The Criminal Time Bomb: An Examination of the Effect of the Russian Mafia on the Newly Independent State of the Former Soviet Union

Peter Daniel DiPaola

Indiana University School of Law

Follow this and additional works at: https://www.repository.law.indiana.edu/ijgls

Part of the Criminal Law Commons, and the International Law Commons

Recommended Citation

Available at: https://www.repository.law.indiana.edu/ijgls/vol4/iss1/9

This Note is brought to you for free and open access by the Maurer Law Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Journal of Global Legal Studies by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact kdcogswe@indiana.edu.
The Criminal Time Bomb:
An Examination of the Effect of the Russian *Mafiya*
on the Newly Independent States of the Former Soviet
Union

**PETER DANIEL DI PAOLA∗**

**INTRODUCTION**

In 1989, the Western world celebrated the apparent triumph of democracy and capitalism over communism. Overnight, the "evil empire" became a potential partner. In fact, some Western thinkers were so overcome that Francis Fukuyama maintained the fall of communism signaled "the end of history." Unfortunately, the optimistic predictions of 1989 have not come to pass. The Russian economy has responded slowly to reform. Communists and ultranationalists are regaining strength in the Russian government. More ominously, organized crime is threatening to overwhelm Russian politics, economics, and society.

On February 12, 1993, President Boris Yeltsin stated that "organized crime has become a direct threat to Russia's strategic interests and national security." One year later, Yeltsin again recognized the threat when he declared that "organised crime is trying to take [Russia] by the throat and has become the number one problem for Russia today." Despite Yeltsin's recognition of the problem, organized crime in Russia and the other Newly Independent States of the former Soviet Union is gaining strength.7

---

* J.D. Candidate, 1997, Indiana University School of Law (Bloomington); B.A., *summa cum laude*, 1994, University of Notre Dame. I would like to thank Professor David Fidler for his invaluable assistance and Professor Michael Alexeev for his helpful comments. This Note covers events in the former Soviet Union up to October 31, 1996.


4. See infra notes 175-181 and accompanying text.


7. Although this note focuses primarily on Russia, my arguments apply to the other Newly

145
Evidencing the power of organized crime, Dr. Ariel Cohen of the Heritage Foundation submitted the following testimony to the House International Affairs Committee:

In Russia today, there are over 5,000 gangs, 3,000 hardened criminals, 300 mob bosses, and 150 illegal organizations with international connections. Approximately 40,000 Russian business and industrial enterprises are controlled by organized crime. Their combined output is higher than the gross national product of many members of the United Nations. The Russian mafiya . . . is estimated to turn over in excess of $10 billion a year. More Russians died of criminal violence in 1993 than were killed during nine years of war in Afghanistan. In 1994, criminals took 118 people hostage in Moscow alone. Ten Western businessmen were kidnapped for ransom in 1995, and one of them murdered. The situation in the other Newly Independent States of the former Soviet Union is worse, with criminal gangs even controlling the value of some national currencies.

As Senator Sam Nunn has argued, "crime, and particularly organized crime, has become one of the most dangerous forces to arise from the collapse of the Soviet system." In the Newly Independent States of the former Soviet Union, the mafiya has undermined economic reform, aggravated the public’s dissatisfaction with their current regimes, and subverted government decisions. Nevertheless, in spite of all the negative effects associated with the presence of the mafiya in these transitional states, several academics and economists, like Yegor Gaidar, Yeltsin’s first deputy prime minister, maintain that corruption in a market economy is not unprecedented. Gaidar and like-minded thinkers contend that “corruption does not halt economic growth,” nor is it a permanent fixture of the society because, as reform continues, “the soil in which corruption grows will shrink.” Others from the same school of thought

---

8. Id.
10. Mikhail Leontyev, Reformers: "Permanent Bandit" on the Road to Stabilization, Comments
assert the *mafiya* acts as a surrogate for the developing capitalist government by enforcing contracts and protecting consumers. They argue that in the case of Russia, the government should not unleash the police against the *mafiya* until the transitional government has "acquire[d] a functioning system of commercial-law, administrative, and fiscal courts."\(^\text{11}\)

Despite the fact that the presence of the *mafiya* in a transitional economy may have certain benefits, the reform that would render the *mafiya* obsolete might never occur, if a transitional government does not take immediate action against the *mafiya*. This conclusion is the primary thesis of this Note. I argue that time and the ability of a transitional government to overcome the *mafiya* are inversely related. In other words, as time passes, the Newly Independent States of the former Soviet Union will lose the ability to combat organized crime effectively. My argument proceeds as follows. In Section I, I define what is meant by the word *mafiya*. Then in Sections II and III, I examine the conditions that allowed organized crime to flourish after the collapse of the Soviet Union. In Sections IV and V, I demonstrate how the *mafiya* affects economic reform, public attitudes, and political development. In Section VI, I discuss how, over time, criminal gangs become impervious to government regulation because they perpetuate and enhance the very conditions that initially allowed them to flourish. Finally in Section VII, I briefly address the international implications of the *mafiya*.

I. THE *MAFIYA*: WHAT IS IT?\(^\text{12}\)

For many years, Communist propaganda attempted to portray life in the Soviet Union as virtually crime-free.\(^\text{13}\) This depiction of Soviet life, however, was a contrived fiction. Vadim Bakatin, the Soviet Union's last chairman of the KGB, admitted that "[a]fter 1917, [the Soviet] crime rate grew just like


\(^{13}\) Stephen Handelman uses the word *mafiya* (instead of "mafia") in order to accent the differences between Russian and foreign organized crime. STEVEN HANDELMAN, *COMRADE CRIMINAL: RUSSIA'S NEW MAFIYA* 350 n.5 (1995). In light of Handelman's convincing arguments (upon which I rely heavily in this section), I have chosen to use the same spelling in this Note.

everywhere else in the world." Indeed, crime, particularly organized crime, had been active in Russia since the time of the czars. In the seventeenth century, groups of highwaymen, thieves, and smugglers thrived in Russia. As the years passed, these groups developed strict rules and codes of honor. As the structure of these groups became more rigid, outsiders were strictly forbidden and the vorovskoi mir, Thieves World or Thieves Society, came into existence.

In the 1960s, a vibrant black market was operating in the Soviet Union, and "gangsters acted as unofficial middlemen in the 'gray' and 'black' economies, circulating privately produced goods or state materials with the tacit cooperation of the factory managers and apparatchiks [civil servants]." As profits grew, elements within the vorovskoi mir began to work more closely with the government officials in their regions. Over time, spheres of influence developed and the gangsters within a particular area banded together to form large criminal organizations. Claire Sterling describes the structure of these organizations as resembling a classic criminal pyramid: "at the base, are common street hoods, under gang leaders who run their territory like military boot camps. . . . On top of the pyramid are the godfathers, the indomitable vory v zakone," which literally means Thieves-in-Law or Thieves-within-the-Code, and is usually shortened to the word vory. Currently, in the post-Soviet criminal world, the Russian Ministry of Internal Affairs estimates there are approximately 740 active vory of which 100 are operating from within prison. These vory are not constantly at war; rather, they stress order. According to Deputy Chief Pavlovich of the Russian Interior Ministry's Sixth Department to Combat Organized Crime, the vory have specific spheres of influence and meet periodically to settle territorial disputes, decide on operations, and make policy.

