and not always temporarily scanned in time set of facts that are far and different with each other also because of their objective factual content, although always signifying a relational context between the defendant and the most prominent *mafiosi*.

In thesis, the inferential process of evaluation of the events offered to support the *thema probandum* [the accusation], should remain logically connected to the historic changing of situations if we want to avoid a mere showcase of a *magma acquis* of multiple facts supported by a lackluster repetitive interpretation. Such a circumstance has significantly afflicted the mechanism of the prosecutor’s accusation and has constituted, as we shall see, the primary reason for the partial rejection of the architecture of such an accusation. It is, thus, necessary to revoke the precise connotations of the institutions and the social dynamic of that time to better understand the behaviors of the protagonists of the aforementioned facts.<sup>1123</sup>

We already pointed out that the majority commissioners’ stance was disputed by the opposition. The latter, in fact, considered “the commission president’s report a non-reliable reconstruction of facts, as the reality was totally different from that described in the majority

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<sup>1123</sup> *Ibid*, p. 499. The original Italian reads as following: *Per quanto il materiale probatorio che ha resistito al dibattito sia stato documentalmente organizzato in modo tendenzialmente organico, la struttura stessa dell’indagine non ha potuto che fare costante riferimento al rilevamento di specifiche – quasi atomiche – situazioni che il Pubblico Ministero aveva ritenuto efficienti ed efficaci per il suo quadro accusatorio e delle quali non sempre si riesce a cogliere a prima vista un’immediata sistemazione. La lettura dei capitoli della sentenza di primo grado, ad esempio, pone l’osservatore dinanzi ad un insieme, tendenzialmente disomogeneo e non sempre temporalmente scandito, di eventi, tra loro lontani e differenziati anche in ragione dell’oggettivo contenuto fattuale seppure sempre significanti un contesto relazionale tra l’imputato e i maggiori esponenti di Cosa Nostra. In tesi il processo inferenziale di valutazione degli eventi offerti a supportare il thema probandum dovrebbe rimanere logicamente connesso al mutare storico delle situazioni se si vuole evitare la mera ostensione di un coacervo magmatico di plurimi fatti retto da una monocolore interpretazione ripetitiva, circostanza questa che ha afflitto significativamente il meccanismo probatorio del Pubblico Ministero ed ha costituito, come vedremo, il motivo primario del parziale rigetto della sua architettura accusatoria. E’ quindi necessario saper rievocare i precisi connotati delle istituzioni e delle dinamiche sociali del tempo per poter meglio comprendere i comportamenti dei vari protagonisti delle vicende evocate.*

report.”<sup>1124</sup> The minority report, signed by the president of the Antimafia Commission of the previous legislature, Giuseppe Lumia, instead, highlights “the use that [the majority] report intends to do of such a judiciary case:” such manipulation – which according to the commissioners of the parliamentary opposition was profited in the interests of the government and did not fulfill the task of a commission that should have neither become a further court level for the trial nor altered completely the meaning of the court verdict – could only be explained with the fact that “it is far too easy to understand that such efforts were made in consideration of Senator Dell’Utri and the trial in which he is awaiting judgment in appeal for the same crime as Andreotti, Dell’Utri having already been condemned in the first instance.”<sup>1125</sup> The Lumia report, therefore, interpreted the revisionism of the Andreotti case made by the majority as a consequence of the “political factionalism” which inspired both the government and the commissioners of the political opposition, the latter accused of lacking that impartial attitude that their office required and having transformed the commission into “a sort of government subsidiary.”<sup>1126</sup> For these reasons, the minority commissioners considered their colleagues’ behavior as “anti-democratic and lacking any sense of statehood and institutional responsibility” to such an extent that “it is hard not to believe that it was an attempt at a raid made by the parliamentary majority: weighty reports were, in fact, handed in just a few hours before being submitted to the commission for plenary debate without being handed in to the commission president’s office first as required by rule, with many of the commissioners even being given incomplete texts; most importantly, only a few hours (hours, not days!) were given to us to read, amend, discuss and approve it. This meant the practical impossibility of drafting a minority report in the instance of severe disagreement. In short, a real impairment of parliamentary rights.”<sup>1127</sup> To give evidence of this “raid by the majority,” the commissioners of the center-left pointed out the conflict of interest of the commission president himself, Salvatore Centaro, who overlapped his role as commission president with the drawing up of the government’s line by participating “in the working group established by the government to draft changes to the law on the confiscation of assets, which were made with the improper endorsement of the president himself:” such behavior was considered “an

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<sup>1124</sup> *Relazione di minoranza*, p. 155

<sup>1125</sup> *Relazione di minoranza*, p. 155 and p. 157. Concerning the majority report, the historian Nicola Tranfaglia has written: “As a matter of fact, the Centaro report has been a further occasion for the attack on the judiciary by the government and its parliamentary majority, in relation to the ongoing trials to Andreotti and Contrada,” in N. Tranfaglia, *Mafia, politica, affari. 1943-2008, op. cit.*, p. 251.

<sup>1126</sup> The criticism of the way of conducting the works by the commissioners of the majority, as well as the reasons that brought their colleagues of the minority to draft a report of their own in complete disagreement with that of the majority, can be found in *Relazione di minoranza*, pp. 6-10. The quotations are on p.6.

<sup>1127</sup> *Ibid.*, p. 6.

unacceptable mixing of roles that exists outside the tradition, practice, and rules of the parliamentary commission, and a non-statutory institutional conduct that cannot be justified by any alleged spirit of institutional collaboration” since “the functions of the government and those of the Parliamentary Antimafia Commission are outlined by the Constitution in a completely different way, the institutional collaboration between the two bodies taking place on different levels.”<sup>1128</sup>

In short, as the Andreotti trial impelled the highest political complicities of the Mafia in the First Republic to emerge, the reaction of the politicians of the Second to a sentence that was also a historical-political conviction for the First seemed to be the substantial admission of their own guilt with regard to the same crimes and misconduct of their predecessors. The Andreotti trials created a precedent that was too dangerous for a political class that *normally* continued to interact with the Mafia. This attitude was shared by Berlusconi’s political opponents as well, as demonstrated by the fact that the messages of solidarity to Andreotti after his acquittal, uncritically reported by the mainstream media, came from politicians of all parties. Solidarity with Andreotti implied indirect solidarity with Dell’Utri and any other politician – of any level, party, or importance – on trial for the same crime of collusion with the Mafia, the *concorso esterno in associazione mafiosa*, or anything similar. By expressing solidarity for a defendant who was the primary symbol of a certain way of exercising political power, the politicians of the new political order – although defining it ‘new’ may seem hardly appropriate – substantially shared solidarity between themselves, manifesting their refusal of the idea that they could be put on trial for an equal, or similar crime.<sup>1129</sup> Rather than the trial verdicts, it is precisely this attitude of self-defense that interests our analysis the most, as it provides an important, indirect confirmation that even after 1994 political power continued to “produce” Mafia as normal and to act favorably towards organized crime, exploiting it to maintain and increase its power.<sup>1130</sup> For this reason, the best conclusion seems that even the discontinuity represented by the first Mafia trial for the highest possible representative of political power was practicable to the extraordinary continuity of the history of the Mafia.

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<sup>1128</sup> *Ibid.*, p. 8.

<sup>1129</sup> Criticisms of the policies implemented by the Andreotti governments can be found in E. Biagi, *Buoni i cattivi*, BUR, Rizzoli, Milan, 1991, p. 27 and in I. Montanelli, *I protagonisti*, Rizzoli, Milan, 1976, pp. 273-274.

<sup>1130</sup> Concerning how politics can ‘produce’ Mafia see U. Santino, *La mafia come soggetto politico*, in *Dalla mafia alle mafie*, *op. cit.*, pp. 276-281.

## 6.5 Caselli

Right after the Via D'Amelio bombing, in order to continue the work begun by Falcone, Borsellino and the other antimafia magistrates, Gian Carlo Caselli had submitted his candidacy as head of the Palermo Prosecution Office, an office that most magistrates at the time would have avoided due to its perilousness. After winning the office at the beginning of 1993, Caselli's first decision was to put Andreotti on trial for Mafia in spite of the negative opinion expressed by both the Parliamentary Antimafia Commission, at that moment still led by Luciano Violante, whose position corresponded with that of his party, the Left Democrats, and the Head of the Police Gianni De Gennaro.<sup>1131</sup> However, retaliation against Caselli eventually came: not by the Mafia, but by the political power. At the end of 2004, as the contest for the election of the new national antimafia chief prosecutor was about to be launched, the parliament – bypassing the body in charge of such a decision, which was the CSM – passed a law that precluded Caselli from being granted the position. The new law, in fact, extended the mandate of the national antimafia chief prosecutor in office, Pierluigi Vigna, until he turned 72, and established that leading positions in judiciary offices could only be assigned to magistrates who still had four years of mandate before turning 70. By extending Vigna's mandate, Caselli would be 66 years old when he could be appointed as national antimafia chief prosecutor, too late to be elected to the post. Clearly unconstitutional, the law was rejected by the president of the Republic and sent back to the parliamentary chambers, which did not acknowledge the rejection and, instead, re-introduced the norm within a comma of an emergency ordinance, preventing in this way Caselli from being given the office. In 2007, when the Constitutional Court ruled over the unconstitutionality of the norm, it was by now too late for Caselli to be elected. The break represented by a *contra personam* law, which seemed deliberately made to prevent someone from winning a public office, reinforces the hypothesis of a constantly ascending continuity in the rapport between the Mafia and politics and is well highlighted by the minority report, which included the law against Caselli in the series of “shameful laws” passed by the Berlusconi government and its majority: the decision against Caselli was “a really serious act, as for the first time in the history of Italy the parliament has passed a law *against* one single person; it was a genuine, targeted persecution of Giancarlo Caselli, a magistrate who has dedicated his entire

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<sup>1131</sup> See *Blu notte. Misteri Italiani, mafia e politica, verità occulte del nostro paese*, broadcast by Rai 3 on 14/9/2008.

professional life to the fight against both terrorism and the Mafia,”<sup>1132</sup> the plan against him having been “carried out through two legislative initiatives deliberately intended to expropriate Caselli’s right, as well as that of other deserving magistrates, from competing for the office of national antimafia chief prosecutor: first, the approval of an emergency ordinance that extended the mandate of the previous National Antimafia Chief Prosecutor; then a ruling for the immediate application of a judicial reform concerning the maximum age for leading positions in the judiciary.”<sup>1133</sup>

## 6.6 Other less important but not insignificant measures

To complete the picture are some other measures passed under the Berlusconi government which confirm a complete disengagement in the fight against the Mafia and the total abandonment of it to the goodwill of whoever, in the police or in the magistrature, wished to deal with it.<sup>1134</sup> On October 2001, the *Commissario Governativo Anti-Usura e Anti-Racket*, a special government office to fight both usury and extortion, was abolished. As the decision was announced, the parliamentary opposition, once again, talked of another “gift to the Mafia.”<sup>1135</sup> Moreover, the office was at that moment being run by Tano Grasso, a former trader who had rebelled against Cosa Nostra and had managed to put together an association of other extortion victims like himself. The effect of the government’s decision led to a 21% increase in extortion in less than one year.<sup>1136</sup>

In 2002, the government denied the status of “educational body” to Libera, an association offering legal training courses throughout the whole country which had more than 8000 instructors and over 800,000 students, on the basis of an alleged lack of clarity regarding

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<sup>1132</sup> *Relazione di minoranza*, p. 119.

<sup>1133</sup> *Ibid.* Concerning the rapport between politics and the judiciary in the Italian Liberal State see M. D’Addio, *Politica e magistratura (1848-1976)*, Giuffrè, Milan, 1966 – XII; P. Marovelli, G. Maranini, *L’autonomia e l’indipendenza della magistratura dal 1848 al 1923*, Giuffrè, Milan, 1967; N. Tranfaglia, *Politica e magistratura nell’Italia liberale*, in *Studi Storici*, 11, 1970, f. 3, pp. 509-532; Concerning the rapport between politics and the judiciary in the Fascist State see A. Meniconi, “La magistratura e la politica della giustizia durante il fascismo attraverso le strutture del ministero della Giustizia,” in *Il diritto del duce. Giustizia e repressione nell’Italia fascista*, a cura di Luigi Lacchè, Rome, Donzelli Editore, 2015, pp. 79-95; e *Storia della magistratura italiana*, Il Mulino, Bologna, 2013.

<sup>1134</sup> This interpretation can be found in J. Dickie, *Cosa Nostra. A History of the Sicilian Mafia*, pp. 379-382, and S. Lupo, *Potere criminale, op. cit.*, p. 58.

<sup>1135</sup> *Relazione di minoranza*, p. 76.

<sup>1136</sup> Concerning the negative consequences of the decision to suppress the office see *Relazione di minoranza*, pp. 76-77 and p. 490; see also *la Repubblica*, 19/10/2001.

its objectives.<sup>1137</sup> Another decision helping the Mafia was not to re-establish the ministerial commission presided over by Professor Giovanni Fiandaca in charge of drafting a single text on all the laws against the Mafia; one more, already mentioned, was to abolish the Special Government Office for the Management and Destination of Goods Confiscated from Criminal Organizations, in charge of the management of assets confiscated from criminal organizations: its tasks were transferred to the State Property Office, which from the very beginning of its activity put the confiscated properties on sale – as if the objective of seizing and confiscating assets were solely that of cashing in (this new bureaucracy was so weak and inefficient that it helped the Mafia in her attempts to re-embezzle such assets, which promptly began winning the auctions with the use of a figurehead after having threatened or even used violence, if necessary, against whoever dared to participate).<sup>1138</sup>

Finally, a few others smaller decisions were made, apparently irrelevant yet notable when framed within the context: one was the omission of the word “Mafia” from the postage stamp commemorating Pino Puglisi, the priest killed by Cosa Nostra in 1993; another was the hefty fine inflicted by the government on the Libera association for having released bottles of olive oil produced on land that used to belong to the Mafia, with a quality assurance label of *Terre Siciliane* (“Sicilian lands”) instead of the required DOC or IGP,<sup>1139</sup> which regulated and monitored the geographical zoning of such products. Even such details, when it comes to the Mafia, have their profound importance.

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<sup>1137</sup> *Il Corriere della Sera*, 24/2/2002.

<sup>1138</sup> *Relazione di minoranza*, pp. 33 and following; the position of the commissioners of the majority can be found in *Relazione di maggioranza*, Tomo II, pp. 384-385.

<sup>1139</sup> *Il Corriere della Sera*, 11/9/2003; *la Repubblica*, 1/11/2003.