By the time perestroika began, the line between the vorovskoi mir and the Soviet government was difficult to distinguish. Both groups had amassed fortunes through the black market and corruption. In fact, Soviet prosecutors

14. HANDELMAN, supra note 12, at 276.
16. HANDELMAN, supra note 12, at 28.
17. HANDELMAN, supra note 15, at 86.
18. Id.
20. HANDELMAN, supra note 12, at 40.
first used the word *mafiya* to describe corrupt Soviet bureaucrats. As privatization approached, both the *vory* and the *nomenklatura*, the elite membership of the Soviet system, prepared for the future. The *vory* met in secret at a *dacha* near Moscow and planned their strategy, while “[the] party bodies (and the KGB) quietly siphoned funds to trading companies and export-import firms that were being positioned to take advantage of [the new opportunities].”

By 1992, it was clear that both the *vory* and the former *nomenklatura* had survived the fall of communism, and in June of 1992, the word *mafiya* resurfaced with an ominous new meaning. In a public statement, Deputy Russian Internal Affairs Minister Andrei Dunayev “blamed the explosion of criminal violence on the *mafiya*.” However, unlike before, the term *mafiya* encompassed both the individuals from outside the power structure and the individuals representing continuity from the old Communist bureaucracy to the new post-Soviet political arrangement. According to Professor Louise Shelley, “[This] unusual coalition of professional criminals, former members of the underground economy, members of the former Party elite, and the security apparatus defies traditional conceptions of organized crime groups . . .” It embodies “the political and economic power of a criminal class more sophisticated than anything Russia has ever experienced before.” Consequently, this coalition represents a great threat to the economic and political viability of Russia and the Newly Independent States of the former Soviet Union, and one can neither conceptualize nor combat this structure like a traditional mafia organization.

II. THE FERTILE GARDEN

Since the collapse of the Soviet Union, the *mafiya*’s economic and political power has grown astronomically. On the economic front between 1989 and 1991, the *mafiya*’s earnings increased from less than one billion rubles to 130

---

23. *Id.* at 28.
27. *Id.*
billion, “the size of the Soviet national deficit.”\textsuperscript{29} Alexander Gurov, head of the Soviet Interior Ministry’s Sixth Department, reported in 1991 that “[i]n the next few years, its [gross] will reach 200 billion rubles. Organized crime then will control thirty to forty percent of the country’s GNP.”\textsuperscript{30} On the political front, public opinion tells the story.

A poll in the summer of 1992 indicated that one-third of the residents in the Russian Far East believed that criminal structures “determined the course of events in the region.” . . . A year after the Far East survey, another poll taken in the city of Yekaterinburg, in the Ural Mountains, suggested that three-quarters of the residents believed their city was ruled by the \textit{mafiya}. Interestingly, so did fourteen percent of the city’s police.\textsuperscript{31}

Based on these facts, it is not difficult to assert that organized crime is one of the most powerful forces in the former Soviet Union. However, in spite of the careful planning of the vory and nomenklatura, the \textit{mafiya}’s rise to power was primarily due to several specific factors that created a situation in which the \textit{mafiya} could thrive.

\textit{A. Privatization}

One of the factors which allowed the \textit{mafiya} to flourish was inefficient, unregulated, and non-egalitarian privatization. In order to transfer the Communist State’s holdings to the people, both the Soviet government and its successors embarked upon a policy of massive privatization. Unfortunately, rather than transfer property to the people, Russian privatization policies resulted in the transfer of the property directly into the \textit{mafiya}’s coffers. Three factors contributed to this misplaced transfer of holdings. First, in order to take advantage of privatization, an individual had to possess a large amount of capital. At the time of privatization, only organized crime had sufficient capital to benefit from the government’s policies.\textsuperscript{32} As a result, shortly after the government began to privatize State property, the Russian \textit{Tass-Krim Press}

\textsuperscript{29} Sterling, \textit{supra} note 19, at 19.
\textsuperscript{30} \textit{Id.}
\textsuperscript{31} Handelman, \textit{supra} note 12, at 21-22.
\textsuperscript{32} Shelley, \textit{supra} note 26, at 829.
reported that the mafiya had gained control of "between fifty percent and eighty percent of all shops, storehouses, depots, hotels, and services in Moscow."\(^{33}\)

Second, because the democratically elected government left privatization in the hands of the bureaucracy, former Communist Party members were provided with the opportunity to grab many desirable State-owned properties, while black-market operators and criminals got the rest.\(^{34}\) Take, for example, the experience of Kazakhstan:

[In this country], civil servants quietly transferred dozens of state-owned properties into their own names. "All the lucrative state properties have already been seized," charged Serik Abdrakhmanov, a deputy of the Kazakh parliament, at the end of 1992. He added that bureaucrats compounded the plunder of national resources by financing their clandestine acquisitions on cheap credit. "These officials have no trouble [getting money], but an ordinary person cannot receive a loan from the National State Bank," he complained.\(^{35}\)

Moreover, if the corrupt bureaucrats did not take the properties for themselves, they accepted bribes and arranged for the properties to be delivered to specific parties. In fact, "according to calculations by experts, seventy percent of the real estate put up for sale at auctions ends up in the hands of predetermined individuals."\(^{36}\) These people then sell the properties for outrageous profits.

Commodities expert Borovoi cites the case of one particular building to illustrate the point. The first stage of the privatization was closed to outsiders; the city sold the rights to auction off the building to five well-connected (Borovoi says "criminal") organizations for 1.5 million rubles. At the secondary auction, accessible to well-connected outsiders who paid bribes, the property is sold for 250 million rubles. Finally, the building went on the open market, selling for 1.5 billion rubles (about $1.5 million). The thousandfold appreciation in value

\(^{33}\) Sterling, supra note 19, at 20-22.

\(^{34}\) Vladimir Bukovsky, Boris Yeltsin's Hollow Victory, COMMENTARY, June 1993, at 31, 34.

\(^{35}\) HANDELMAN, supra note 12, at 125.

took all of two months.\textsuperscript{37}

The third reason privatization has failed to escape the grasp of the \textit{mafiya} is because political reform has not accompanied economic reform. Consequently, even when the government tries to implement a well-intentioned privatization plan, corrupt bureaucrats subvert it. For example, Yegor Gaidar, Yeltsin's first deputy minister in charge of the economy, attempted to execute a privatization plan that excluded insiders and gave a majority of the shares to outsiders. The goal of this plan was to increase efficiency in the factories. However, when Gaidar submitted his proposal for parliamentary approval, opposition forces altered it to allow the insiders a means of retaining control.\textsuperscript{38} Further, even when the government is successful and the property ends up in the public's hands, organized crime often uses intimidation to gain control of the stock. According to the Russian Academy of Sciences' Analytic Center, "thirty-five percent of all capital and eighty percent of all 'voting' shares have now moved into the hands of criminal capital. . . ."\textsuperscript{39} With control of these shares, the \textit{mafiya} can delegate a representative to a company's board or council of directors.\textsuperscript{40}

Under communism, the State controlled all of the property in the Soviet Union. Based on this fact, Tatjana Kurjaghina, a top social economist for the Interior Ministry, predicted in 1991 that once privatization began to replace communism, the entire country would be up for sale.\textsuperscript{41} By 1992, it became apparent that her prediction was correct. Regrettably, however, the \textit{mafiya} was one of the few groups to take advantage of the bargains. As a result, the \textit{mafiya} is now a formidable economic and political actor in the former Soviet Union.

B. The Legal System

In addition to the errant privatization efforts, the condition of the legal system in the former Soviet Union fostered the rapid growth of organized crime. Under the Soviet regime, dealing with crime was not one of the

\textsuperscript{40} Id.
\textsuperscript{41} Sterling, \textit{supra} note 19, at 20.
Communist government’s primary concerns. According to Vadim Bakatin, the Soviet Union’s last chairman of the KGB:

We thought that as socialism was perfected, the social base for crime would gradually disappear, and crime would disappear as well. . . . So there was no point in spending money on criminal justice, on modernizing the police, on training prosecutors, or even on improving our courts. That attitude left us vulnerable to everything that has happened since.42

Indeed, in Russia, police enforcement is in dire straits. To begin with, the mafiya is far better equipped in “weapons, communications systems, and transport” than Russian law enforcement.43 The situation is so bad that in some cases the police officers have been forced “to pursue criminals by taxi or bus.”44 In fact, the police are trailing so far behind organized crime in logistics that Internal Ministry officials believe “it would take twenty-five years for the police to match the arsenals of the mafiya under their current reequipment schedules.”45

An additional problem is police corruption. According to Claire Sterling, “[b]y 1991, 20,000 police officers were being fired yearly for collusion with the mafiya--double the rate under Brezhnev.”46 Younger police officers are most at risk because many “see the chance to take bribes as the main reason for joining the police.”47 However, a major part of the corruption problem results from the conditions under which the police must work. For example, “a Russian militiaman in May, 1993, put his life on the line every day for thirty thousand rubles--about thirty dollars--a month, a lower wage than many factory workers received.”48 In the face of such formidable adversity, it is hardly surprising that ninety-five percent of the Moscow police force is suspected of being under mafiya control.49

Compounding the problems of the beleaguered Russian police force is the

42. HANDELMAN, supra note 12, at 276.
43. Sterling, supra note 19, at 20.
44. Handelman, supra note 15, at 89.
45. HANDELMAN, supra note 12, at 282.
46. Sterling, supra note 19, at 19.
48. HANDELMAN, supra note 12, at 282.
49. Russia’s Mafia, supra 47, at 22.
antiquated state of Russian law. In 1994, Victor Ageyev, an official from the Russian Ministry of Internal Affairs, made the following observation:

The current state of crime is . . . characterized by the fact that [its] quality has changed--it has become more intellectual, more professional, more organized and refined. New forms of economic crime have appeared. The legislation currently in effect is so outdated that [it] does not take those forms of crime into account. That is, according to [the] legislation, the most widespread and serious economic transgressions cannot be classified as crimes. Moreover, most of the normative acts regulating economic relations do not provide for any sanctions if they are violated. None!

In the initial years following the fall of communism, Russia had: “no mechanism for controlling private banks, no sanctions for money laundering, no screening for civil service applicants, no inspectors to check the source of foreign capital, no tax audits, no legal provisions against organized crime, and no protection for government witnesses.” The absence of appropriate legislation paralyzed the police to the point where some Russian citizens concluded that the police had stopped functioning. These citizens lived in fear while the absence of appropriate laws created a situation in which gangsters did not need to fear prosecution.

Recently, the Russian government passed a new civil code, and it plans to pass new tax and criminal codes in 1997. While this new legislation may help alleviate some problems, gaps still exist in the laws, and many believe the new codes will not make a difference. The Russian judiciary is “plagued by lack of funds and inefficiency and the memory, still fresh, of how Soviet laws

52. Paul Klebnikov, Russia-on-the-Pacific, FORBES, Mar. 27, 1995, at 85, 86.
55. Hoffman, supra note 53; Osokin & Khoroshavina, supra note 54.
became a tool of totalitarianism." 66 As a Moscow teacher stated, "[The Russian people] know the courts don’t work, and everyone will spit on [these] new code[s]. No one believes in the law. We are living according to our own laws." 57 In short, even with the new laws, Russia’s ineffective legal system remains a fertile garden in which the mafiya can thrive.

C. Professionalization of the Mafiya

Another factor that helped empower the mafiya was the great number of highly skilled individuals in its ranks. After the collapse of the Soviet Union, thousands of former government workers and KGB agents lost their jobs. Accustomed to the traditional perks of Party membership and faced with the depressed wages of everyday life, many of these people joined the mafiya. 58 According to Dr. Arnaud de Borchgrave from the Center for Strategic and International Studies, "the KGB and organized crime are inextricably intertwined." 59 As a result of its close affiliation with the KGB, "the mafiya, which a decade ago seemed to most observers underdeveloped and provincial, was provided with institutional and organizational experience, professional intelligence techniques and tradecraft." 60 Further, these highly trained people not only brought their expertise to the mafiya, but they also brought with them a vast system of government contacts and informants. With these skills and contacts, organized crime took advantage of the new economic situation, especially in the area of banking where it is estimated that half of Russia’s commercial banks are under the mafiya’s control. 61

In addition to the KGB and the apparatchiks, many scientists also turned to crime. Deprived of government sponsorship and possessing skills which were in high demand, scientists found lucrative work with the mafiya. Specifically, organized crime was interested in two groups of scientists, the chemists and the nuclear physicists. With chemists in their employ, organized crime groups could produce new synthetic drugs. For example, cooperation between chemists and organized crime led to the creation and marketing of

---

56. Hoffman, supra note 53.
57. Id.
58. HANDELMAN, supra note 12, at 293-4.
60. Id. at 98 (statement of Representative Ed Royce).
61. Klebnikov, supra note 37, at 133.
trimethyl phentanyl, or "3MF," a highly addictive synthetic drug. Developed in 1993, this drug is currently in wide distribution, adding to the misery of the average Russian and filling criminal coffers.\(^\text{62}\) Like chemists, the addition of nuclear scientists to the mafiya’s rolls helped open new markets and generate profits. Today, several nations are trying to acquire nuclear weapons by way of Soviet technology.\(^\text{63}\) Consequently, by controlling nuclear materials and information, organized crime groups are able to control the key to tremendous riches.\(^\text{64}\)

Based on the above facts, it is clear that one of the reasons the mafiya grew so quickly after the collapse of the Soviet Union was that it inherited a great deal of the former government’s most skilled workers. The mafiya’s sustained growth suggests that it had not only gained the services of the present class of professionals, but it had also captured the hearts and the minds of the future professionals. The great Soviet heroes are no longer the role models for Russian youth. Instead, the stock broker and the mafiya hitman have replaced these icons.\(^\text{65}\) In greater and greater numbers, the best of the youth have chosen the mafiya as a profession. Peter Derby, president of Dialog Bank, a Russian-American joint venture, says “[the young are] joining up just as if they were joining a corporation like Coke or Pepsi. It’s a career choice that brings rewards earlier rather than later.”\(^\text{66}\) Indeed, the rewards of working for the mafiya are clear. A youth working as a hitman could earn $10,000 - $18,000 a killing,\(^\text{67}\) while the average Russian worker only makes about $150.\(^\text{68}\) This disparity in wages coupled with difficult economic conditions make it increasingly unrealistic to believe that an unemployed youth would resist the siren song of organized crime. Alexander Lulikov, deputy-internal affairs minister, acknowledged this fact when he asserted that “unemployed young

---

63. Global Organized Crime Hearing, supra note 7, at 76 (testimony of Ariel Cohen). The governments of Algeria, North Korea, India, China, Iraq, Iran, and Libya are all using ex-Soviet nuclear scientists to develop nuclear weapons. Id.
64. The fact that 7.8 kilos of weapons-grade plutonium has a street value of $13 million illustrates the profits which can be generated through the sale of nuclear materials and information. Id. at 32 (statement of Arnaud de Borchgrave).
65. Handelman, supra note 12, at 345.
66. Klebnikov, supra note 37, at 128.
people are increasingly being recruited by crime syndicates.  

The professionalization of organized crime in the former Soviet Union made it possible for the mafiya to rise quickly to power. The combined resources of both its young and old recruits made it more than a match for the emasculated Russian government, and they have allowed organized crime to take advantage of the legitimate order. Nevertheless, in spite of the importance of the mafiya's past victories, the most demonstrative evidence signifying the danger the new "professional" mafiya entails was the recent statement of U.S. Representative Ed Royce, a member of the House International Relations Committee on International Organized Crime. In congressional hearings, Royce recognized that the "professionalization" of the Russian mafiya poses new threats not just in Russia but in the world financial markets and the United States.  