## 6.7 Mafia and politics in the Parliamentary Antimafia Commission reports

The relationship between the Mafia and politics is defined in opposite ways by the two reports of the parliamentary inquiry, to which both dedicate a chapter. According to the report released by the majority, such a relationship “is essentially based on remunerative, practical, and parochial objectives.”<sup>1140</sup> Contrary to previous interpretations, the Mafia was considered as substantially incapable of controlling votes” and “of significantly affecting election results.”<sup>1141</sup> It should be noticed that the positions expressed by the majority contradict other, more reliable sources, including Falcone’s view who instead believed that “the 1987 political elections have revealed massive vote displacements by Cosa Nostra in the most important polling places.”<sup>1142</sup> Falcone also noticed how “it is the Mafia that imposes conditions on the politicians, and not the other way around,” and affirmed that “it is impossible to believe that some political groups are not linked to Cosa Nostra – because of an evident convergence of interests – in the attempt at influencing our still immature democracy by killing those who are inconvenient to both.”<sup>1143</sup> These are just some of the many aspects that discredit the majority report and advise against using it for historical reconstruction except as an example of what the minority commissioners defined as a real “fabrication of history.”

One of the reasons for the attacks against the magistrature were the parliamentary majority’s strong criticism of the legal construct of the *concorso esterno in associazione mafiosa*, the law that Falcone drafted in order to punish collusion with the Mafia, for which, as we have seen, some eminent personalities were charged, such as Andreotti, Dell’Utri, Contrada, Mannino, and others. The *concorso* was considered by the parliamentary majority an “unsatisfactory legal construct too vague to be compatible with the principles of the rules of law,”<sup>1144</sup> in line with the minimization of the rapport between the Mafia and politics provided by the government. Exploiting its allegedly scant importance in order to inflame the polemic against the judiciary and those judicial tools that allowed magistrates to put

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<sup>1140</sup> *Relazione di maggioranza*, TOMO II, p. 516.

<sup>1141</sup> *Ibid.*, pp. 530-532.

<sup>1142</sup> G. Falcone, M. Padovani, *Cose di Cosa nostra*, *op. cit.*, pp. 165-171.

<sup>1143</sup> *Ibid.*

<sup>1144</sup> *Ibid.*, p. 972. They were Bruno Contrada, Calogero Mannino, Francesco Musotto, Franz Gorgone and Vincenzo Inzerillo. An analysis of such trials can be found in S. Lodato, M. Travaglio, *Intoccabili*, *op. cit.*, pp. 251-309.

politicians and State officials on trial for Mafia and corruption-related crimes, the majority commissioners denied the political nature of the Mafia, and substantially absolved politics of any consistent collusion with organized crime. Their minority colleagues, instead, refused to accept the conclusion of an “evident separation between the Mafia and politics and the fact that there has never been an organic rapport between the two:”<sup>1145</sup> in fact, “without her relationship with politics, the Mafia would not be Mafia but simply common criminality, and consequently, in order to investigate her, a special commission like this one would not even be necessary.”<sup>1146</sup> The minority commissioners also considered as false “the substantial incapability of Cosa Nostra to significantly affect the vote,” as well as that her “rapport with politics is solely confined to a few local town councils without any will to influence the general political scene at the highest level.”<sup>1147</sup> For all these reasons – they concluded – the Centaro report “denies the very essence of the Mafia and, most importantly, it denies over a century of parliamentary inquiries, historical research, judicial outcomes, verifications made thanks to the contribution of thousands and thousands of citizens and State servants: from Li Causi to Pio La Torre and Piersanti Mattarella, from Falcone and Borsellino to Carlo Alberto Dalla Chiesa, from Don Puglisi to Giuseppe Impastato, just to mention a few cases.”<sup>1148</sup>

Against the “virtual Mafia that no longer has any considerably important relationship with politics” outlined in the Centaro report, the minority pits “a Mafia that tends to progressively coincide with politics.”<sup>1149</sup> At the same time, it identifies two possible models in which such relations can take shape: *mediation* and *representation*. The former was typical of the First Republic, when “politics was not always the direct expression of the Mafia, for the fundamental reason that the political parties were strong and legitimate in the eyes of public opinion, both at a local and national level; the rapport was such that the Mafia was not above politics but, on the contrary, it was politics that was above the Mafia.”<sup>1150</sup> In the Second Republic, and in particular in the five years of the Second Berlusconi Government, “the indisputable bottom line is that the rapport between the Mafia and politics has consistently augmented” to the extent of determining a situation in which “an inversion of the old situation is emerging, in which politicians and even entire faction of parties are the direct representation of Mafia groups,” and “there is the quite concrete danger of a symbiosis between the politician and the *mafioso* that is no longer possible to distinguish one from the other;” in short, “there

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<sup>1145</sup> *Relazione di minoranza*, p. 137.

<sup>1146</sup> *Ibid.*

<sup>1147</sup> *Ibid.*

<sup>1148</sup> *Ibid.*, p. 12.

<sup>1149</sup> *Ibid.* The expression used is precisely “fabrication of history.” See *Relazione di minoranza*, p. 12 and p. 232.

<sup>1150</sup> *Ibid.*, p. 113.

has been an increase in the number of politicians who are the direct representation of the Mafia while, of course, the model of mediation has not disappeared but simply ceased to be the prevalent one.”<sup>1151</sup> In this context, “mediation and direct representation are not contradictory” but “simply two sides of the same coin, the perverse and pervasive rapport between the Mafia and public authority.”<sup>1152</sup>

The expansion of the direct participation model was favored by the series of laws passed or drafted by the Berlusconi government exclusively in the interests of the prime minister: “shameful laws” that, in certain cases, were even devised against a single person (a reference to Caselli, whose case is defined as “a genuine persecution”), which had the effect of “increasingly legalizing entire areas of illegality.”<sup>1153</sup> Such government policy developed in “two directions: the first, remove the Mafia from the priorities of the government agenda; the second, attack the antimafia magistrates in order to reduce and debunk the authority and prestige of the judicial order.”<sup>1154</sup> The minority report also mentions the case of “one of the most important ministries of the Berlusconi government, the Minister of Infrastructure, Pietro Lunardi,” who had announced that it was necessary “to cohabit with the Mafia,” which “was not an impromptu expression by a government minister but rather the revelation of a practical attitude which, during the course of the legislature, has become a ‘political line’ that has been followed coherently and consistently up until the present day and has found its main application in the not random decision to construct a bridge across the Strait of Messina.”<sup>1155</sup> In this picture, the invisibility of the Mafia corresponded with that of the antimafia, as demonstrated by the total inaction of the commission: “Our most severe criticism of this committee’s majority is to have impeded this commission from making an effective analysis of the Mafia as well as the indication of new, modern and advanced legislative instructions that could cope with the changes that have occurred in the world of organized crime, which in recent years has evolved towards new models and is not the same as it was when this legislature began.”<sup>1156</sup> Still according to the minority report, “the primary objective of the government is to paralyze day-to-day judiciary activity and favor a decline in justice and a delegitimization of the judiciary;” for this reason, “the judgment that must be expressed on the counter-reformation of the judiciary, with regard to the fight against the Mafia which is what this committee is concerned with, is strongly negative,” since such counter-reformation “has

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<sup>1151</sup> *Ibid*, p. 118.

<sup>1152</sup> *Ibid*.

<sup>1153</sup> *Ibid*, p. 119.

<sup>1154</sup> *Ibid*, p. 7.

<sup>1155</sup> *Ibid*.

<sup>1156</sup> *Ibid*, pp. 9-10.

led to a drastic reduction of the role of jurisdiction and of the judiciary governing council in favor of a hierarchical conception of the judiciary, which does not help at all in the fight against the Mafia.”<sup>1157</sup> The commissioners of the opposition also noted that “the reduction of judiciary employees has determined the suppression of the Commission on Organized Crime, a special body within the CSM that in recent years has authoritatively dealt with organized crime and positively interacted with this commission,” and that, “an entire legislature was not enough for the center-right to fulfill its duty of ratifying the convention.”<sup>1158</sup> The suppression of the aforementioned commission was seen as the evidence of “the government’s complete disinterest in organized crime, which is also demonstrated by the failure of the government to ratify the UN convention held in Palermo in 2000 with the objective of harmonizing the State member orders to establish a more effective fight against organized crime, which is experiencing a constant transnational expansion.”<sup>1159</sup> Such a commission, instead, had been assigned tasks that were anything but insignificant, such as “introducing the crimes of participating in a criminal association, money laundering, corruption and obstruction of justice to the single national legislations; establishing the penal responsibility of the institutions regarding the crimes indicated by the treaty; taking measures against money laundering; protecting witnesses against criminal organizations, even those who release their testimonies via video conference; reinforcing cooperation in the transference of trials, extraditions, and the seizure and confiscation of assets from organized crime groups in order to find those suspected of it and put them on trial; encouraging the prevention of organized crime at both a national and international level; and providing the necessary financial resources to those countries that are in need of support in a joint fight against transnational organized crime.”<sup>1160</sup>

Even regarding the subject of Mafia witnesses the two reports of the parliamentary inquiry give opposite views. Whereas the majority one defends the law passed by the center-left government in the previous legislature arguing that it did not discourage the collaborations with justice and actually even increased the number of witnesses,<sup>1161</sup> the minority report has a more critical and controversial approach and considers Mafia witnesses a “humiliated resource” and a “missed opportunity” because of the State’s abandonment of even the most creditable of them.”<sup>1162</sup> The minority congressmen, therefore, took a critical stance against a

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<sup>1157</sup> *Ibid.*, p. 118.

<sup>1158</sup> *Ibid.*

<sup>1159</sup> *Relazione di minoranza*, p. 59, 70, 118. The position of the majority commissioners can be found in *Relazione di maggioranza*, TOMO II, p. 61.

<sup>1160</sup> *Relazione di minoranza*, p. 59.

<sup>1161</sup> *Relazione di maggioranza*, pp. 434-435.

<sup>1162</sup> *Relazione di minoranza*, p. 78. The *Relazione di minoranza* mentions the emblematic case of Giuseppe

law passed in such a rush, as if it were a vital task to fulfill, by the previous government of which they were the expression<sup>1163</sup> (admitting the failure of their own side reveals and taking a *super partes* attitude are other more reasons that allow us to consider this source as reliable). In defense of this position, the commissioners of the opposition mention the case of Antonino Giuffrè, a Cosa Nostra boss arrested in 2002 who became one of the most important accusers of politicians and State officials. When, in the case of Dell’Utri trial – whose name, among others, had been mentioned in conjunction with the Mafia by Giuffrè himself – in order to make up for the various times when, for whatever impediment, Giuffrè had not been able to release his testimony before either the Parliamentary Antimafia Commission or the Palermo Prosecution Office the commission had urged the government to authorize the entire 180 days provided by the new law to gather witness statements, no response was ever provided, with the result that the collaboration was hindered (the report also mentions how the government had let the initial deadline for the collaboration pass without handling the issue, “in spite of the urging from the key institution, which was the parliamentary commission itself”).<sup>1164</sup>

According to the Lumia report, between 2001 and 2006 there was a considerable expansion of the grey zone where the Mafia, corrupt businessmen, State officials, bureaucrats and racketeering politicians got together to conduct their businesses and make their plots. In this light, the minority commissioners interpreted the words with which Lunardi, Berlusconi’s minister of Public Works, inaugurated the legislature, as proof of Cosa Nostra’s successful return, under the guidance of Provenzano, to her *old*, most characteristic low-profile strategy.<sup>1165</sup> We have seen how, in the Lumia report, the relations between *mafiosi* and politicians can be summarized in two models: that of “mediation,” and that of “direct participation.” The two models are described as “ranging from an organic affiliation, which is the indication of a stable and systematic collaboration with the Mafia, to an unaware contiguity or one not liable to criminal prosecution.”<sup>1166</sup> Although even some of the conclusions of the minority – nuances, compared to the “fabrication of history” of the majority – may be argued, the general conclusion of an increased collusion between the Mafia and politics from the First to the Second Republic can be fully agreed with, as it perfectly matches the circumstantial evidence available. This conclusion is also a decisive element supporting

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Masciari, a business man from Calabria who had denounced the tangles of the collusion between the 'Ndrangheta and political parties and was consequently forced to quit his business after having being “abandoned,” together with his family, by the Italian State, who had not managed to protect him effectively (*Ibid.*, pp. 80-83).

<sup>1163</sup> See the already mentioned Law no. 45 passed on 13/2/2001.

<sup>1164</sup> *Ibid.*, pp. 78-80.

<sup>1165</sup> *Relazione di minoranza*, p. 138.

<sup>1166</sup> *Ibid.*, p. 201.

our hypothesis of a Mafia that, in the first 15 years of the Second Republic, and in spite of the defeat of her military branch Cosa Nostra, became stronger than before thanks to her complete dissolution into the network of her relations from which it is much more difficult, if at all possible, to distinguish her. Amid the conclusions of the minority that could be criticized are also the “unaware relations” of some politician with the criminal organization, which hardly seem credible in a context like that of late 1990s-early 2000s southern Italy; the distinction between the two models of “mediation” and “direct participation,” which although probably useful to simplify the analysis seems too rigid and schematic: first, the cases provided as evidence of each model – those of Lima and Ciancimino – seem rather two nuances of the same model than two separate models, as both Lima and Ciancimino embodied a way of doing politics as direct expression of the Mafia (it should also be remembered here that they were both *mafiosi*);<sup>1167</sup> secondly, the statement that prior to the 1970s the Mafia simply mediated with politics is perhaps too much of a generalization, as many cases seem to demonstrate (one that we could report as an example amongst the many available is that of Pasquale Almerico, the mayor of the little town of Camporeale, in the province of Palermo, killed in 1957 for refusing to issue a membership card of his party, the Christian Democracy, to local Mafia boss Vanni Sacco).<sup>1168</sup> Although it is true that, since the end of the 1970s, the escalation of violence produced by Cosa Nostra under the guidance of the Corleonesi was such as to make the definition of a “Corleonese model” legitimate,<sup>1169</sup> at least the first wave of external violence, the one that took place between 1978 and 1983, can be explained by Cosa Nostra’s persistence in exterminating whoever dared to oppose its power.<sup>1170</sup> After such an extermination campaign, it was unavoidable that the escalation of violence led to some sort of State reaction, even by politicians of those parties that the Mafia relied on and was protected by.<sup>1171</sup> As for the second wave of violence, the one upon which we concentrated our attention in the first part of this work, the explanations seem to be much more complex because the historic juncture was completely different, as, since 1989, with the fall of the Berlin Wall, the “red peril” that had helped the Mafia so much had disappeared, and thus it was obvious that a

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<sup>1167</sup> *Ibid.*, p. 202.

<sup>1168</sup> *La Sicilia*, 10/4/2010.

<sup>1169</sup> This interpretation can be found in S. Lupo, *Potere criminale*, *op. cit.*, p. 10.