D. Absence of a Legal Culture  

The final factor that allowed the rapid and sustained growth of the mafiya in the former Soviet Union was the absence of a legal culture. A legal culture has been defined in the following manner:

[It] is . . . a [habit of mind] which infuses individuals and society at large with a sense of legality and motivates citizens to prosecute their legal rights and, even more importantly, to care about the legality of public action. . . . This definition asserts that legality is a social phenomenon, dependent on the beliefs of the population. Even stable, consistent law enforcement is not an adequate measure of a society's legality without citizens [believing] that such a legal climate exists and will continue.

Based on this definition, there is no legal culture in the former Soviet Union not only because stable law enforcement does not exist, but also because the citizens do not believe a legal climate exists. As a result of the absence of this legal culture, the mafiya has flourished in the post-Soviet states because what

---

69. Handelman, supra note 12, at 27.
70. Global Organized Crime Hearing, supra note 7, at 98.
it was doing at first was not considered illegal. Organized crime was not the only group that was stealing. Everyone was.

Under the Soviet regime, the Party elite, the members of the bureaucracy, and average citizens all participated in illicit activity. Among the members of the government, corruption was rampant. For example, "the mayor of Sochi . . . was able to build a fantasy mansion with a singing fountain" using the money he made from accepting bribes and kickbacks.72

Surprisingly, corruption was nearly as prevalent amongst the people. In fact, longtime Russian expert Marshall I. Goldman asserted that "[b]ecause of the pervasiveness of the state, both politically and economically, it became socially and morally acceptable--politically correct if you will--to cheat the state."73 Cheating the government became an accepted part of everyday life, and the State would often turn a blind eye to this corruption. According to seventy-year-old Valentina Bogdanova, "The Communists themselves used to steal, and they let us steal."74 Due to the government’s lax law enforcement, especially in the black market, the people did not develop "a sense of legality [that] motivates citizens to prosecute their legal rights and, even more importantly, to care about the legality of public action."75 Consequently, when communism collapsed and the economic situation began to foster massive mafiya expansion, no one even thought to sound the alarm because millions of other ordinary citizens had already been stealing from the State.76

Under communism the legal culture was subject to relentless erosion; but when the Soviet Union collapsed, it appeared that the people of the Newly Independent States would have an opportunity to rejuvenate it. Unfortunately, however, their attitudes and environment have not changed significantly. As Russian journalist Yuri Shchekochikhin stated, "[c]orruption is like the air we breathe. . . . It’s not worse than it was before, but reforms have allowed more people to take part."77 In short, after being submersed in corruption for so many years, the people had learned to accept it, condone it, and participate in it; as a result, the mafiya was able to quickly seize control of a large chunk of

---

72. HANDELMAN, supra note 12, at 94.
75. McGrory, supra note 71, at 92.
76. Sterling, supra note 19, at 19.
77. Ulrich, supra note 6, at 13.
the old Soviet empire.

III. CRIMINALS AND THE ECONOMY

Ineffective privatization, the lack of law enforcement, the professionalization of organized crime, and the absence of a legal culture have allowed the mafiya to become one of the premier actors in the former Soviet Union. In addition to a lack of relevant criminal law, the Newly Independent States also lacked relevant contract law. Without these laws, basic transactions could not take place. The transition governments did not enact the necessary legislation, and the mafiya stepped in and filled the gap in an effort to make profits. Unfortunately for the people, the cost of this mafiya activity has been great and threatens to have a more significant effect in the future. In this section, I examine three issues. First, I explore why the mafiya's intervention in the economy was inevitable. Second, I discuss the costs associated with the mafiya's intervention. Finally, I demonstrate why organized crime has undermined the future economic success of the former Soviet Union.

A. The Need for Protection

When Mikhail Gorbachev launched his perestroika campaign in 1986, the Western world cheered because it appeared capitalism would eventually come to the Soviet Union. Ten years later, capitalism has arrived; but surprisingly, the Russian legal system is still woefully unprepared to deal with it. According to Michael McFaul, "[t]he state... has not institutionalized a legal system to protect [private] property rights, govern bankruptcy procedures, enforce contracts, protect consumers, and ensure competition. Contracts must be totally self-enforcing to work because the state cannot enforce them." Without such regulation, many entrepreneurs find themselves in legal limbo because it is impossible to enforce a contract. Moreover, according to commentators in the Brookings Review, "failure to pay for goods or services ordered and delivered exacts virtually no official penalty." Since the spring of 1995, "fully forty-five percent of the aggregate volume of accounts

78. McFaul, supra note 38, at 95-96.
receivable in all Russian industry were delinquent. This lack of enforcement forced business owners to turn to organized crime for help.

By dealing with the mafiya, an individual can safely enter into contracts because the mafiya will ensure enforcement. Furthermore, the mafiya protects its clients from other criminal groups which may try to take advantage of the business owner. In his book, The Sicilian Mafia (which also looks at organized crime in Russia), Diego Gambetta attributes the rise in organized protection rackets in Russia to fears of losing property and being cheated. As a result of the growth of these two fears, individuals demanded trust, “trust in other people and trust in whoever has the power to enforce property rights.” Unable to turn to the government, the people had to put their trust in the mafiya to enforce contracts.

Currently in the former Soviet Union, individuals have to deal with organized crime if they want to do business. In fact, the first thing an entrepreneur must do, according to Canadian businessman Doug Steele, “is find a roof.” A roof, or krysha, is the colloquial term for mafiya protection. In Russia, between seventy percent and eighty percent of all privatized enterprises and commercial banks pay for a krysha. If a business has not paid tribute to the mafiya, then its owner will end up paying someone else. Steele acknowledged that “you’re going to have to pay somebody, and if it’s not the so-called mafia then it’s going to be the police or OMON (elite interior ministry troops) or some other official structure.”

The amount of a krysha ranges from ten percent to twenty percent of turnover, which frequently comes to over half of an enterprise’s gross profits. Further, “[if] a firm under the mafia’s control fails to pay its tribute on time, it falls into serious debtor dependence. A criminal gang will demand a twenty-

80. Id.
82. Id.
83. Mike Trickey, The Cost of Doing Business; As Russia Enters Capitalism, the Mafia Demands a Cut—or Else, OTTAWA CITIZEN, Oct. 7, 1995, at E1, available in WESTLAW, OTWCTZN File. In support of this statement, Geoffrey Carr-Harris, a Georgian businessman, asserts, “You’ve got to make arrangements with [the mafiya]. It’s a part of doing business.” Id.
84. Id.
85. Id.
87. Trickey, supra note 83.
88. Mafia Assembles Dossiers, supra note 86.
five percent monthly surcharge, payable in foreign currency, for the past due debt." Consequently, while mafiya protection has certain benefits, it is not cheap; and its effect on the economy is not readily apparent.

B. The Cost of Protection

Paying for protection, whether it be to a criminal gang or to corrupt members of the government, has several disadvantages to the economy as a whole. First, it raises the cost of doing business. Consequently, it increases the cost of consumer goods, making it very difficult for the average Russian to purchase essential products. Second, it discourages would-be entrepreneurs from starting legitimate businesses. The eruption in gang violence, the high costs of doing business with organized crime, and the risk of future extortion all act to prevent potential profitable businesses from forming.