<sup>1170</sup> A history of the Mafia facts occurred between the end of the 1970s and the early 1980s can be found in S. Lodato, *Trent'anni di mafia*, *op. cit.*; A. Caruso, *Da Cosa nasce cosa. Storia della mafia dal 1943 a oggi*, *op. cit.*, and A. Stille, *Nella terra degli infedeli*, *op. cit.*

<sup>1171</sup> The journalists Attilio Bolzoni and Giuseppe D'Avanzo claimed that the rise to power of the Corleonesi within Cosa Nostra was favored by those interested in exterminating the creditors of Sindona. Between the end of the 1970s and the early 1980s, such rise to power swept away the old Mafia bloc that had invested principally on and through Sindona's banks (on this hypothesis worked prosecutors such as Gianfranco Donadio and others). See A. Bolzoni, G. D'Avanzo, *Il capo dei capi*, BUR, Rizzoli, Milan, 1993.

new political role, or one differently motivated or justified, had to be negotiated. In short, in the case of the first wave of violence the *mafioso* bullets or dynamite charges did not go much beyond the bodies of their victims, while in the second case the political implications were much grander, although destined to remain mysterious – or, according to quite a number of investigative journalists, unproven – in their full historical significance. However, although some nuances are not 100% historically pertinent, the minority report conclusion that the 1992-93 biennium was a situation of “greater insidiousness” for Cosa Nostra in which she had to “make a greater effort to avoid any mediation with politics” and “tried to replace the ‘old guard’ with her own new elements introduced in the world of politics”<sup>1172</sup> can be totally accepted as true. In a similar way, it can be considered indisputable that during the Second Republic, and in particular following Berlusconi’s second advent to power in 2001, there was a constantly increasing symbiosis between the Mafia and politics – whose outcome was, as we will analyze more in depth in the following pages, the expansion of those grey zones where the Mafia and racketeering politics meet – which counterbalanced Cosa Nostra’s defeats.<sup>1173</sup> This new development was determined by several factors, among which were – as well as the already mentioned end of the divisions determined by the Cold War and the successful Mafia repression by law enforcement agents – the effects of the federalist-inspired reforms that were passed in Italy in the early 1990s, which transferred important State roles to the regions, and the law, also passed in the early 1990s, that allowed the judiciary to disband town councils for collusion with the Mafia.<sup>1174</sup> How important the Cold War was for the Mafia was confirmed by the reliable account offered by the witness Antonino Giuffrè, who once revealed, “Deep down, our task was made easier by the fact that people were scared of the Communists, who were just perceived as evil, and we, instead, had the Christian Democracy. Yet, after the fall of the Berlin Wall, the Communists were not evil anymore, they didn’t eat children anymore; something was going wrong, because we had been those who had ensured order for the Christian Democrats and now they were beginning to put us aside, and this was unacceptable

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<sup>1172</sup> *Relazione di minoranza*, p. 204.

<sup>1173</sup> The typical Mafia strategy summarized in the Sicilian say *calati juncu ca passa a china* (stay down until the river is not in flood anymore) according to which the Mafia gets a low profile anytime the repression of law enforcement agencies gets more consistent following Mafia blatant attacks. On this strategy see the article by A. Crisantino, “Il volto ripulito della mafia,” in *la Repubblica*, 23/4/2002.

<sup>1174</sup> This law passed after on May 2, 1991, following national attention on the Mafia had re-emerged when in a small Calabrian town by the name of Taurianova, in the course of a ferocious war internal the local Mafia, Rocco Zagari, a local boss who had also served as town councillor, was brutally assassinated while sitting at the hairdresser shop to have his hair cut. In order to revenge such homicide, the *mafioso* from the opposing group were, taking inspiration from a Quentin Tarantino's film, after finding one of the assassins killed him, cut his head, and had it rolling in a street of the town. The national outrage that followed, since Zagari had served as town councillor, was the main reason why the law was approved.

for us.”<sup>1175</sup> Thus, it was the fear of being isolated and betrayed by their old friends, and perhaps also the sensing that a new era in world history was about to start, which encouraged Cosa Nostra to be more directly involved in politics, as demonstrated by the many attempts made in the early 1990s at creating parties that were direct expression of the Mafia’s interest.<sup>1176</sup> A *pizzino* found in Provenzano’s hiding place after his arrest demonstrates this increased skepticism of *mafiosi* towards politicians, especially after the defeat at the Maxi Trial became official at the beginning of 1992. In his note, Provenzano warned his interlocutor of the dangers of “mediating” – if we want to use the minority report’s expression – with politicians:

Now you tell me that you have a good political contact that would allow us to manage several important work projects, and before moving forward you would like to know my opinion about it. However, since I do not know the facts in detail, there is not much I can tell you; I would need to know names and situations, because nowadays they are all swindlers, they may even be cops, they may be naïve or very calculating: but, if someone does not know which way to take then he cannot follow it, in the same way as, right now, there is not much that I can tell you.<sup>1177</sup>

In conclusion, all the evidence points to a progressive dissolution of the Mafia into the political system coinciding with the repression. In this regard, the most important case to analyze seems to be that of the President of the Region of Sicily, Salvatore Cuffaro, who, in 2005, while Berlusconi was serving as prime minister for his second term, was indicted for Mafia.

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<sup>1175</sup> *Procura di Palermo, verbale di interrogatorio di Antonino Giuffrè del 25/9/2002, depositato al processo Dell'Utri dai Pubblici Ministeri Nico Gozzo e Antonio Ingroia.*

<sup>1176</sup> See S. Lupo in *Storia della mafia, op. cit.*, p. 260.

<sup>1177</sup> Reported in S. Palazzolo, M. Prestipinto, *Il codice Provenzano, op. cit.*, pp. 272-273.

## 6.8 Cuffaro

Although the presence of the Mafia in the health sector is perhaps as old as the Mafia itself,<sup>1178</sup> between the mid-1990s and the early years of the following decade healthcare became one of the favorite areas where the *mafioso*-political exchange took place.<sup>1179</sup> This was due to the fact that Italy, like most other western European countries, had to cope with a situation in which it was necessary to satisfy demands to lower healthcare costs while improving the quality of the services offered. To achieve such an objective, most countries exerted forms of political and administrative decentralization that included the transference of authority from the national to the regional government, in what appeared to be a “real industrial reconstruction.”<sup>1180</sup> After the first few years of this devolution, in Italy the impact of healthcare on the broader economy was much more relevant in the South than in the North, and of all the southern regions Sicily was the one whose economy depended the most upon healthcare, both in terms of people employed and revenue, to the extent that, in 2006, at the national level Sicily was second only to Lombardy, which had almost double the inhabitants, for accredited pharmaceutical spending.<sup>1181</sup> Such was the expansion of Sicily expenditure for healthcare that after the President of the Region, Salvatore Cuffaro, was indicted for Mafia in 2005, the new president, Raffaele Lombardo, appointed as healthcare assessor a former prosecutor from the National Antimafia Prosecution Office by the name of Massimo Russo. Russo remained in office until 2012 and survived all four government reshuffles that took place under Lombardo’s presidency, demonstrating how strong the political will (or perhaps necessity) to reform a compromised sector such as that of healthcare was even by a president rumored to be close to the Mafia as was Lombardo. The objective was, in fact, to reach a fiscal consolidation that could address the benchmarks imposed in 2007 by the national

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<sup>1178</sup> Among the many available, it is worthy to mention the cases of Melchiorre Allegra, head doctor at the Palermo hospital in the early 1900s, who in 1916 became a Mafia associate in return for invalidating from the military service, and thus allowing them to not go the fronts of the Great War, the sons of influent *mafiosi* (later on, Allegra also became a Mafia proto-informer, having revealed authorities the structure of the criminal organization in 1937); or that of Michele Navara, the Corleone head doctor who was the antecedent of Riina and Provenzano as boss of the Corleone Mafia Family; see respectively D. Critchley, *The Origin of Organized Crime in America: The New York City Mafia, 1891-1931*, Routledge, New York-London, 2009, p. 144; and G.C. Marino, *Storia della mafia, op. cit.*, p. 151, 211, 214, 245, 253.

<sup>1179</sup> Concerning recent developments in the relationship between criminal groups and the health care sector see E. Pavolini, *Il cambiamento possibile. La sanità in Sicilia tra Nord e Sud*, Donzelli Editore, Rome, 2010, in particular pp. 13-50.

<sup>1180</sup> *Sentenza N. 15583/11 della Seconda Sezione Penale della Corte di Cassazione, N. 192/2011, R. G. N. 28911/2010*, p. 136.

<sup>1181</sup> *Ibid.*, pp. XII-XIII and p. 25.

government in order to cope with an abnormal growth of public expenditure and number of employees which, instead of job losses, had corresponded with a progressive lack of professionalism, especially at the organizational level.<sup>1182</sup> As part of such devolution of the healthcare, between 2001 and 2005 several millions in State money were given to private companies, many of which, in Sicily, were Mafia-controlled.<sup>1183</sup>

Elected in 2001, almost in correlation with the advent of the Second Berlusconi Government, Cuffaro was accused in 2004 of having managed a leak in the National Antimafia Prosecution Office and of having informed a surgeon, Giuseppe Guttadauro – who also happened to be one of the most powerful Palermo bosses – of a bug planted in his apartment by DIA agents. Upon receiving notification of his indictment for Mafia and revelation of professional secrecy, Cuffaro reacted by not showing any embarrassment – he said he was “calm” and “reassured by his own conscience”<sup>1184</sup> – and did not even consider resigning as president of the Region of Sicily. Later on, it was discovered that his leak was a Carabinieri marshal, one Antonio Borzacchelli, who was also indicted and eventually found guilty of having provided Cuffaro with “a real private intelligence service.”<sup>1185</sup> Previously, Borzacchelli had dealt with some of the most important investigations on the Palermo public administration: according to prosecutors, in some cases he had blackmailed politicians and officials whom he had discovered guilty, asking them for money in order to halt investigations on them; in others, he had warned them of ongoing investigations on them in return for payment.<sup>1186</sup> However, the bug that the surgeon and Mafia boss Giuseppe Guttadauro destroyed after Cuffaro’s leak was not the only one that had been planted: others kept on recording and revealed investigators that the leak had come from none other than the president of the Region. As investigators continued listening, the tapes disclosed evidence of an entire power system controlled by Cosa Nostra, and eventually that the healthcare sector had become the most lucrative for the Mafia as far as public money was concerned. After being convicted in 2008 for simple corruption – he celebrated the lack of aggravating circumstances of Mafia association by donating Sicilian pastries to the journalists attending the press conference, an act that forced him to resign from the presidency – Cuffaro was later convicted in appeal in

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<sup>1182</sup> These plans brought to a reduction of the personnel of 3279 employees between 2006 and 2010 for a total saving in the expenditure of the Region of Sicily of 75 million Euro (see *Il cambiamento possibile, op. cit.*, pp. 14-21).

<sup>1183</sup> *la Repubblica*, 27/9/2005.

<sup>1184</sup> *la Repubblica*, 5/9/2004.

<sup>1185</sup> *Sentenza N. 15583/11 della Seconda Sezione Penale della Corte di Cassazione, N. 192/2011, R. G. N. 28911/2010, op. cit.*, p. 136.

<sup>1186</sup> Concerning the Cuffaro case see the already mentioned *I complici, io. Cit.*, pp. 57-68 and *Voglia di mafia, op. cit.*, pp. 89-96.

2010, this time with the aggravating circumstance of collusion with the Mafia.<sup>1187</sup> The appeal verdict, later confirmed by the Supreme court, stated that there was a “political-*mafioso*-type deal between Mafia boss Giuseppe Guttadauro and the politician Salvatore Cuffaro,” and that “Cuffaro has deliberately helped the Mafia by putting candidates indicated by the Mafia bosses on his electoral list for the 2001 Sicilian election and by revealing to *mafiosi*, on several occasions, that they were the subject of investigation.”<sup>1188</sup> For such a crime he was sentenced to seven years in prison, although he served just five as in 2015 he was released on good behavior.<sup>1189</sup>

The system of corruption discovered by the investigators consisted of the Region of Sicily outsourcing cancer care to some accredited private clinics and then reimbursing the expenditure for treatment, not to the patients – who did not have to pay anything for these treatment, as if it were a public hospital and not a private one – but directly to the clinics. The business was highly lucrative, if we consider that therapy for prostate cancer could cost up to €136,000.<sup>1190</sup> Among the accredited clinics, the one that benefited the most from public funding was that of Michele Aiello, a doctor and also a former building contractor who soon became the number-one taxpayer in all Sicily – until he was put on trial after being wiretapped while establishing the tariffs for each type of reimbursement with Cuffaro.<sup>1191</sup> According to what the Palermo prosecutors wrote, “It has been possible to ascertain the relations of a person charged with the accusation of Mafia (Michele Aiello) and one convicted by definitive judgment for the same crime (Giuseppe Guttadauro) with politicians from regional government, even at the highest level, businessmen, professionals, journalists, employees,

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<sup>1187</sup> Later, in 2010, the Palermo Prosecution Office demanded and obtained another trial for Cuffaro (the trial so-called *Cuffaro-bis*), which was made again with the summary judgement. In this trial, Cuffaro was accused of Mafia membership. On February 16, 2011, the Judge for the Preliminary Hearing ruled over to not proceed against Cuffaro for the same crimes for which he had already been judged. In the appeal trial, Cuffaro was acquitted on the base of the *Ne bis in idem* principle. See *la Repubblica*, 16/11/2011 and *Il Corriere della Sera*, 20/6/2012.

<sup>1188</sup> *Sentenza N. 15583/11, op. cit.*, p.153 and pp. 138 and following.

<sup>1189</sup> *Il Corriere della Sera*, 13/12/1015.

<sup>1190</sup> Concerning the control of the Mafia on the health sector in those years see S. M. Bianchi, A. Nerazzini, *La mafia è bianca*, BUR, Rizzoli, Milan, 2005. Concerning the political implications of the Mafia expansion in the health sector see *La Sicilia da Lima a Cuffaro*, in *I gattopardi, op. cit.*, pp. 106-110, and pp. 168-182. See also E. Pavolini, *Il sistema sanitario siciliano in trasformazione in un'ottica comparata*, in *Strumenti Res*, online journal edited by the Fondazione Res, Year II, no. 7, December 2010.

<sup>1191</sup> A research by the Milan University Bocconi revealed how, between 1997 and 2007, the funds that the of the Region Sicily granted to private clinics doubled, tripled, and in certain cases even quadrupled depending on the clinic. Whereas in 1997 the total amount of the figure was about 200 million (the amount has been calculated in Euro to facilitate comparison), in 2007 it was 460 million Euros. The clinics accredited were 43 in 1997 and 61 in 2007. The businessman who got the largest quantity of the funds, Michele Aiello, is described in the parliamentary inquiry as “an entrepreneur previously involved in construction, in particular in that of *strade interpoderali* (private roads, usually not open to the public, joining two or more ranches, editor's note), for which he seemed to have got a sort of monopolist, before he became a sort of leader in the sector of private-public health care” (*Relazione di maggioranza*, Tomo I, p. 259). See also *la Repubblica*, 19/9/2008.

functionaries, senior administrative officials, and those employed in courts and at every level of the police force.”<sup>1192</sup> The wiretap transcripts revealed that the discussions held in Guttadauro’s living room were always about “public contracts, investment projects for Cosa Nostra’s capital, attempts to corrupt politics and administrations by tinkering with open competitions to ensure the appointment of someone close to the Mafia, controlling public consortiums and municipally owned companies and institutions, influencing town planning, and finally about the serious and reiterated attempts to influence election outcomes made first by appeasing candidates and then by giving them electoral support.”<sup>1193</sup> How crucial the healthcare sector was in the expansion of the Mafia white-collar system was well outlined by the judge for preliminary investigation, Piergiorgio Morosini, in his indictment for the trial, which was later confirmed by the court verdict:

The protagonists of Cosa Nostra’s double-sided face are the doctors. The *mafiosi* of the organization’s military branch talked with the boss [Guttadauro] about extortion, drug trafficking, and other crimes. Doctors, lawyers, and politicians devised strategies to be implemented at both a regional and national level. Their objective was to occupy public institutions and bend them to the interests of Mafia entrepreneurs through bloodless yet effective interception methods, public sector financings, and resources of every kind (...) However, Guttadauro’s plan looks more ambitious, as well as that of another Mafia doctor, Antonino Cinà, who wants, at all costs, to nominate one Marcello Parisi as councilman to the Palermo City Council. From different positions and through political channels, both Cinà and Guttadauro work on the creation of a new Mafia leading class which could replace the old illiterate Mafia bosses in silence and without bloodshed.<sup>1194</sup>

In the phase of transition that began during the mid-1990s and carried through the early years of the new millennium, it was bosses of a bourgeois extraction that gave the Mafia a legitimate front while maintaining a criminal dimension. The profile of the *mafioso* who became prominent at the beginning of the new century was that of a very well-respected professional, both a white-collar and a “man of honor,” who was at the center of a network of relations that he controlled through political connections at every level: municipal, provincial, and national. In the historical juncture of the first few years of the new millennium, the healthcare sector became the pre-eminent place in which the exchange – perhaps, the correct expression would be “symbiosis” – took place between the Mafia and politics.

With regard to this aspect, it is interesting to note where the majority report of the parliamentary inquiry stood in Cuffaro’s case. We read, in fact, in the report that “the work

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<sup>1192</sup> *la Repubblica*, 2/10/2004.

<sup>1193</sup> Sentence ruling N. 15583/11, *cit.*, pp. 157-158.

<sup>1194</sup> *Tribunale di Palermo, Sezione dei giudici per le indagini preliminari, sentenza di rito abbreviato N° 1579/07 Reg. Not. Reato, N° 800165/07, del 21/1/2008, pp. 316-317.*

done so far by the Region of Sicily is indicative of the political will to fight the Mafia,” and that “Cuffaro, as the president of the Region of Sicily, has listed a series of administrative steps (such as those regarding waste and water emergencies, those supporting the victims of Mafia crimes, those against usury, a register for the employee assets of the Region of Sicily, the construction and the renovation of various police offices, and the approval of a series of protocols in defense of legality), which must all be interpreted as evidence of the Sicilian regional government’s commitment to legality and to the fight against the Mafia in the economy, institutions, and civil society. (...) Cuffaro has already given full answers to all the questions he was asked, and wanted to emphasize that he was well aware of the dangers deriving from the influence of the Mafia over both public administration and politics, his government having made every possible effort in order to resolve such a problem, or limit it as much as possible.”<sup>1195</sup> Before Cuffaro’s trial had even started – when these words were written, in the summer of 2005, Cuffaro had just been indicted for *favoreggiamento alla mafia* (i.e., favoring the Mafia once, while the *concorso esterno in associazione mafiosa* punished repeated support provided to the Mafia) – the commissioners of the majority had already come to the conclusions that such a trial was “inopportune and superficial,” and, for this reason, they expressed the hope that “it will end as quickly as possible” since – what better time for the labyrinth language of the majority commissioners to return – “any consideration of a political nature is influenced by different perspectives, often partial and Jacobin.”<sup>1196</sup> In short, the majority commissioners felt confident enough to accuse the prosecutors who had laid down the evidence against Cuffaro of “political Jacobinism,” which means acting as political opponents, without even considering that those prosecutors could not do otherwise as there was strong evidence that the governor of Sicily had revealed to a Mafia boss information covered by confidentiality of judicial proceedings. In the light of Cuffaro’s later conviction and of all the connections that the trial threw light on, defining Sicily’s most powerful politician as a champion of the fight against the Mafia is further evidence of the majority report’s total lack of credibility and its constant attempts at a “fabrication of history.” It is, in fact, quite difficult to think that the minority commissioners were in the wrong when they wrote that their colleagues were “simply standing up for Cuffaro, hiding the institutional and ethical consequences from public opinion as well as the political responsibility of such case: especially since there was no consistent reaction by the government against the serious damage that Cuffaro’s indictment had on the image and credibility of the Region of Sicily as

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<sup>1195</sup> *Relazione di maggioranza*, Tomo I, pp. 279-280.

<sup>1196</sup> *Ibid.*

an institution.”<sup>1197</sup> The minority report also mentions what the evidence against Cuffaro was at the time of his indictment in 2005, such as the fact that government spending was “decided at the table farthest back in a Bagheria shop where Cuffaro often met with Aiello; that Aiello had appointed as the clinic’s director Roberto Rotondo, leader of the CDU [a political party that rose from the ashes of the Christian Democracy, that was part of Berlusconi’s coalition and whose leader in Sicily was Cuffaro] in the Bagheria Town Council; that intermediary for the prices of each health treatment was Antonio Borzacchelli, a town counselor elected from the ranks of CDU and also a former Carabinieri police marshal; that Pio Lo Giudice was nominated as president of the ARS health committee, he, too, enlisted in the ranks of CDU and also indicted for collusion with the Mafia;” and that it was because of such strict control over the healthcare sector that “radiation therapy costing €16,000 was reimbursed by the regional government to Aiello for up to €120,000.”<sup>1198</sup>

The Cuffaro case is crucial to understand how *mafioso* political racketeering worked. It is symbolic that both Cuffaro and Miceli – the latter being the one running for the office of town councillor with the support of the criminal system that had its headquarter at Guttadauro’s apartment – put on the record only a generic admission of the relations – otherwise well known in Sicilian political circles – between Guttadauro and Miceli, “the real, natural link between Guttadauro and Cuffaro.”<sup>1199</sup> From what both Miceli and Cuffaro said on record it emerged how, for both of them, it was utterly normal to discuss politics with Guttadauro, a Mafia boss who had just come out of prison after serving a long sentence.<sup>1200</sup> By admitting as *normal* its relationship with the bosses, it was politics itself that demonstrated not just the existence of a “pact” with the Mafia, but how one such pact was regarded as inevitable and ordinary. In the words of Cuffaro and Miceli, even those put on the record before the magistrates and not just recorded on the wiretaps, there is no possible alternative: it is either this, or this.

In conclusion, the Cuffaro case confirms how with the advent of the Second Republic the Mafia made a quantum leap forward in its intertwining with politics as it highlights how

The Mafia became an institution in herself as the appointment of primary doctors, and of several directors general, were made through an intermediation in which Cosa Nostra, led by its boss Provenzano, played a

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<sup>1197</sup> *Ibid.*, pp. 17-18.

<sup>1198</sup> *Ibid.*, p. 19.

<sup>1199</sup> *Sentenza N. 15583/11*, p. 141.

<sup>1200</sup> See *Ordinanza di custodia cautelare in carcere n. 7339/2000 emessa dal GIP di Palermo Giacomo Montalbano il 24/6/2003 a carico di Miceli Domenico, Aragona Salvatore, Buscemi Francesco e Greco Vincenzo*.

devastating role. The case of the Bagheria doctor, Aiello, perfectly embodies the Cuffaro model; such a model has very much favored Cosa Nostra, allowing her to again penetrate public administration and become an ‘institution’ as demonstrated by the cases of regional congressmen and councilors Borzachelli, Fratello, Costa, Lo Giudice, Pellegrino, Ioppolo, and Cintola, as well as by those of the mayors (the last of them being Gambino, mayor of Roccamena), and by those of the many provincial and municipal councilors involved in Mafia investigations.

It is in the light of this continuity between the Mafia and politics that all the previous success reached by the law enforcement agents should be interpreted including the arrest of the “boss of bosses” Bernardo Provenzano in 2006. Cosa Nostra – intended, once again, solely as the military branch of the Mafia – had, perhaps, lost; the Mafia as a system of relations, as a power system that also generated the criminal organization, had certainly won. The theses that consider the Mafia defeated by State repression seem to underestimate too much this crucial point.

## **6.9 Towards a new model of Mafia development**

Amid the various points offered by the two reports of the Parliamentary Antimafia Commission of the XIV Legislature it is worth pondering the issue of the Mafia vote, that is the ability of the Mafia to control votes. Such an issue is strictly related to the responsibility of political parties in selecting their candidates. Even in this aspect, the two reports pose opposite views. Whereas the majority report denies the possibility that the Mafia could effectively control large quantities of votes, the minority report maintains that even in the legislature that was just about to end *mafiosi* were “controlling votes and selecting their politicians,” as demonstrated, among the copious pieces of evidence available, by the case “of a *mafioso* wiretapped while talking on the phone and admitting to having met a relative of Ciancimino and promising him votes for Dell’Utri and Forza Italia on occasion of the 1999 European elections.”<sup>1201</sup>

With regard to the issue of the Mafia vote, a noted historian has concluded that it is impossible to scientifically calculate the quantities of votes controlled by the Mafia, and even if such a task could be attempted, the result would inevitably be that the votes controlled by

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<sup>1201</sup> *Relazione di minoranza*, p. 137.

the Mafia Families would not be able to alter any election results.<sup>1202</sup> On the basis of such an assumption, it appears that the debate over the subject has become bogged down. However, it seems preferable not to limit the analysis to the sole problem of quantifying the Mafia vote but also consider the “semantic” value of it, in other words, the special ‘power’ of this vote, which also has an important historical connotation as it is the bearer of a tradition in which, without any significant discontinuity, this vote has always been successful at elections time. This argument finds valid support in the Lumia report, according to which “the votes that the Mafia controls directly are probably not very many; however, they may be enough to reach the majority of votes and have one candidate rather than another one be elected.”<sup>1203</sup> Moreover, the report notes that, as “Mafia turncoat Giovanni Brusca said in one of his depositions, the determining factor is not the number of votes” but rather the fact that “politicians take advantage of our power, i.e., our intimidation.”<sup>1204</sup> The issue being considered in this light, the Mafia offers convenient opportunities for a political career by orienting votes to politicians who are at her disposal. Rather than the “quantity” of the Mafia vote, although important, the decisive factor would thus be the particular “quality” of such vote: being against a Mafia candidate implies being against the Mafia, with all the consequences that this bears and which are easily imaginable. It is the Mafia herself who gives us the most credible explanation of her control over votes. In one of his testimonies, Mafia turncoat Tommaso Buscetta explained that the control over the territory exercised by Cosa Nostra automatically translated into votes, “since when we proposed our support to a candidate, or when a candidate demanded the support of a certain territorial district under our control, we used to show up in that district together with him so that Cosa Nostra’s representative in that area could be spotted strolling or having a coffee with this candidate; thus, people could see that the local boss had been visited by the future mayor, or a future town counselor: this was enough to have people vote for

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<sup>1202</sup> This interpretation can be found in S. Lupo, *Cos'è la mafia, op. cit.*, p. 58-59. Lupo writes that: “(...) the 180.000 votes that, according to the former antimafia prosecutor Giuseppe Ayala, just in the city Palermo were controlled by the Mafia; or the 50-60.000 votes that, according to the left-wing congressmen of the Parliamentary Antimafia Commission, even following the repression of the State were still at the disposal of Cosa Nostra. The deductive method through which such figures are estimated, based on the multiplying of the alleged number of the *mafioso* by a number around 70 or 80 which would be the electors that each man of honor could potentially influence in their voting decision, seems to be, first of all, a little too rough, as it seems quite hard to assume that the first of the 2.700 *mafioso* (in 1988) or the 780 (the present say) can influence 80 or more votes and that the second and the third *mafioso* can do the same. It is also very unlikely that the hundred or thousand or more *mafiosi* are able to find, in the very same social environment as other *mafioso* of his group, a *further* 80 votes different from those found by his peers” (*Ibid*). Concerning such issue see also G. Ayala, “La lobby mafiosa,” in *Micromega*, no. 4, 13, 1988, p. 15.

<sup>1203</sup> *Relazione di minoranza*, p. 137.

<sup>1204</sup> *Ibid*.

him....”<sup>1205</sup> Buscetta explained the role of the *mafioso* in a community in detail: “I would like this court to understand what the representative of the Mafia district means to the humble Palermo inhabitant: it means everything, it means the president of the Tribunal, it means the president of the Republic: it means the man who can decide, for better or worse, the life of that district, at least so it was back in those days.”<sup>1206</sup> That the Mafia had such power was also confirmed by Falcone, who noted how “it is notorious that the Mafia controls a large quantity of votes in Sicily.”<sup>1207</sup> Both Buscetta and Falcone referred to the period when Cosa Nostra directed votes towards the Christian Democracy, when the purely proportional electoral system based on multiple preferences in use in Italy in that period gave a considerable advantage to the power of criminal groups. Although at the beginning of the Second Republic a new electoral system based on a first-preference vote for the elections of mayors was introduced in the hope that it would prevent, or at least limit, political corruption and the power of criminal organizations to influence elections, such goals were never achieved, as the high number – 189 – of town council disbanded for Mafia from the early 1991 to 2015 seems to prove,<sup>1208</sup> and as a prosecutor from the National Antimafia Prosecution Office well highlighted in a book that he published in 2010:

“In a town of some 20,000 inhabitants, a few votes are enough to be elected, and in a situation in which political parties are often forced to join together in coalitions to obtain the majority of seats, it is possible to control or condition the majority with just two or three counselors, and the mayor cannot do anything but mediate the politicians supported by the *mafiosi*; in some cases, those few votes are enough to appoint local governments officials (the assessors) who will later make, or influence, decisions on the matters that concern criminal groups the most; thus, merely a group of town counselors are enough to control or influence decisions, and they [the *mafiosi*] do not even need to directly control the mayor, as their politicians are often enough to obtain the majority and render possible the formation of the town government.”<sup>1209</sup>

Several judiciary inquiries conducted in those years demonstrated how the Mafia, not just in Sicily (the Cuffaro case is landmark in this regard) but also in other southern Italian regions, continued to control town, provincial, and regional councils alike. It is interesting to note how both Buscetta and Brusca, two of the principal Cosa Nostra turncoats, revealed that it was the

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<sup>1205</sup> Reported in R. Cantone, G. Di Feo, *I gattopardi*, *op. cit.*, p. 181.