Third, because the mafiya takes a percentage of its clients’ profits, business owners often do not accurately report their earnings to the mafiya. Similarly, business owners frequently fail to disclose their earnings to the government for related reasons. One reason is that the government is full of mafiya informants. If an entrepreneur told his krysha that he only earned 10,000 rubles, and his krysha found out through a government contact that the individual had actually made 50,000 rubles, the business owner would suffer serious reprisals.

Another reason business owners do not report earnings to the government is to avoid taxation. In Russia, taxes can be crippling. Federal and local taxes can consume as much as ninety percent of profits. This heavy taxation forces individuals out of the normal economy and into the shadow economy. For example, official statistics for 1994 show a thirty-eight percent drop in the

89. Kryshtanovskaya, supra note 39.
90. A potential criticism of this analysis is that relative to no protection at all, the mafiya’s services could be viewed as lowering the cost of doing business. This argument assumes that no other viable contract enforcement entity exists. Initially, after the collapse of communism, there may not have been a viable alternative to the mafiya, but in the long term, the Russian government is a more desirable choice. Mafiya involvement in contract enforcement deters, or even prevents, the establishment of legitimate government regulation, particularly when the mafiya is deeply involved in the government and its influence is growing. Therefore, mafiya enforcement cannot be viewed as being advantageous in the long term because it inhibits the establishment of legitimate government regulation.
92. Mafia Assembles Dossiers, supra note 86.
93. Klebnikov, supra note 52, at 86.
volume of consumer services. Experts attribute this drop to people failing to report in order to avoid taxation. Ironically, by not reporting, whether to avoid the mafiya or the government, the effect is the same. The decreased revenue the government receives forces it to increase taxes in order to compensate for its losses. Higher taxes then suppress economic activity and force more people into the arms of organized crime.

Fourth, mafiya protection discourages foreign investment in the former Soviet Union. To begin with, the increase in crime associated with the mafiya deters foreign investment. In a recent article in the New York Times, Russia was described as "one of the most dangerous places [in the world,] . . . [a place] where a business traveler runs risks just getting from an airport into town." Indeed, it is not uncommon for criminal gangs to kidnap foreign businessmen and ransom or kill them. In order to deal with this threat, foreign businesses must hire security guards for themselves, their families, and their property. Unfortunately, adequate security is very expensive. Faced with these costs, which can absorb as much as thirty percent of profits, many firms refuse to invest in Russia and the Newly Independent States.

Foreign firms also dislike doing business in the former Soviet Union because they are not immune from the need for a krysha. Although it is possible to do business in the former Soviet Union without cooperating with the mafiya, many foreign investors, like Doug Steele, work through organized crime and pay the fee in order to ensure their contracts are enforced. This cooperation, however, increases the cost of doing business, decreases profits, and, ultimately, discourages investment.

The mafiya also discourages foreign investment because of the effect organized crime has on the tax system. By forcing legitimate business

---


95. Gaddy et al., supra note 79, at 28.


97. Global Organized Crime Hearing, supra note 7, at 75 (testimony of Ariel Cohen). In fact, even when the foreign businessmen are careful to avoid contact with organized crime, they are at risk. For example, John Hyden, a British executive, was shot dead while enjoying a cup of coffee in a five-star hotel in St. Petersburg. Ironically, he was an unintended victim of a mafiya hit aimed at a Russian executive in the same room. Finney, supra note 96.


underground, organized crime requires the government to maintain high tax rates in order to assure revenue. These high tax rates cut into foreign firms’ profit margins and discourage investment. “The whole system is . . . anti-business. The tax laws are asinine and guarantee that if you do everything . . . by the book, you won’t make any money,” declared Geoffrey Carr-Harris, who presides over Phargo Group, a company whose outlets sell many different products ranging from computer systems to lingerie. In concurrence with Carr-Harris’ statement, individuals in the oil industry computed that “if they paid all the taxes that are on the books, their taxes would exceed 120 percent of their profits.”

Ironically, companies that try to avoid paying taxes often end up in a worse situation than those which do pay them, because the companies which fail to pay make themselves vulnerable to mafiya extortion. If an organized crime group discovers that a business is cheating on its taxes, it presents the entrepreneurs with an undesirable choice: “Either pay tribute or be ‘turned in’ to the tax police.” As a result, foreign companies face a no-win situation. They can invest in Russia, pay taxes, and lose money, or they can invest in Russia, evade taxes, and pay tribute to the mafiya. Faced with such a choice, it is not surprising that many foreign firms are reluctant to invest in the former Soviet Union.

Finally, the mafiya discourages foreign investment by fostering general corruption. The United States Foreign Corrupt Practices Act of 1977 (FCPA) “criminalized the making of certain ‘corrupt’ payments to foreign government and political officials and adopted rigorous record keeping

---

100. Trickey, supra note 83.
101. Goldman, supra note 73.
102. Id.
103. Mafia Assembles Dossiers, supra note 86.
105. According to the American Chamber of Commerce in Russia, “Corruption is growing into a serious hurdle to investment [in that country].” Bribes Booming in Russia, U.S. Chamber Report Says, WALL ST. J., June 27, 1995, at A10 [hereinafter Chamber Report].
requirements for public companies and their overseas subsidiaries." 107 Consequently, U.S. firms are prohibited from engaging in conduct that would violate the FCPA. In Russia, however, corruption is rampant in part because of the influence of organized crime. As a result, the FCPA may make U.S. businesses hesitant to invest in Russia because of "the very real prospect that corrupt payments will be demanded . . . ." 108 Another aspect of this problem is that since "no other nations have legislation like the FCPA, only U.S. companies are limited in the actions they can take to obtain foreign business." 109 Therefore, U.S. firms may find themselves at a competitive disadvantage in the former Soviet Union because they cannot take part in the primary means of acquiring business—bribery. Despite the fact that other countries have not passed laws regulating the conduct of their businesses abroad, the corruption in Russia still serves as a serious disincentive to foreign investment because of the escalating cost of bribery. According to a report by the American Chamber of Commerce in Russia, "[w]hat used to be a reasonable and almost codified system of payments has now lost all sense of reality and proportion. Whereas before a bottle of vodka or small gift would have produced the necessary signature [in Russia's bureaucratic maze], today it may require significant payments or wire transfers to offshore bank accounts." 110 In these ways, the _mafija_ system discourages foreign companies from investing in the former Soviet Union.

C. Undermining the Future

While the _mafija_ may serve as a surrogate for the government and enable merchants and businessmen to enforce contracts, it does not provide this service in order to better the average Russian citizen's standard of living. The _mafija_ provides protection for its own prosperity; therefore this service comes

---

108. Id. at 5.
110. Chamber Report, supra note 105, at A10. Evidencing the increasing cost of corruption, the World Bank recently reported that "the bribes are large by international standards, and in the Ukraine, for example, can represent up to two months' gross sales per year." Kevin Done, High Levels of Bribes Harms Pace of Growth, FIN. TIMES, June 28, 1996, available in LEXIS, News Library, FINTME File.
The previous section illustrates several of these costs, but there are still others. The most problematic of these costs is the mafiya's lack of accountability to the public. The mafiya is only concerned with maximizing short term gains, and it does not reinvest its profits in the infrastructure of the former Soviet Union. As Alexander Smirnov, a television producer, explains, "[members of the mafiya] can steal, they can kill, but cannot do real business. . . . They never develop something. They just take and sell or destroy." The problems of capital flight and the smuggling of natural resources typify this dilemma. Capital flight occurs when crooked officials and gangsters take profits stolen from the Russian people and send this money out of the country. Since 1990, they have sent as much as $100 billion to their foreign bank accounts, a sum which is greater than the total amount of post-1990 Western aid. The trend is similar with respect to the smuggling of natural resources. Everything is leaving, and nothing is coming back in.