<sup>1206</sup> *Ibid.*

<sup>1207</sup> In G. Falcone, M. Padovani, *Cose di Cosa Nostra*, *op. cit.*, p. 165.

<sup>1208</sup> *Commissione parlamentare antimafia, Documentazione tematica, Consigli comunali sciolti*, which can be consulted online: [http://www.camera.it/\\_bicamerali/leg15/commbicantimafia/documentazionetematica/23/schedabase.asp](http://www.camera.it/_bicamerali/leg15/commbicantimafia/documentazionetematica/23/schedabase.asp) (date accessed 3/7/2016)

<sup>1209</sup> G. Di Feo, R. Cantone, *I gattopardi*, *op. cit.*, p. 143.

politician who was looking for the support of the Mafia in order to further his career rather than the other way around. In this light, the former would demand support of the *mafioso* and, once obtained, would put himself in the full service of the Mafia, which had made possible his rise to the halls of power.<sup>1210</sup> Such mechanism was also explained by another Mafia turncoat, Antonino Giuffrè:

As you well know, the Mafia does not give something in return for nothing, there must be something to gain from it. So, if the *mafioso* gives something to a politician, the politician has to give something else in return. The *mafioso* gives him power, has him elected to a local council or to the parliament in Rome, but the politician must grant something in return: immunity, favors, profits. As long as there is such an exchange, there will be equilibrium.<sup>1211</sup>

The exchange between the Mafia and politics, therefore, took place in quite a different way from the crime that the law punished, which was the simple transaction of money. The relation was, instead, mainly based on an exchange of services usually not punishable by law or difficult to prove, and consequently punish, in a criminal trial.<sup>1212</sup> Given these premises, the politician who obtained the Mafia support became the political representation of the Mafia and, substantially, a *mafioso* himself. In this way, the Mafia and politics tended to merge into each other, as another witness, Tommaso Campanella, a Sicily's politician charged with 416-*bis*,<sup>1213</sup> explained to prosecutors after his arrest in the early 2000s:

If you refer to the formal initiation, I would have to say no, these are just things that I have read in the newspapers, there is nothing consistent in it. However, I myself have been part of the Mafia group headed by Mandalà, and for such reason I was a member of the Villabate (Mafia) Family, since I provided them with my "service," my entrepreneurial skills, as well as my political career.<sup>1214</sup>

Thus, the Mafia politician was caught in the grip of granting the criminal organization's requests or becoming vulnerable to retaliation, as demonstrated by the following dialogue tapped by the investigators between a town counselor and the boss to whom he owed his rise:

Gaspare, do not forget that you have duties towards your electoral district... I may be wrong, but unfortunately the things that we wanted you to do and in which we are involved... I do not see any signals...and you know

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<sup>1210</sup> U. Santino, *La mafia come soggetto politico*, in *Dalla mafia alle mafie*, *op. cit.*, pp. 276-281.

<sup>1211</sup> Statements made by Mafia informer Antonino Giuffrè reported in E. Bellavia, S. Palazzolo, *Voglia di mafia*, *op. cit.*, p. 77.

<sup>1212</sup> U. Santino, *Mafia e politica*.

<sup>1213</sup> It can be both, Mafia membership and collusion with the Mafia.

<sup>1214</sup> Testimony released by Francesco Campanella, reported in *I complici*, *op. cit.*, p. 47.

what I am referring to; there are people who are expecting clear signals, otherwise we are fucked up, and we are not going to forget about it, Gaspare.<sup>1215</sup>

Also thanks to the fact that the involvement of politicians in Mafia activity was so difficult to prove and legally punish, in the first 15 years of the Second Republic (as in previous decades) it was easy for those accused of such an ambiguous crime – which in many cases appeared to be just a misconduct – to defend themselves in court, on the rare occasions they were put on trial, by camouflaging a charge already difficult to prove with an acquittal of any political responsibility. In the early years of the Second Republic, and in particular in those of the Second Berlusconi Government, politicians of every rank had an easy job in defending themselves from the charge of collusion with the Mafia simply by assuming that the lack, or the failure, of any prosecution against them automatically translated into their full acquittal even in terms of moral virtue.<sup>1216</sup> Such a pattern had already been clarified a few years earlier by Borsellino, who had repeatedly said that the duty of a magistrate was to verify whether or not the law had been broken, while that of political parties was to raise the matter of public moral and avoid candidates who were suspected of being in collusion with criminal groups; otherwise, the risk of complicity with the Mafia is inevitable, and, with it, that of a “turning the clock back to the 1950s and 1960s, when politicians allegedly in the Mafia defended themselves exactly in the same way, as the case of Salvo Lima – who had such important offices both in Sicily and at a national level – demonstrates better than any other.”<sup>1217</sup>

To prove the persistence of this pattern, the Lumia report mentions some cases that highlight the contiguity between Cosa Nostra and politics. Besides Cuffaro – to whom the report dedicates an entire chapter and who, it is worth repeating, had just been indicted as the report was being drafted – the report mentions the cases of Nino Nicotra, mayor of Acireale, a small town on the eastern coast of Sicily, arrested in 2002, whose relations with the Mafia had been ascertained (in the investigation that led to his arrest, the magistrates also discovered that the clans of Catania and Agrigento were still connected, proving the repression by law enforcement agents had not dismantled Cosa Nostra’s regional coordination); Basilio Catanoso, an MP elected from the ranks of the right-wing party National Alliance, arrested together with Nicotra and several other local politicians;<sup>1218</sup> Giuseppe Nobile, a doctor and

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<sup>1215</sup> *Ibid.*, p. 53.

<sup>1216</sup> See *I complici*, *op. cit.*, p. 75 and following., and *Voglia di mafia*, *op. cit.*, p. 175 and following. See also F. La Licata, “I soci imbarazzanti del giovane Renato,” in *La Stampa*, 12/5/2008; L. Abbate, G. Di Feo, “Schifani, avvocato di mafia,” in *L'Espresso*, 4/11/2010; *Il Fatto Quotidiano*, 20/8/2010, 27/11/2009.

<sup>1217</sup> *Relazione di minoranza*, p. 14.

<sup>1218</sup> See *Il caso Cuffaro*, in *Relazione di minoranza*, pp. 17-20; the story of the mayor of Acireale is on p. 139.

counselor of the Province of Agrigento elected in Forza Italia, arrested with other three members of the Agrigento Municipal Council while attending a Mafia meeting in the countryside surrounding Agrigento; Bartolo Pellegrino, a MP of the Region of Sicily, who had relieved himself of office after being tapped talking to *mafiosi* on the phone and calling the policemen investigating him “*sbirri*” (a derogatory term for “cops”) and “infamous” (the report also notes how, after this happened, no member of the regional council led by Cuffaro took a stance against Pellegrino); Giuseppe Ferrarello, a journalist and MP of Forza Italia, indicted for both bribery and collusion with the Mafia; and Salvatore Gambino, mayor of Roccamena, a small town in the province of Palermo, arrested at the beginning of 2006 after being charged with Mafia and caught in possession of stolen weapons. Finally, the Lumia report mentions how the *mafiosi* defending lawyers who were also congressmen in the national parliament did not feel any conflict of interest between the two mandates and highlights the case of Dell’Utri and Berlusconi that somehow joined the top with the bottom of the pyramid: Dell’Utri having already being condemned for his “ongoing relations” with Cosa Nostra’s bosses, Berlusconi having asserted his right to decline to answer prosecutors who wanted to know more about his proven relations with *mafiosi* during the Dell’Utri trial (such behavior was considered by the minority commissioners as “highly inappropriate” because it was “against the principle of collaboration with the State”).<sup>1219</sup>

A further consideration is that from the DIA reports emerges how the combined effects of the end of the Cold War – and, with it, that of the “ideological” vote – and the introduction in Italy of a new electoral system in 1993, had oriented the Mafia more towards candidates rather than parties, as, instead, it happened in the past. These reports also indicate how the rise of unstable employment, which began in the late 1990s and grew from 2003, also increased the Mafia’s ability to control votes, with votes being sold in certain poor neighborhoods of some cities for just €30-40.<sup>1220</sup> Other investigative sources demonstrate how Cosa Nostra never gave up seeking votes and channeling the electoral consensus under her control or influence towards her preferred candidates. In a conversation wiretapped by investigators that led to his second arrest, Palermo boss Giuseppe Guttadauro told one of his companions that he had been able to collect 5000 votes just by receiving people comfortably sitting on the couch of his apartment. In all the dialogues bugged by the police, discussions always revolved around the same subjects: who had to be candidate for this or that post, who had to be

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<sup>1219</sup> *Relazione di minoranza*, pp. 139-143.

<sup>1220</sup> G. De Feo, R. Cantone, *I gattopardi*, *op. cit.*, p. 143.

appointed here or there, and so on.<sup>1221</sup> In this way, it is the *mafiosi* themselves that offer us the best solution to the problem of the “scientific” quantification of the Mafia-controlled vote: it is, in fact, quite difficult to think that Guttadauro’s approximation (around 5000) was far from the actual number of votes that Cosa Nostra, in that particular election and in that particular electoral district, brought to her candidate Miceli. Guttadauro’s calculation was surely not 100% exact, but only because mathematic precision was not considered necessary to reach the objective: everything goes according to the plan anyway, Miceli is elected without problem, from the Mafia’s perspective the calculation could not be more “scientific,” more exact in its result.<sup>1222</sup>

After all these considerations, we could try to define a new model of Mafia development in which mediation and violence (or the threat of it) cohabit and in which, in most cases, Mafia mediation is not even necessary as the *mafioso* and politician coincide in the same person.<sup>1223</sup> However, even such a model, rather than being something new, is perhaps just an *old* disguised as *new*, the adaptation of the previous situation to one that was new only in that ideologies no longer played a central role in national (and international) politics. There are many sources bringing such a model into focus, which have different characteristics from those to study previous periods and which, compared to these, are more reliable. The complicated study of a criminal organization that never released membership cards, reports, or anything that could be put on paper, thus forcing the historian to rely completely on *external* documentation in which the Mafia is the object of this documentation rather than the subject producing it, is now made easier by the use of technology in investigations and the *pizzini* – the notes that Provenzano used to communicate with his peers seized in the shack where in 2006 he was arrested. From these sources, a Mafia emerges that progressively transform into a service company disguising extortion as a service tax which in most cases was even appreciated and considered an unavoidable normal procedure. In this light, the *mafioso*’s initial blackmail of the entrepreneur became more and more a pact of mutual support which could be even mutually beneficial. Through an apparently legal approach, Cosa Nostra continued to control the economy, allowing only the companies ready to pay a “service tax” to work and deciding the assignation of sub-contracts and the supply of materials. In this pattern, the companies become accomplices of the Mafia: in some case they even agreed on tenders in advance, knowing perfectly well that, sooner or later and alternately, each of them would get

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<sup>1221</sup> E. Bellavia, S. Palazzolo, *Voglia di mafia*, *op. cit.*, p. 93.

<sup>1222</sup> Such an interpretation was also provided by Salvatore Lupo, see *Potere criminale*, *op. cit.*, p. 6.

<sup>1223</sup> E. Bellavia, S. Palazzolo, “Imprenditori di se stessi,” in *Voglia di mafia*, *op. cit.*, pp. 53-72.

its piece of the cake. Such a system destroyed the normal functioning of a capitalist economy, based on free market competition: whoever paid the most got the best contracts, whoever paid was guaranteed the opportunity of work, and whoever refused to pay was forced out of the market and even faced Mafia retaliation if he dared to denounce the extortion. The old bribe thus evolved towards a new type – the word always has its paradoxical connotation – of “protection,” as, knowing how vital the Mafia was in order to be allowed in the market, entrepreneurs approached the local boss more and more on their own initiative, and the boss did not even have any more the problem to take care of retaliation – or at least had to a lesser extent – and had the advantage that he could limit violence to a minimum.<sup>1224</sup> How this new trend was already widespread at the beginning of the new millennium is proved by a passage of a sentence of the Palermo Tribunal (as well as by the other pieces of evidence that we have already reported and others that appear in the final pages of this chapter), in which we read that “many entrepreneurs have deliberately looked for an alliance with the *mafiosi* and, well aware of the methods used by men of honor, had an absolute advantage in conducting negotiations and receiving privileged access to both public and private contracts.”<sup>1225</sup> Nothing could prove better than this type of evidence how the power syndicate of Cosa Nostra was not at all weakened by the repression of the early years of the Second Republic. The possible fear of retaliation that the extorted may have had was counterbalanced by the hope, or certainty, of later benefits and by the fact that the Mafia could guarantee what the public administration could not, namely project feasibility and, most importantly, bypassing a frustrating and deadly bureaucracy.<sup>1226</sup> For all these reasons, a report drafted by ROS in 2001 defined Cosa Nostra as a “necessary intermediary for job matching,” a real “social actor” that, as such, could rely on “a certain social consensus, although forced by requirement.”<sup>1227</sup> In a 2004 editorial published by *la Repubblica*, Umberto Santino, one of the leading scholars on the Mafia, noted down this continuity of *mafioso* power:

Palermo and Sicily have continued to be a society that has produced Mafia, as some of the distinctive characteristics of this society have always remained the same, or almost. A consistent part of the people consider illegality as a means of survival and a way to achieve a social status that would be difficult to achieve otherwise;

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<sup>1224</sup> Concerning this topic see Chapter 1 of this dissertation. Concerning the changes in the extortion-racket of the Mafia in these years see *Relazione di minoranza*, pp. 72-74. How businessmen looked upon the protection of the Mafia had already emerged publicly in 2005, see *la Repubblica*, 15/1/2005. a further confirmation of this can be found in R. Sciarone (edited by), *Alleanze nell'ombra*, *op. cit.*, pp. XXII and following.

<sup>1225</sup> *Tribunale di Palermo, Ordinanza di custodia cautelare in carcere e contestuale decreto di sequestro preventivo n. 3828/05 R.G.I.P. nei confronti di Bonnura Francesco + 18*, pp. 17-8.

<sup>1226</sup> *Relazione di minoranza*, pp. 72-75. See also the already mentioned E. Bellavia, S. Palazzolo, *Voglia di mafia*, *op. cit.*, pp. 53-72.

<sup>1227</sup> *Informativa del ROS allegata al procedimento Lipari + 29. Palermo, 11/7/2001.*

the legal economy is too small to offer good possibilities; the State, and more generally the institutions, are perceived as distant and strangers, closed, and accessible only through the mediation of the *mafiosi* and their friends; of the fight against the Mafia of the past, and in particular the peasant movement which dissolved into migration, the only thing that has remained in the collective memory of the people is the idea of the inevitability of defeat, of the Mafia being invincible, of a power system that will never change; civic society is too weak and vulnerable – because of the crisis of political parties, of the scarce representation of the unions, of the weakness of associations – to become an effective antidote against the Mafia and the place where a new collective conscience and a project of social change can take shape.<sup>1228</sup>

By 2004, the *borghesia mafiosa* had become so powerful that the Palermo Chief Prosecutor, Pietro Grasso, released a public statement in order to encourage people to fight against it, perhaps admitting in this way how laws as well as any effort were inadequate to prosecute such relations. As a former antimafia prosecutor, Giuseppe Di Lello, understood, the main reason why this power persisted was that the law enforcement agencies had only prosecuted the military dimension of the Mafia, that is, Cosa Nostra:<sup>1229</sup>

The fight against the Mafia cannot live on isolated facts and the generosity of a minority but should return to be what was the peasant movement, although in a different situation and with different protagonists: a project of collective liberation, capable of joining the interests of the people with moral values. Today, not only at a regional level but also at national and international ones, the increasing territorial imbalances and social divides favor the spreading of illegality and of Mafia groups.<sup>1230</sup>

This evidence confirms that State repression hit only that part of the Mafia that, in a sort of socio-criminal Darwinism, was not ready to cope with the changing of times.

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<sup>1228</sup> *la Repubblica*, 1/2/2004.

<sup>1229</sup> *la Repubblica*, 14/1/2006, 18/1/2004 and 25/11/2001.

<sup>1230</sup> *la Repubblica*, 1/2/2004.

## 6.10 The old disguised as new?

We pointed out how the increased power syndicate that Cosa Nostra was able to reach from the mid-1990s onwards in spite of the repression also favored the Mafia's further involvement in formally legal activities.<sup>1231</sup> Since it is quite complicated to find empirical cases that offer evidence of the Mafia's financial expansion – although the lack of such cases, as the spread of the expression *Mafia S.p.a.* suggests (meaning the turnover of Italy's four criminal organizations, estimated by the Parliamentary Antimafia Commission to be about €150 billion per year by the turn of the first decade of the new century),<sup>1232</sup> seems to prove rather that criminal organizations hid their wealth quite easily in the stock exchange market than the fact that such financial planet remained immune from Mafia penetration – we can simply analyse cases that show evidence of how between the two centuries the Mafia changed in her interpenetration with the non-financial economy. We should, however, remember how the expansion of Cosa Nostra into finance had already been detected by Falcone and Borsellino, who both denounced such contamination. The principal novelties of Mafia development between 1994 and 2006 are connected to the expansion of areas of illegality, especially from 2001 when Berlusconi came to power for the second time. The development of the Mafia towards an almost sole white-collar dimension implied, in fact, the expansion of those grey zones where the *mafioso* and businessmen, politicians, financiers, bureaucrats, and professional of every kind become one. The fact that the Mafia networks became increasingly dense, less permeable to the magistrature, was favored also by the progressive lowering of what has been defined as “moral price.”<sup>1233</sup>

The cases studied have led to the conclusion that Cosa Nostra continued to endorse “protected sectors” for her money-laundering activities, that is, those type of businesses in which no technical expertise was necessary and yet which could in any case guarantee a good return of the capital invested. The evidence gathered also suggests that the Mafia's relations with the worlds of politics and business took place on the basis of three modes rather than just two as provided by the Parliamentary Antimafia Commission minority report: complicity,

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<sup>1231</sup> R. Sciarrone, *Alleanze nell'ombra*, op. cit., p. XIX.

<sup>1232</sup> See *RAI Storia, Lezioni di Mafia, Mafia s.p.a.*, which can be consulted online: <http://www.raistoria.rai.it/articoli/lezioni-di-mafia-mafia-s-p-a/19142/default.aspx> (date accessed 24/3/2017). See also *La Stampa*, 25/1/2012.

<sup>1233</sup> *Ibid.*, p. XXV.

collusion, and interpenetration.<sup>1234</sup> In the first one, the *mafioso* and the entrepreneur reach new agreements depending on the case and the situation and the deal has to be re-negotiated from time to time; in the second, the relationship is stable and continuative and involves a number of subjects so large as to denote associations in which *mafiosi*, politicians, businessmen, bureaucrats, and professionals cohabit with negotiating powers different from case to case and depending on the strength and the resources of each of the partners involved; in the third, the relationship is organic and the subjects involved identify with one another.<sup>1235</sup> These patterns may have had different variations depending on the cities or local administrations as well as upon other contingent situations. In Palermo and its province, for example, where the repression was tougher, between the end of the twentieth century and the beginning of the new millennium the *borghesia mafiosa* took the reins of a “*mafioso* entrepreneurship.”<sup>1236</sup> Within this new generation of Mafia entrepreneurs were Francesco Bonura, a real estate developer who was also the underboss of the Uditore family, from whom in 2008 assets were seized with a total value of €25 million;<sup>1237</sup> Antonino Maranzano, another entrepreneur who, according to the Palermo prosecutors, was a boss in charge of monitoring the “good behavior” of a group of other businessmen linked to Cosa Nostra and the regularity of their payments: “although he had served quite a few years of house arrest on health grounds, he could still give orders and even plan the assassination of the two most influential Palermo bosses, Salvatore and Sandro Lo Piccolo, both fugitives and in control of Tommaso Natale’s clan;”<sup>1238</sup> Antonino Cinà, a doctor who, according to investigators, together with Bonura and Maranzano was part of the “triad” that was in command of Cosa Nostra in the early years of the new century and who, after being released from prison in 2003 following a court sentence that disproved him as head of the San Lorenzo Mafia district of Palermo, was arrested again in 2006 after wiretaps gave opposite evidence to what the court had previously ruled;<sup>1239</sup> the brothers Marcello and Francesco Sbeglia who, “strong in the position that their father had achieved in the *mafioso* ranks,” had become the link between Cosa Nostra and several other business men;<sup>1240</sup> Paolo Sgroi, a businessman in the supermarket sector, indicted for Mafia right before his death in 2008, after which €250 million were confiscated from his family deriving from five

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<sup>1234</sup> *Ibid.*, p. XVII, pp. 37 and following.

<sup>1235</sup> *Ibid.*

<sup>1236</sup> *Ministero dell'Interno, Direzione Investigativa Antimafia, Attività svolta e risultati conseguiti*, 1° semestre 2009, p. 10. The expression “Mafia entrepreneurship” was used by prosecutor Roberto Scarpinato, see *Antimafia 2000*, Year X, no. 1, 2010, N. 64, pp. 61-2.

<sup>1237</sup> *la Repubblica*, 9/10/2008.

<sup>1238</sup> *la Repubblica*, 20/6/2008.

<sup>1239</sup> *Ibid.*

<sup>1240</sup> *Libero*, 24/3/2016. See also R. Sciarrone, *Alleanze nell'ombra*, *op. cit.*, pp. 134-139.

supermarkets used as “money launderers;”<sup>1241</sup> Giovanni Battista Giacalone, who became the *reggente* of the San Lorenzo Family, he too involved in the supermarket business as the owner of 17 supermarkets spread throughout the city of Palermo and its province until the police arrested him and seized €272 million of his assets;<sup>1242</sup> Giuseppe Liga, who could boast an enviable resume in which he appeared to be a successful architect, real estate developer, politician and financial consultant all at the same time, but all this also thanks to the fact that he was the boss of the San Lorenzo district, one of Cosa Nostra’s most important;<sup>1243</sup> Nicola Notaro, a financial consultant and politician from Villabate condemned for Mafia after investigations had proved that he had been assigned by Cosa Nostra to mediate business deals with Asset, the Rome-based company that in the early 2000s won the public contract for the construction of the new town mall.<sup>1244</sup>

Whereas in Palermo, thanks to the *borghesia mafiosa*, the Mafia maintained her power – and in many cases even expanded it, in other parts of western Sicily such as Trapani or Agrigento the expansion of her white-collar system was fostered by the lack of witnesses and less effective repression. As in Palermo, even in Trapani and its province in charge of managing Mafia activities were rather politicians, professionals, businessmen, and public officials than the old military bosses. Investigations and trials conducted in that period revealed that in this part of Sicily at the top of the pyramid was one Francesco Pace, an entrepreneur who, through two other entrepreneur-bosses like him, was the link between the clans and local businesses and controlled the entire public construction business of the city. Among the evidence available proving how even in Trapani it was the *borghesia mafiosa* that led operations is the case of the property speculation in the Trapani district of Villa Rosina, where some 600 apartments and a shopping mall were to be built. As construction work began, one Antonio Birrittella – he, too, playing the double role of Mafia boss and entrepreneur – upon presenting himself as the middle-man between the construction companies and the material suppliers approached the construction companies and asked them for a percentage. Another case is that of the public contracts in Marsala, a city in the province of Trapani, in which, according to the judges,

(...) (A) Mafia-type aggregate composed of Vincenzo Zerrilli, a *mafioso*, Vincenzo Laudicina, a city councilor

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<sup>1241</sup> *la Repubblica*, 5/12/2008.

<sup>1242</sup> *la Repubblica*, 23/11/2011 and *Antimafia 2000*, 13/1/2011.

<sup>1243</sup> A critical and documented account of the Liga case can be found in R. Sciarrone (edited by), *Alleanze nell'ombra, op. cit.*, pp. 145-150.

<sup>1244</sup> *Antimafia 2000*, 5/2/2010. On the Notaro case see also R. Sciarrone (edited by), *Alleanze nell'ombra, op. cit.*, pp. 151-159.

later arrested and then become one of the main witnesses on the Trapani mafia, and Rosario Esposito, an architect in charge of the city's technical office for all decisions on public works who managed the public contracts, got votes in return for jobs and public contracts, and intercepted large quantities of the public funding destined to territorial development. It was precisely Esposito who had allowed *mafioso* entrepreneurs to get public contracts for a total value of many millions of euro in a context in which any distinction between the Mafia and politics had disappeared, since the *mafiosi* had the power to have their politicians elected and decide on the jobs that were assigned.”<sup>1245</sup>

A final case, also from the town of Marsala, is that in which Cosa Nostra was able to close the break between two consortiums made of companies, politicians, professionals and *mafiosi* that were formed to compete for a public contract for wind power valued at millions of Euros, by forming a third consortium guided by one Vito Nicastrì, known in Sicily as the “Lord of Wind” for winning practically all the regional contracts for the installations of wind power before being arrested and becoming the boss “victim” of the largest seizure in Mafia history for a total €1.5 billion (this third party fused the other two and won the contract).<sup>1246</sup> Regarding this case it is also interesting to note how one Vito Martino, previously a businessman, explained to his interlocutor on the phone, and also the agents who were wiretapping him, the reasons why he had decided to run for mayor in the ranks of Berlusconi's party, Forza Italia: “Now I am going to tell you something personal... you know why I decided to become a candidate? Eh?! I did it because I have a €50,000 sponsor ... and you know what? At worst, I spend €10,000 and I get €40,000 (...), and, however it turns out, I still have made an experience in politics and some money.”<sup>1247</sup> The verdict released by the Palermo Tribunal reads that Martino “aimed exclusively at having those make money for whom he was the political referent:” politics was, in this case too, simply the mirror of the Mafia.<sup>1248</sup>

On the eastern coast of Sicily the situation was not much different, although the economic sectors preferred by Cosa Nostra were not the same as on the other side of the island. In Catania, the Mafia invested prevalently in large-scale distribution and transportation while also experimenting with new investments and new methods of money laundering connected to economic activities “with a low entry threshold” that were typical of Catania,

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<sup>1245</sup> *Tribunale di Palermo, ordinanza di custodia cautelare in carcere n. 7827/05 R.G.G.I.P. nei confronti di Adamo Luigi + 5*, p. 18 e 68 and following.

<sup>1246</sup> *Tribunale di Palermo, ordinanza di custodia cautelare in carcere e di arresti domiciliari n. 579/05 nei confronti di Agate Giovan Battista + 7*, p. 15; see also *la Repubblica*, 15/9/2010.

<sup>1247</sup> *Livesicilia*, 24/2/2009; *Il Corriere della Sera*, 17/2/2009.

<sup>1248</sup> *Tribunale di Palermo, ordinanza di custodia cautelare in carcere e di arresti domiciliari n. 579/05, op. cit.*, p. 450.

such as small retail outlets and the tourist and entertainment industries and, at the same time, had total control of the fish market, transportation, funeral services, and legal and illegal gambling.<sup>1249</sup> The most interesting Mafia-related case in Catania was one that dealt with the transformation of distribution that took place all over Italy between the end of 1990s and the early years of the new century with large-scale retail outlets replacing small ones, which, in Catania, led to an expansion of the city metropolitan area much greater than that of any other Italian city. The extent of this transformation was such – with so many supermarkets, shopping malls, and department stores mushrooming both in the city and its metropolitan area – that the expression “Catania case” was coined and spread among antimafia prosecutors and commentators alike. In 2008, between all the southern Italian regions, Sicily was the one that had the largest retail space with a total of 1,699,832 square meters, followed by Puglia with 1,286,780, with Catania being the Sicilian city where expansion was strongest.<sup>1250</sup> The principal credit for this expansion was due to one Sebastiano Scuto, known in Sicily as the “king of supermarkets” for his successful investments in large-scale distribution. Even before his indictment for Mafia, the case pitted those who denied Scuto’s possible involvement in whatever Mafia-related activity against those who accused him of being in the Mafia, as well as those who considered his inner workings with Cosa Nostra as simply an opportunistic choice: a debate that ended only in 2012, when Scuto was condemned to eight years in prison for Mafia. The guilty verdict recognized that Cosa Nostra “has paid Scuto and has financially supported the expansion of his supermarket chain in the area of Catania and in all of eastern Sicily.”<sup>1251</sup> The court also ascertained that the *mafiosi* had helped Scuto whenever problems arose regarding the purchase of areas to build new retail outlets, and that Scuto had given them some security camera footage of supermarkets that were robbed “in order to find and punish the culprits.”<sup>1252</sup> According to the judges, the financial support, as well as the protection provided to him by Cosa Nostra, had “changed the rules of competition in the economic sector of food retailing in the Catania area.”<sup>1253</sup> The local Mafia Family, led by one Sebastiano Laudani, “had also tried to have Scuto acquitted from the criminal charges against him” by approaching witnesses ready to testify against him and persuading them to release

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<sup>1249</sup> An account of the history of Catania Mafia can be found in S. Lupo, R. Mangiameli, “Mafia di ieri, mafia di oggi,” in *Meridiana*, 7-8, 1990; and in R. Mangiameli, *Mafia, politica, stato. A proposito di due libri recenti*, in *Meridiana*, 15, 1992. See also F. Puleio, *La realtà nella Sicilia Sud-Orientale: la Provincia di Catania*, presentation made at the convention named, *L'attività di contrasto alla criminalità organizzata: lo stato dell'arte*, Syracuse, Sicily, 16/7/2004.