The Russian Interior Ministry estimates that smuggling of such natural resources as oil grew by fifty percent from 1992 to 1993. The Ministry believes that approximately 20,000 metric tons of metals, over 100,000 metric tons of oil products, and more than 200,000 cubic yards of timber were smuggled abroad from Russia in 1993, with up to a trainload a day passing through Lithuania and into the port of Kaliningrad alone.

The problem with this huge outflow is that it undermines the future economic success of Russia and the other Newly Independent States of the former Soviet Union. Their respective governments do not gain any income from these transactions. Consequently, nothing is invested in the infrastructure. Furthermore, because this outflow deprives the governments of much needed tax income, they cannot provide services to the people, nor can they fund their economic reform programs. Therefore, in the end, the mafiya's interaction with the economy stifles economic reform and aggravates public discontent. In short, the only people who benefit from this activity are the criminals.

112. Luttwak, supra note 11, at 48.
114. See THE ECONOMICS OF ORGANIZED CRIME (Gianluca Fiorentini & Sam Peltzman eds., 1995).
IV. SEIZING THE REINS

By taking advantage of the privatization movement, protection rackets, smuggling, and other illegal activities, the *mafya* grew very rich and powerful. However, in spite of its wealth, it was still vulnerable to government action directed against it. Consequently, the *mafya* began a campaign to influence government decisionmaking and secure its new position in the social hierarchy. It attempted to accomplish this objective through a variety of methods.

A. Money Talks

First, organized crime utilized its financial resources. According to the Internal Affairs Ministry, organized crime uses almost fifty percent of its capital to bribe representatives of State agencies and the judicial system. These bribes in turn comprise over half of a corrupt bureaucrat’s income. In addition to outright bribery, criminals use lobbying to influence officials. Over time, this lobbying evolves into a “special infrastructure of daily relations between politicians and mafiosi” in which the criminal and the politician look after each other’s interests. Another way the *mafya* influences government decisions is by supporting political parties. For example, “[i]t is known that the Solntsevo gang, one of the most influential in the Moscow region, has close contact with . . . [the] Russian National Unity people.”

---


119. *Id.*
Russia, while the Duma has debated anti-lobbying legislation, there are no regulations concerning campaign or party funding, and as a result, the mafiya can “invest” in a politician’s career with relative impunity.

B. Direct Participation

The second way the mafiya influences politics is through direct participation in the political process. In fact, gangsters are so interested in becoming a part of the government that by October 1995 over 100 suspected criminals had already declared their candidacy for the Duma elections in December of that year. Besides the power which accompanies the position, one of the primary motivations for criminals joining the Duma is immunity. According to current Russian law, “Russian legislators cannot be searched, detained, questioned, charged, arrested, tried or convicted, even for crimes they have committed before taking office, without the consent of a parliamentary majority.” This immunity even covers murder. For example, “Sergei Skoročkin, a liquor manufacturer, claimed parliamentary immunity in 1994 after he killed two people in a shootout he said was initiated by the mafia.” In the recent Duma elections, the problem of criminals running for office reached such massive proportions that Russia’s acting prosecutor-general, Oleg Gaidanov, warned “[m]afiosi of all ages and all types are trying to get into power.” Further, the Itar-Tass news agency reported that even Russian President Boris Yeltsin expressed alarm “at the marked intensification of criminal elements trying to get into the State Duma.” Nevertheless, despite the public outcry against organized crime, Russians still elect criminals to public positions.

C. Flexing Its Muscle

121. Shelley, supra note 26, at 836.
123. Id.
124. Id.
125. Id.
126. Id.
127. For example, Sergei Mavrodi, head of the MMM financial empire and pyramid investment scheme, was elected to office despite the public notoriety of his misdoing. Id.
The third way the mafiya interferes with politics is through violence. By utilizing the threat or the use of force, organized crime groups can influence the decisions of politicians or remove the politicians who oppose them. Since the collapse of communism, the mafiya has murdered members of the parliament and intimidated others. In addition to using violence to influence the decisions of current government officials, the leaders of organized crime groups also used force to get into office. Itar-Tass reported that President Yeltsin was concerned that “honest candidates are being pressured to drop out of races for the Duma by criminals who were hoping to boost their chances.” Also, many people suspect the mafiya of using force to create vacancies in government positions. For example, when the police began to pressure Sergei Mavrodi for his involvement in the MMM pyramid investment scheme, the local Duma seat became vacant when its prior occupant was murdered, and Mavrodi was conveniently elected to fill the vacancy.

D. Controlling the Press

The fourth way the mafiya seeks to gain political advantage is through control of the press. By controlling the press, organized crime influences the opinions of both the legislators and the masses. Further, it allows criminals to keep the public from discovering the mafiya's most egregious offenses, which shields certain mafiya activity from public scrutiny. The crime gangs seek to control the press in many ways. Some gangs purchased entire media enterprises when the government privatized them, while others subsidized

128. Shelley, supra note 26, at 835. Two members of parliament who were killed by organized crime are Andrei Aizderdzis and Valentin Martemyanov. Id. See also Charles Heckler & Pyotr Yudin, Deputies Murder Shocks Duma, MOSCOW TIMES, Apr. 28, 1994, available in LEXIS, News Library, MOSTMS File; Pyotr Yudin, Motive for Murder is Unknown, MOSCOW TIMES, Apr. 28, 1994, available in LEXIS, News Library, MOSTMS File.

129. Dmitry Pavlov et al., Explosion in the State Duma: Deputy Nikolai Lysenko Is Left Without an Office, KOMMERSANT-DAILY, Dec. 6, 1995, at 14 (condensed text), reprinted in CURRENT DIG. OF THE POST-SOVET PRESS, Jan. 3, 1996, vol. XLVII, no. 49, at 16, available in LEXIS, News Library, CDSP File. The office of Nikolai Lysenko, a member of the State Duma, was destroyed by an explosive device. While the police have not proven mafiya involvement, his supporters believe organized crime groups are responsible for the attack. Id.

130. Saffron, supra note 122.

131. Id. Mavrodi was the first to exercise the parliamentary immunity defense.

132. HANDelman, supra note 12, at 23-4.
struggling newspapers and television networks\textsuperscript{133} or resorted to bribery.\textsuperscript{134} By buying into or exerting financial pressure on the media, organized crime can dictate what the public sees and hears, a power that is especially important before elections. For example, Yuri Goryachev, the governor of Ulyanovsk,\textsuperscript{135} has an arrangement with a local editor in which the editor is allowed relative autonomy, but when Goryachev needs it, the editor must "do as [Goryachev] say[s] and pour dirt on who [he] say[s] . . . ."\textsuperscript{136}

Another way the ma\textsuperscript{fiya} can assert its influence over even the Western media is through the use of lawsuits. Due to its wealth, the ma\textsuperscript{fiya} is able to use the threat of a lawsuit to intimidate the press. Faced with expensive litigation, the media will often alter what it intended to publish. In fact, Professor Louise Shelley reported that "[s]everal western newspapers have failed to publish articles that disclose the activities of Russian organized crime groups because they fear the costly suits that will follow."\textsuperscript{137}

As opposed to direct financial intervention and lawsuits, the cheaper and more common methods of controlling the press are intimidation and murder. Indeed, "[f]or the Russian mafia, the journalist has become enemy number one. If this enemy cannot be bought, he is destroyed."\textsuperscript{138} In 1994, eleven journalists died violently and countless others were beaten or intimidated.\textsuperscript{139} The criminals are fearless and often attack in broad daylight. "Who would give evidence?" asked Tamara Lomakina, a journal editor who was beaten badly by criminals who did not like the content of her articles.\textsuperscript{140} Also, no amount of public notoriety insures a journalist's safety. This fact was demonstrated by

\begin{itemize}
\item \textsuperscript{133} See Elizabeth Tucker, \textit{The Russian Media's Time of Troubles}, 4 DEMOKRATIZATSIYA 429 (1996).
\item \textsuperscript{134} In a 1995 article, Jean Chichizola reported that "[b]ribery is a key to controlling the media and its output, particularly where employees are underpaid." Jean Chichizola, \textit{The Untouchables: Russia's Media Comes to Grips with the Strong Men of the Moscow Mafia}, 1 INDEX ON CENSORSHIP 185, 186 (Tom Nicholls trans. 1995).
\item \textsuperscript{135} Tucker, \textit{supra} note 133, at 434. According to Gennady Antontsev, a journalist in Ulyanovsk, "Goryachev and his deputies are mafiosi bought and paid for . . . ." \textit{Id.} at 433.
\item \textsuperscript{136} \textit{Id.} at 434 (statement of Nikolai Pofarev, a businessman in Ulyanovsk).
\item \textsuperscript{137} Threat from Russian Organized Crime: Before the House Comm. on International Relations, CONG. TESTIMONY (FDCH), Apr. 30, 1996, available in LEXIS, News Library, CNGTST File (statement of Louise I. Shelley, Professor, American University, Department of Justice, Law and Society, and School of International Service).
\item \textsuperscript{139} \textit{Id.}
\item \textsuperscript{140} HANDELMAN, \textit{supra} note 12, at 85.
\end{itemize}
the violent deaths of Vladislav Listyev, a popular television newsman,¹⁴¹ and Dmitry Kholodov, an investigative reporter who was exposing military corruption.¹⁴²

The perpetrators of crimes against the press are rarely caught or punished,¹⁴³ so there is little to deter organized crime from attempting to control the press. Over time, many journalists simply stop writing stories condemning the mafiya. For example, in Vladivostok, “[a]fter a few imprudent journalists were beaten up, the local press ceased to speak out . . . "¹⁴⁴ Freedom of expression is relatively new to the former Soviet Union. Unfortunately, the previous State control of the media is slowly being replaced by mafiya control,¹⁴⁵ enabling organized crime to exert intense pressure on the political process.

E. Economic Dependence

The final way organized crime influences politics is through the economy. Even though the economic endeavors of the mafiya are often illegal, they do generate a great deal of capital. Consequently, local governments are loath to pass legislation attacking organized crime for fear they will lose the economic benefits associated with the mafiya. An example of this type of influence is the relationship between the government of Estonia and the metal trader Tiu Silvas. Silvas is Estonia’s richest businesswoman, and she has suspicious ties to old Party hierarchy. Nevertheless, the Estonian government dares not cross her.

Every time the government suggests that it wants to investigate her company, she gets mad and threatens to move out of Estonia and take all her wealth with her. It always works. The government does not want to kill a goose that lays such golden eggs. Metal trading has

¹⁴² Vyzhutovich, supra note 138.
¹⁴³ Id.
¹⁴⁴ Klebnikov, supra note 52, at 86.
¹⁴⁵ Iosif Dzialoshinsky, a Russian media expert and head of the Independent Newspaper Association, predicts, “There will be no independent newspapers in Russia. All the papers will be closely associated with various financial and political groups. All of them.” Tucker, supra note 133, at 429.
made this country rich, so it's in no one's interest to probe too deeply.\textsuperscript{146}

Estonia is not the only place in the former Soviet Union where this type of relationship between \textit{mafiya} figures and the government exists. As time passes and organized crime's grip on the economy grows stronger, governments will become subordinate to \textit{mafiya} power. When this day arrives, the newly formed democracies will cease to govern for the people. Instead, these governments will govern for the criminals.

\textbf{F. The Cost of "Mafiya" Participation}

In April 1994, the Chairman of the Russian Duma Committee on Security, Victor Ilyukhin, reportedly stated that "the current Yeltsin government stands a good chance of becoming a 'criminal state' in relation to the close ties between organized crime and institutionalized corruption."\textsuperscript{147} Further, some experts maintain that over thirty percent of the Duma "is directly linked to organized crime."\textsuperscript{148} Indeed, the relationship between the \textit{mafiya} and members of the government is often so close that "today it is truly impossible in many cases to differentiate between Russian organized crime and the Russian state."\textsuperscript{149} The costs of this \textit{mafiya} participation in the government are great. First, corrupt politicians seek committee positions so they can influence the issues that concern them. For example, in 1994, "Vladimir Podatev, a thrice-convicted 'crime kingpin'(theft, armed robbery, rape), nicknamed 'The Poodle,' became a member of the Human Rights Commission under the President of Russia's Public Chamber."\textsuperscript{150}

\begin{itemize}
\item \textsuperscript{146} Handelman, supra note 12, at 245. A Tallinn journalist conveyed this story.
\item \textsuperscript{147} Ulrich, supra note 6, at 13.
\item \textsuperscript{148} Global Organized Crime Hearing, supra note 7, at 33 (statement of Arnaud de Borchgrave).
\item \textsuperscript{149} Threat from Russian Organized Crime: Before the House Comm. on International Relations, Cong. Testimony (FDCH), Apr. 30, 1996, available in LEXIS, News Library, CNGTST File (statement of U.S. Representative Benjamin A. Gilman, Chairman). A good example of the identity between many members of the government and organized crime is the 1994 debate in the upper chamber of the Russian parliament, the "Senate," over whether to pass a proposed crime bill. During this debate, many senators asked, "Why should we adopt a resolution which actually okays a decree spearheaded against ourselves?" In fact, one senator, Sergei Levitan, even went so far as to refuse to pass the bill because it would "cut off money laundering channels for the [Russian] Mafia." Elena Tregubova, Federation Council Is Against Anti-Banditry Decree, Segodnya, at 2, reprinted in Russian Press Dig., June 25, 1994, available in LEXIS, News Library, SPD File.
\item \textsuperscript{150} Kryshantanovskaya, supra note 39.
\end{itemize}
Second, once these corrupt politicians maneuver themselves into positions of power, they use their influence to impede and weaken proposed legislation that runs counter to the mafiya's interests. For example, "in hearings before the Federation Council, legislators with questionable financial holdings used highly suspect arguments to prevent consideration of the corruption law."\textsuperscript{151}

Third, the damage done by corrupt legislators is especially harmful to the future of the Newly Independent States because these governments are in their formative stages. The legislation passed today will govern these countries in the future; and, according to Professor Louise Shelley, "once the basic framework is enacted, vested bureaucratic and financial interests combined with inertia will make it difficult to implement fundamental change."\textsuperscript{152} The longer a government waits to take action against organized crime the harder the mafiya will be to dislodge.

V. ONE STEP FORWARD, TWO STEPS BACK

A. Public Discontent

The mafiya's presence in the former Soviet Union has created a great deal of public discontent because of the increase in crime, the corruption in government, and the collapse of the economy. Many Russians, like Nair Aleyev, twenty-three and unemployed, complain they are "sick and tired of life like this. Banditry, prices, and inflation."\textsuperscript{153}

In the first year after the fall of communism, the Russian public prosecutor reported 2.7 million crimes, an increase of thirty-three percent over 1991. The rates for murder, rape, and aggravated assault continued to climb during the first six months of 1993, along with categories of crime that had been negligible during the Soviet era, such as drug trafficking, embezzlement and theft of government property.\textsuperscript{154}


\textsuperscript{152} \textit{Id.}

\textsuperscript{153} Kunstel & Albright, \textit{supra} note 74.