<sup>1250</sup> Di.Tech, *Dati e Confronti. Uno sguardo al Mezzogiorno*, in *Trade*, 18, 2009.

<sup>1251</sup> *Meridionews*, 12/1/2015.

<sup>1252</sup> *Ibid.*

<sup>1253</sup> *Ibid.*

false testimonies.<sup>1254</sup> The final sentence for the case also traced Scuto's relation with Cosa Nostra from its beginning in 1987 to its end in 2009 coinciding with his accusations against Laudani after which the latter planned to kidnap Scuto's son in order to convince Scuto to take a step back and resume their collaboration.

One final aspect of this case worth underlining is the controversial confiscation that followed the verdict: since the judges ruled that only a part of the economic rise of Aligrup (the company run by Scuto's family, which in eastern Sicily had distribution monopoly over the big supermarket chain Despar) was made possible by the capital fueled by Cosa Nostra while most of the money came from Scuto's licit activities such as the heritage left to him by his father-in-law (he, too, a successful food retailer), only 15% of Scuto's assets were confiscated, even though the court ascertained that Aligrup was used as a "washing machine" by the Mafia.<sup>1255</sup> As well as demonstrating how the support of organized crime could alter free competition in the marketplace, the Scuto case gives evidence of the good opportunities offered to the Mafia by the financialization of the economy and of the great difficulties encountered by investigating magistrates in penetrating the grey area of Mafia financial economy as well as the difficulties encountered by judges in giving a criminal connotation to this type of evidence, as the partial confiscation suggests.

Finally, we want to linger out attention upon one case that, although not considered at all by the huge amount of literature on the Mafia produced in recent years, seems to be quite important to our analysis and the best one to complete the picture. One morning, in February of 1983, a Palermo lawyer by the name of Gaetano Zarcone got through the door of Palermo's prison. On orders from the bosses of the Cosa Nostra's Commission, he had to deliver a deadly dose of poison to some prison inmates who were assigned the task to kill one Gerlando Alberti, who happened to be the first boss to have installed heroin refineries in Palermo at the time of the Pizza Connection. Suspecting something, Alberti perceived the trap, and after taking the first sip of coffee threw it away, a gesture that left him poisoned but saved his life. The investigations that followed proved that the poison was brought inside the prison by Zarcone, but the police agents who came to arrest him found his apartment empty. After being hunted all over the country for a while, Zarcone, who as well as being a lawyer was also a Mafia boss and Freemason, was arrested in 1994. Later, on the ground of health reasons, he was granted house arrest, from which he soon managed to escape.<sup>1256</sup> In 1999, he turned

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<sup>1254</sup> *Ibid.*

<sup>1255</sup> *Ibid.*

<sup>1256</sup> *la Repubblica*, 13/12/1991.

himself to the police and was thrown into jail in Florence, where, through medical certificates that listed him as blind, he was granted house arrest. As the trial began which had to establish whether he was guilty of attempted murder together with Riina, Provenzano, and the other bosses of Cosa Nostra, some of Zarcone's Freemason brothers sent the court judges about whom through their connections they had learnt everything, their "good advice" and appeals "to be more human" towards a "poor and sick" lawyer.<sup>1257</sup> As such intimidations were reported by the judges of the Palermo Tribunal, another trial was opened: this time the defendant was not Zarcone but his Masonic "brothers." On February 6, 2002, for the first time in the history of the Mafia, a group of Freemasons – Vincenzo Cuccia, Pietro Di Gregorio, and their accomplices Pietro Calabrese, Giuseppe Ferrare, Rosario Pollara and Rosario Di Napoli – were found guilty of the criminal charges against them and sentenced, after summary judgment, to eight months in prison with the aggravating circumstance of favoring the Mafia (another accomplice, one Calogero Macaluso, was sentenced to five months, as in his case the court ruled against the aggravating circumstance of favoring the Mafia). If the sentence for such a crime was everything except exemplary, the punishment was even less: we read in the chronicles of the newspaper *la Repubblica* that "punishment has been suspended for all those accused of threats and violence against a body of the State."<sup>1258</sup> However, regardless of the lack of consequences for Zarcone's Freemason brothers, for the first time in the history of the Mafia it emerged the judiciary proof of what until then had been mere suspicion and rumors: that some of the Freemasons, those connected with the Mafia, were fixing trials, or at least were trying to do so. The Zarcone case reveals the attempts by the *borghesia mafiosa* to contaminate the judiciary using Mafia methods such as threats and violence, although exercised with polite manners, while further demonstrating the substantial impunity of the *borghesia mafiosa* (the sentence was completely disproportionate to the crime committed and any real punishment was missing, even though the Freemason brothers were recognized with the aggravating circumstance of favoring the Mafia). Finally, this case confirms the overlapping of roles (Zarcone is not just a lawyer and a Freemason but also a *mafioso* accused of attempting to commit murder), which seems to further prove not just the convergence of interests between the Mafia and a certain type of Freemasonry, but also a certain of progressive liquefaction into each other. During one of the hearings of the trial of the Freemasons who had tried to 'persuade' the judges in order to avoid having their 'brother' condemned, Mafia informer Giacchino Pennino told magistrates that it was the Freemason

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<sup>1257</sup> *l'Unità*, 23/11/2004, *la Repubblica*, 7/1/2002.

<sup>1258</sup> *la Repubblica*, 7/1/2002.

brother Gaetano Zarcone who had told him that the assets of the Mafia were managed by P2 boss Licio Gelli, and that Marcello Dell'Utri was very close to Mafia boss Mimmo Teresi.<sup>1259</sup>

## 6.11 Conclusions

Between 2001 and 2006, the laws on corruption crimes that were passed gave a considerable advantage to Berlusconi and some of his associates in the trials in which they were defendants, to the extent that the expression *laws ad personam* (laws aiming to solve the problem of the head of government) became common usage in public debate. Some of these laws also favored the Mafia. Others, not *ad personam* or not accused of being such, were also passed or proposed whose effects were or would be favorable to the Mafia, within a general context that appeared to many as one in which a legalization of illegality was under way. Laws regarding corruption and organized crime, both directly and indirectly, were all favorable to Cosa Nostra as well as other criminal organizations even when – as it was the case of the 41-bis article of the penal code – were apparently the opposite. Compared to the previous legislature, however, with Berlusconi again in power the passing of laws whose effects were favorable to the Mafia made a quantum leap forward: everything happened in broad daylight and not closeted away in the parliamentary commission rooms. More generally, it was the general attitude of an entire political class towards organized crime and corruption that was favorable to the Mafia. A clear demonstration of these attempts at restoration is seen in the triumphant way in which, with relatively few and non-significant exceptions, politicians from all parties in 2003 celebrated the final verdict of the “trial of the century” held for former Prime Minister Giulio Andreotti, which they jubilantly greeted as a full acquittal, although the sentence passed was a statute of limitations that detailed the political responsibility of Andreotti and his faction of the Christian Democracy for their longtime collusion with the Mafia. In reporting on such victorious celebrations, the mainstream media avoided all of the sentence’s most controversial aspects.

In the five years analyzed in this chapter, the parliament became sired to the convenience of the trials of some of its congressmen and drafted laws that affected ongoing trials, including several important Mafia-related ones, while the mainstream media, all under control of the prime minister, kept on avoiding any controversial Mafia-related issue. Perhaps,

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<sup>1259</sup> *Ibid.*

the best demonstration of the failure – although we could say the success, if we consider what the government intention admittedly was – of government judiciary policies on organized crime and the restoration of a climate of *normality* with regard to the relationship between the Mafia and political power comes from the many failures of the antimafia intended as a social movement rather than as law enforcement, which has been documented in the previous pages.

As the government kept on insulting the magistrates and hindering their work, and in spite of the difficulties created by a parliament that never ceased passing or proposing laws that helped the Mafia and undermined the work of prosecutors, law enforcement agents continued to arrest *mafiosi* and bring them to court. However, as Cosa Nostra remained under attack, the *borghesia mafiosa* continued to strengthen itself and a new leadership of white-collar *mafiosi* that began to take control of all operations, in many cases even those traditionally carried out by the bosses such as the extortions. The evidence analyzed in this chapter also demonstrated that the *mafiosi* continued procuring votes for politicians in order to subsequently control them and garner favorable decisions in return, in a system in which mediation and violence, or the threat of violence, coexisted. At the same time, the Mafia changed its traits to progressively become a sort of service company under the guidance of subjects who, prior to that, were, at the most, consultants of the bosses but not bosses themselves.

In the historical juncture of the very early years of the new millennium, Sicily's health sector became the crucial nexus of the political-*mafioso* exchange at a regional level. The case of Salvatore Cuffarò, the president of the Region of Sicily, is just one of the many in which politicians were contiguous to the Mafia, in a picture in which not much changed compared to previous periods except for the names of the parties and the politicians involved. If there ever was a change in the relationship between Mafia and politics, this seems to be the fact that they became progressively more indistinguishable from one another.

More clearly than in the previous one, what has emerged from an analysis of this legislature in terms of government policies towards organized crime is a situation in which a Mafia increasingly repressed by law enforcement corresponded with a State with a Mafia increasingly molten and diffused within it. In the first decade of the Second Republic there was what we may call an unprecedented process of *mafiosization* of politics and society. Thus, it seems possible to draw the conclusion that even the discontinuity represented by the efficacy of State repression melts, to the extent of dissolving, into the continuity of the relationship between the Mafia and politics.

Between 2001 and 2006, the Mafia completed its process of metamorphosis inaugurated

in the previous seven years. It developed towards a new pattern whose main characteristic was its progressive liquefaction into politics. The defeat, although not complete, of Cosa Nostra, which became clear with the arrest of its boss Bernardo Provenzano in 2006, was counterbalanced, and to a quite reasonable extent weakened, by the victory of the *borghesia mafiosa*. It was through the door of this *new* dimension that the Mafia entered the Third Millennium, although even this pattern, in many respects, is as old as the Mafia itself.

## Conclusions

Through the cross-examination of sources of various type – parliamentary reports, court verdicts, authorization requests to begin proceedings, police reports, newspaper articles and books – this study has analyzed the strategies and patterns of the Sicilian Mafia between 1989 and 2006, a crucial period of transition in history in which the Mafia had to cope with the problems of redefining its rapport with political power and finding a new role in a rapidly changing world. When this phase of transition began with the fall of the Berlin Wall, Cosa Nostra was on trial with the real possibility of facing its first historical defeat in court. Whereas previously it had always emerged stronger from crucial moments of transition in history – the abolition of feudalism, the national unification of Italy, the Second World War – this time there was the serious risk that things would go differently. In this light, a process of metamorphosis, complicated by an unprecedentedly difficult judiciary situation, was necessary in order to survive. To successfully complete this process, the Mafia had to preserve its core characteristic: its organic rapport with politics, the only thing that could save it and enable it to come through such a dangerous phase. The precise nature of this rapport – organic, and not occasional – has been the interpretative line of this work, and seems to be the best answer to the criticism that scholars from a different school of thought may have to the analysis conducted in this essay: that is, a monolithic approach to the subject. Instead, being considered as the very ‘nature’ of the Mafia, this organic rapport with political power seems to be the crucial key to understanding how the Sicilian Mafia made its transition from the XX to the following century.

This work has examined this evolutionary cycle and the characteristics of this change. Undermined by the repression of the law enforcement agencies that followed the bloodshed of 1992–1993, the Mafia adopted the only strategy that could be successful: returning to its most traditional pattern of operating in the shadow of political power. Cosa Nostra members were forced to progressively leave the control of operations of which they were traditionally in charge to a new generation of white-collar *mafiosi*. An increasing number of subjects, who in the previous phase were at best simply consultants of the bosses, became bosses themselves and took a guiding role. This process implied a further liquefaction of the Mafia into politics, which allows for the conclusion that the inevitable discontinuities of history – the changes within the Mafia – were, even in this case, absorbed by the great continuity of the rapport

between the Mafia and politics. The analysis has also shown how this process was favored by the media, which relegated the subject of the Mafia to a role of secondary importance, both in terms of quantity and quality: the Mafia progressively disappeared from the public debate, except when it was convenient for political power: that is, for amplifying the constant accusations of some politicians, especially those of Berlusconi's side, against both magistrates and allegedly 'unreliable' and privileged Mafia turncoats.

Within this metamorphosis, the case of the State-Mafia deal and that of possible secret prompters behind the 1992–1993 wave of violence play a crucial role. As for the former, leaving the magistrature the task of verifying the criminal charges against the defendants of the so-called State-Mafia Deal Trial, what was possible to demonstrate was that the judiciary policies of all the Italian governments that succeeded from 1994 to 2006 – to a greater or lesser extent and in different ways depending on the case and circumstances – were favorable to the Mafia and met its requests as listed by Riina in his *papello*, a sort of written contract between Cosa Nostra and the Italian State. Once again, the attitude of Italian governments towards the Mafia was not simply one of disinterest, but one of compromise. With Berlusconi in power, the help given to the Mafia, directly or indirectly, was clearly evident. The statement released by Berlusconi's Minister of Public Works, Pietro Lunardi, who said that "the Mafia and the Camorra have always existed, we should find a way of cohabiting with them," was the clearest admission of how the Berlusconi governments intended to set their rapport with major criminal organizations. The laws passed under the Second Berlusconi Government – such as those regulating false accounting, rogatory letters, money repatriation, as well as quite a few others – all had effects that were favorable to organized crime groups, as they prevented, slowed, or hindered all trials, including Mafia trials. But what was the most favorable to the Mafia was the contempt of the government and the majority supporting it towards that part of the judiciary most truly committed to fighting both organized crime and corruption. This political attitude – perhaps we should say 'culture', forcing a little the meaning of the word – created the best conditions for the Mafia to complete its process of progressive liquefaction into politics. Even the laws passed by the Berlusconi government that were apparently against organized crime – such as the stabilization of the hard prison regime, which prior to 2001 had to be renewed every six months – played favorably to Cosa Nostra, as the new rules that were introduced to regulate the hard prison regime came at a time when this regime was not at all as effective as it was previously, and by the time it was rendered stable had lost most of its impact.

The attitude towards the Mafia of the center-left coalition governments was more ambiguous. This study has demonstrated that the political conditions, and in particular the political-judicial ones, that satisfied or attempted to satisfy the requests of Cosa Nostra were recreated by the center-left government, with Berlusconi relegated to the parliamentary benches of the opposition after the anticipated fall of his government just a few months after coming to power. Between 1996 and 2001, magistrature and police, while gaining results against Cosa Nostra as had never happened before, did not miss one occasion to accuse the government of preventing and hindering their efforts and helping the Mafia. For this reason, not only the laws that were passed that favored organized crime and more generally corruption have been of great importance to our analysis, but also the parliamentary debates, as they were considered indicators of the intentions of the political class towards the Mafia. Laws favorable to Cosa Nostra were frequently proposed, to be withdrawn or rejected only if met with considerable opposition from public opinion (we have analyzed that some of these laws had to be withdrawn or modified following the protests of the relatives of Mafia victims and their organizations, as well as of a part of public opinion small in number but quite attentive to what was going on), and passed if they were not encountering any opposition. Most importantly, the two laws that in the following years most undermined the work of Antimafia prosecutors – the reform of the witness protection program and the so-called ‘Just Trial’ – were passed under the center-left government, and in the case of the witness protection program with quite suspicious timing (at the end of the legislature, without any real emergency requisite, creating suspicion that this was made to honor a possible deal with Cosa Nostra, which would have emerged more evidently if the reform were passed by the other side, more compromised with the Mafia in the eyes of public opinion). In demonstrating the effects of a State-Mafia deal, this has shed a sinister light not just on the Berlusconi governments, but more generally on the entire political class.

The subject of the secret promoters behind the 1992–1993 violence remains bitterly controversial and debated. Considered as ascertained by some magistrates, commentators and scholars, their presence is substantially impossible for those who assume that the wave of violence can be explained solely by internal dynamics within Cosa Nostra, by its brutal, blind tactic of fighting a frontal war against the Italian State in order to force it to take a step back in its – albeit always uncertain – fight against organized crime. Leaving the judiciary the task of establishing whether or not these promoters existed and who they were – a job that becomes progressively more difficult to accomplish with the passing of years – this study has

reconstructed the circumstantial evidence that led to claim the existence of external prompters behind the 1992–1993 violence. This presence was assumed by leading Italian politicians, regardless of their political party, as they provided an interpretation of the ongoing violence within the scheme of a subversive plot which included also a still active part of Licio Gelli's secret Masonic lodge P2, the other Italian criminal organizations – the Camorra, the 'Ndrangheta, the Sacra Romana Unita and the Banda della Magliana – and some Neo-Fascist groups in their numerous public statements. The analysis has highlighted how the 'quality' of these denouncements varied as violence progressed. Initially more emotional and immediate (the murder of Lima is emblematic of this), politicians' reactions became progressively more calculated and weighted (in the case of the Via D'Amelio bombing, most denouncements of an ongoing conspiracy came three or more weeks after the explosion and had a different tone, each word appearing much more carefully 'weighted' than after the previous attacks; in addition, quite interestingly, as one politician launched the alarm of an ongoing conspiracy others immediately followed, creating a sort of new spirit of unity in the political class that was to leave the scene within a few months with the advent of the so-called Second Republic in early 1994). Regardless that they came right after each attack or days or weeks later, however, these denouncements accompanied each act of violence, continued uninterrupted throughout 1993, and reached their climax with the public intervention of the President of the Republic, Oscar Luigi Scalfaro, in early November 1993. A few weeks after the bombings in Rome and Milan, which took place in late July 1993, in a speech simultaneously broadcasted by the three national public television channels, Scalfaro put Mafia violence in relation with an ongoing plot aiming to destroy the State. In this, as well as in others of the cases analyzed, it is difficult not to consider the paradox of a conspiracy emerging from the front page of newspapers and from a television speech simultaneously broadcasted by three national television channels right after dinner time and after interrupting a football game. This should, at least, discourage the uncompromising position taken by those who deny both the State-Mafia deal and the possibility of the existence of secret promoters behind the 1992–1993 massacres and perhaps suggest a more cautious and probabilistic approach. It should also justify our methodological choice of inverting Occam's razor in analyzing our facts. Assuming Occam's logic, in fact, seems to imply assuming the logic of the State, which is precisely what a scholar should avoid, especially in such a slippery slope as the history of the Mafia in which the official truth has always left too many unsatisfied beginning with the relatives of Mafia victims. In addition, it should be considered that only at the end of the 1990s DIA police agents handed in the results of their investigations, which proved that Cosa

Nostra's bosses were dialoguing with the aforementioned forces traceable to P2: quite a long time after Italian politicians had denounced P2 or what remained of it of plotting against the State.

One last consideration should be that in the public debate on the State-Mafia deal victory and defeat have ended up becoming historiographical categories, as demonstrated by the titles of two books by some of the most renowned historians on the subject (the already mentioned Salvatore Lupo's *La Mafia non ha vinto* and Nicola Tranfaglia's *Perchè la mafia ha vinto*). At least to a certain extent, the use of these unusual historiographical categories seems justifiable, as what divides the two positions is whether or not the Mafia was saved by politics after the repression that followed the wave of violence of the early 1990s. According to the evidence reported and the analysis carried out in this essay, in fact, the Mafia was able to reach its goal of avoiding a possible definitive defeat and, at least to a certain extent, transform a problem – the effective repression of law enforcement agencies – into an opportunity for its further development, although with a 'new' dress. This new dress, tailored to increased control of Mafia operations by the *borghesia mafiosa*, perfectly suits a pattern as old as the Mafia itself: cohabiting with political power, to which the Mafia has always provided a very much appreciated service.

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## Abstract

Through the cross-examination of sources of various type – parliamentary reports, court verdicts, authorization requests to begin proceedings, police reports, newspaper articles and books – this research examines the strategies and patterns of the Sicilian Mafia between 1989 and 2006, a crucial period of transition in history in which the Mafia had to cope with the problems of redefining its rapport with political power and finding a new role in a rapidly changing world.

When this phase of transition began with the fall of the Berlin Wall, Cosa Nostra was on trial with the real possibility of facing its first historical defeat in court. Whereas previously the Mafia had always emerged stronger from crucial moments of transition in history – the abolition of feudalism, the national unification of Italy, the Second World War – this time there was the serious risk that things would go differently. In this light, a process of metamorphosis, complicated by an unprecedentedly difficult judiciary situation, was necessary in order to survive. To successfully complete this process, the Mafia had to preserve its core characteristic: its organic rapport with politics, which could save it and enable it to come through such a dangerous phase.

This work analyzes this evolutionary cycle and the characteristics of this change. Undermined by the repression of the law enforcement agencies that followed the bloodshed of 1992–1993, the Mafia adopted the only strategy that could be successful: returning to its most traditional pattern of operating in the shadow of political power. Cosa Nostra members were forced to progressively leave the control of operations of which they were traditionally in charge to a new generation of white-collar *mafiosi*. An increasing number of subjects, who in the previous phase were at best simply consultants of the bosses, became bosses themselves and took a guiding role. This process implied a further liquefaction of the Mafia into politics, which allows for the conclusion that the inevitable discontinuities of history – the changes within the Mafia – were, even in this case, absorbed by the great continuity of the rapport between the Mafia and politics. This process was favored by the media, which relegated the subject of the Mafia to a role of secondary importance, both in terms of quantity and quality: the Mafia progressively disappeared from public debate, except when it was convenient for political power: that is, for amplifying the constant accusations of some politicians, especially

those of Berlusconi's side, against both magistrates and allegedly 'unreliable' and privileged Mafia turncoats.

Within this metamorphosis, the case of the State-Mafia deal and that of possible secret prompters behind the 1992–1993 wave of violence play a crucial role. As for the former, leaving the magistrature the task of verifying the criminal charges against the defendants of the so-called State-Mafia Deal Trial, what was possible to demonstrate was that the judiciary policies of all the Italian governments that succeeded from 1994 to 2006 – to a greater or lesser extent and in different ways depending on the case and circumstances – were favorable to the Mafia and met its requests as listed by Riina in his *papello*, a sort of written contract between Cosa Nostra and the Italian State. Once again, the attitude of Italy's governments towards the Mafia was not simply one of disinterest, but one of compromise. With Berlusconi in power, the help given to the Mafia, directly or indirectly, was clearly evident. The laws passed under the Second Berlusconi Government – such as those regulating false accounting, rogatory letters, money repatriation, as well as quite a few others – all had effects that were favorable to organized crime groups, as they prevented, slowed, or hindered all trials, including Mafia trials. But what was the most favorable to the Mafia was the contempt of the government and the majority supporting it towards that part of the judiciary most truly committed to fighting both organized crime and corruption.

The attitude towards the Mafia of the center-left coalition governments was more ambiguous. However, the political conditions, and in particular the political-judicial ones, that satisfied or attempted to satisfy the requests of Cosa Nostra were recreated by the center-left government, with Berlusconi relegated to the parliamentary benches of the opposition after the anticipated fall of his government just a few months after coming to power.

The subject of the secret promoters behind the 1992–1993 violence remains bitterly controversial and debated. Considered as ascertained by some magistrates, commentators and scholars, their presence is substantially impossible for those who assume that the wave of violence can be explained solely by internal dynamics within Cosa Nostra, by its brutal, blind tactic of fighting a frontal war against the Italian State in order to force it to take a step back in its – albeit always uncertain – fight against organized crime. Leaving the judiciary the task of establishing whether or not these prompters existed and who they were – a job that becomes progressively more difficult to accomplish with the passing of years – this study reconstructs the circumstantial evidence that led to claim existence of them behind the 1992–1993 violence.

# Abstrakt

Anhand einer Gegenüberstellung von Quellen unterschiedlicher Natur – parlamentarischer Berichte, Gerichtsurteile, Genehmigungsanträge zur Einleitung von Verfahren, Polizeiberichte, Zeitungsartikel und Bücher - untersucht die vorliegende Arbeit die Strategien und Muster der sizilianischen Mafia zwischen 1989 und 2006. Dieser Zeitraum entspricht einer entscheidenden Übergangsphase in der Geschichte, in der die Mafia mit Problemen der Neudefinition ihres Verhältnisses zur politischen Macht und der Suche nach einer neuen Rolle in einer sich rasch verändernden Welt konfrontiert war.

Als die Berliner Mauer fiel, stand Cosa Nostra vor Gericht mit der realen Möglichkeit, ihre erste historische legale Niederlage zu erleiden. Während die Mafia zuvor immer stärker aus entscheidenden Momenten des Übergangs in der Geschichte hervorgegangen war - der Abschaffung des Feudalismus, der nationalen Einigung Italiens, dem Zweiten Weltkrieg -, bestand diesmal die ernste Gefahr, dass die Dinge anders laufen würden. Vor diesem Hintergrund war ein Veränderungsprozess notwendig, um zu überleben, der durch eine beispiellos schwierige Gerichtssituation erschwert wurde. Um diesen Prozess erfolgreich abzuschließen, musste die Mafia ihr Kernmerkmal bewahren: ihre organische Beziehung zur Politik, die sie retten und sie eine so gefährliche Phase überstehen lassen konnte. Diese Arbeit analysiert diesen evolutionären Zyklus und die Eigenschaften dieser Veränderung. Untergraben durch die Unterdrückung der Strafverfolgungsbehörden, die dem Blutvergießen von 1992-1993 folgte, wählte die Mafia die einzige Strategie, die erfolgreich sein konnte: die Rückkehr zu ihrem traditionellsten Muster, im Schatten der politischen Macht zu operieren. Die Mitglieder von Cosa Nostra waren gezwungen, die Kontrolle über die Geschäfte, die sie traditionell führen, schrittweise einer neuen Generation von Wirtschaftsmafiosi zu überlassen. Immer mehr Mitglieder, die in der Vorphase bestenfalls nur Berater der obersten Anführer waren, wurden selbst zu Oberhäuptern und übernahmen eine Führungsrolle. Dieser Prozess implizierte eine weitere Verschmelzung der Mafia mit der Politik, was den Schluss zulässt, dass die unvermeidlichen Diskontinuitäten der Geschichte - die Veränderungen innerhalb der Mafia - auch in diesem Fall von der großen Kontinuität des Verhältnisses zwischen Mafia und Politik aufgenommen wurden. Dieser Prozess wurde von den Medien begünstigt, die das Thema Mafia in quantitativer und qualitativer Hinsicht in eine

untergeordnete Rolle rückten: Die Mafia verschwand allmählich aus der öffentlichen Debatte, es sei denn, sie war für die politische Macht geeignet, d.h. um die ständigen Anschuldigungen einiger Politiker, insbesondere der Seite Berlusconis, gegen Richter und angeblich "unzuverlässige" und privilegierte Mafiaverräter zu verstärken.

In dieser Veränderungsphase spielen der Fall des Staat-Mafia-Deals und der Fall möglicher geheimer Drahtzieher hinter der Gewaltwelle 1992-1993 eine entscheidende Rolle. Was die Richter betrifft, so konnte nachgewiesen werden, dass die Justizpolitik aller italienischen Regierungen, die von 1994 bis 2006 - je nach Fall und Umständen mehr oder weniger und auf unterschiedliche Weise - erfolgreich waren, für die Mafia günstig war und ihren Forderungen entsprach, die Riina in seinem *papello* aufführte, einer Art schriftlichem Vertrag zwischen Cosa Nostra und dem italienischen Staat. Wieder einmal war die Haltung der italienischen Regierungen gegenüber der Mafia nicht nur eine Haltung des Desinteresses, sondern auch eine des Kompromisses. Mit Berlusconi an der Macht war die Hilfe deutlich sichtbar, die der Mafia direkt oder indirekt geleistet wurde. Die unter der Zweiten Berlusconi-Regierung verabschiedeten Gesetze - wie z.B. die Regelung von Falschbuchhaltung, Rechtshilfeersuchen, Geldrückführung und etliche andere - hatten alle Auswirkungen, die für Gruppen der organisierten Kriminalität vorteilhaft waren, da sie alle Prozesse, einschließlich der Mafia-Prozesse, verhinderten, verlangsamten oder behinderten. Aber was für die Mafia am vorteilhaftesten war, war die Verachtung der Regierung und die Mehrheit, die sie gegenüber dem Teil der Justiz unterstützte, der sich wirklich für die Bekämpfung von organisierter Kriminalität und Korruption einsetzt.

Die Haltung der Mitte-Links-Koalitionsregierungen gegenüber der Mafia war ambivalent. Die politischen Bedingungen, insbesondere die politisch-richterlichen, die die Forderungen von Cosa Nostra erfüllten oder zu erfüllen versuchten, wurden von der Mitte-Links-Regierung neu geschaffen, wobei Berlusconi nach dem erwarteten Sturz seiner Regierung nur wenige Monate nach der Regierungsübernahme auf die Parlamentsbänke der Opposition verwiesen wurde.

Das Thema der geheimen Drahtzieher hinter der Gewalt von 1992-1993 ist nach wie vor heftig umstritten. Wie von einigen Richtern, Kommentatoren und Wissenschaftlern festgestellt, ist ihre Anwesenheit für diejenigen im Wesentlichen unmöglich, die davon ausgehen, dass die Welle der Gewalt ausschließlich durch die innere Dynamik innerhalb der Cosa Nostra erklärt werden kann, durch ihre brutale, blinde Taktik, einen Frontalkrieg gegen den italienischen Staat zu führen, um ihn zu zwingen, einen Schritt zurückzutreten.

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