\textsuperscript{154} Handelman, \textit{supra} note 15, at 92 n.3. When considering these figures, it is important to note that a statistical comparison of crime rates between Russia and the Soviet Union is likely to be skewed by the Soviet practice of underreporting crime. More recent figures, however, confirm that crime is on the rise. In a February 1996 report, the Russian Ministry of Internal Affairs disclosed that "crime was up significantly
As a result of this increase in crime, in 1992 “three out of four Muscovites admitted they were afraid to walk the streets alone at night."\textsuperscript{155} One year later, “forty-nine percent of Russians rated crime higher on their list of concerns than unemployment.”\textsuperscript{156} The people have lost their sense of personal security, and the government appears powerless to do anything. Consequently, the populace is extremely dissatisfied with the current state of affairs, and many are calling for government action.

Adding to the Russian people’s feelings of dissatisfaction is the bleak state of the economy. Growing inflation has decreased the already meager buying power of the ruble, and many are unemployed. Further:

Russia has become more economically stratified than even the United States. Thirty-five percent of all Russians now live below the poverty line. Fifty percent are barely hanging on. Fourteen percent, mostly the young and the adaptable, have plunged headlong into “Newbiznessky.” And less than one percent have become fabulously wealthy through semi-legitimate businesses or organised crime.\textsuperscript{157}

Due to this intense stratification, the “sight of the country’s newly rich emerging from luxury restaurants and gambling casinos, of Western cars jamming the roadways, [and] of gunmen strutting down the street” brings an intense feeling of betrayal and anger to the average Russian.\textsuperscript{158} When this anger is coupled with the general feeling of dissatisfaction, it produces a restless electorate. Consequently, many experts, like Steven Handelman, fear the mafia presence in the former Soviet Union will lead to a movement towards authoritarianism or an eventual return to communism.
B. Authoritarianism

The Russian people are unhappy with the current state of the nation. According to Ariel Cohen, "nostalgia in Russia for the 'good old days' of the Brezhnev era is growing. . . . [T]he post-communist societies long for a 'strong hand.'" Unfortunately, this "strong hand" would entail an infringement on individual civil liberties. Nevertheless, the Russian people want strong action. In one survey of public opinion, "more than half the Russians sampled deemed Yeltsin's [1993] crackdown acceptable, even if his decree violated the Constitution."

In response to the people's demands and under intense political pressure, Russian President Boris Yeltsin has scaled back reforms and has become increasingly authoritarian. In a speech made after the murder of popular television reporter Vladislav Listyev, President Yeltsin's comments seemed to foreshadow escalating government authoritarianism. In the beginning of this speech, Yeltsin claimed that in the battle against organized crime he feared turning Russia into a police state. However, he later stated, "There are approaches harsh enough to make mafia groups tremble. They will be given no quarter, and only in that way can we halt the wave of crime that has swept over us."

Since the first day of his regime, President Yeltsin's most egregious violations of the principles of democratic government and human rights have come in an effort to fight crime. These actions include the presidential edict "On Urgent Measures to Protect the Population from Banditry and Other Manifestations of Organized Crime," Operation Signal; the evening assault

---

161. Peter Reddaway, a professor of political science at George Washington University, states that "[i]n the past two years, [Yeltsin] has been behaving increasingly like a czar. He pardons cronies, ignores the law, issues a torrent of decrees and hands out economic favors by the ton." Peter Reddaway, Russia Heads for Trouble, N.Y. TIMES, July 2, 1996, at A15.
162. Fearing a Police State, supra note 141.
163. Under this June 1994 edict, an individual suspected of mafiya involvement "may be held for thirty days without the right to post bail. Yeltsin suspended such suspects' right to post bond, be released on their own recognizance, or released under the care of a public organization or private individual." Yeltsin Gives Prosecutors, Police Stronger Tools for Fighting Crime, RUSSIA & COMMONWEALTH BUS. L. REP., June 27, 1994, available in LEXIS, News Library, RCBLR File.
164. See HANDELMAN, supra note 12, at 289-90. Operation Signal was a massive military and police action which took place after the October 1993 crisis. Its purpose was to reduce the level of organized crime in Moscow by forcibly deporting all "unregistered aliens." This action had racial and ethnic
on the MOST bank;\textsuperscript{165} and the bloody war in Chechnya.\textsuperscript{166} Unfortunately, what both the Russian people and President Yeltsin fail to realize is that these authoritarian actions do not affect the principal mafiya interests. Stephen Handelman points out that Operation Signal “had almost no impact on Russia’s organized-crime syndicates. The most powerful Caucasian gangs, including the Chechens, suffered at best only a temporary [setback].”\textsuperscript{167} Further, the bloody war in Chechnya has failed to produce any great measure of success against the Chechen gangs despite the amount of devastation it has caused.

Another foreboding event which may lead to a more authoritarian government is the appointment of Aleksandr Lebed as Yeltsin’s new national security council secretary.\textsuperscript{168} Lebed, a retired general, has sworn to fight organized crime and return order to Russia.\textsuperscript{169} However, he has made several authoritarian statements,\textsuperscript{170} and some commentators fear that “Lebed’s [crime] program is based on Vladimir Lenin’s dictum ‘terror is the quickest justice[’] . . . ”\textsuperscript{171} In particular, Sergei Kovalev, a member of the Duma and a highly respected human rights activist, predicted that under the Yeltsin-Lebed alliance, “Russia will be governed in a draconian manner and will quickly distance itself from a state of law.”\textsuperscript{172} The extent to which Lebed will

\begin{itemize}
\item \textsuperscript{165} See Shelley, \textit{supra} note 26, at 832. President Yeltsin’s elite presidential guard carried out this assault in December 1994. The government justified the attack as an effort to curtail organized crime, but the newspaper \textit{Izvestia} labeled it an abuse of presidential power which “could bring on a police state.” \textit{Id.}
\item \textsuperscript{166} See Andrew Meier, \textit{The Chechen Mafia: The Real Reason Yeltsin Invaded}, \textit{New Republic}, Apr. 24, 1995, at 16. One of the reasons President Yeltsin ordered troops into Chechnya was to combat the organized crime groups stationed there. Nevertheless, the war has resulted in numerous human rights abuses and thousands of Chechen and Russian casualties. For more information on the casualties and human rights abuses in Chechnya, see \textit{Crisis in Chechnya: Hearings Before the Comm. on Security and Cooperation in Europe}, 104th Cong., 1st Sess. (1995).
\item \textsuperscript{167} \textit{Handelman, supra} note 12, at 290.
\item \textsuperscript{170} Lebed has said that “shooting 3,000 people would not be too high a cost to pay for cleaning up society.” \textit{Tough Fight Ahead in Crime War}, \textit{Moscow Times}, June 20, 1996, available in LEXIS, News Library, MOSTMS File [hereinafter \textit{Crime War}].
\item \textsuperscript{172} Rights Activist Kovalev Warns Against Yeltsin-Lebed Alliance, \textit{Agence France Presse}, June
undermine Russian democracy is unclear, but most commentators agree that in his fight against organized crime, Lebed is likely to lead the Russian government to the right.\footnote{\textit{Crime War}, supra note 170; Kovalev's Warning, supra note 172; Pankov, supra note 171; Reddaway, supra note 161, at A15.}

Ironically, in the long run the government’s movement towards authoritarianism actually benefits the mafiya. It has this effect because a non-progressive, authoritarian government slows reform and cements organized crime’s hold on the economy.\footnote{Reddaway concurs with this assertion. He states, “Most clan leaders of industry, agriculture and banking, with their corrupt allies in government, do not want democracy or serious economic reform. ... [T]hey want security for their assets ... [which] requires an end to anything but a facade of democracy.” Reddaway, supra note 161, at A15.} Ignorant of this fact, the Russian public continues to cry out for strong government action, and President Yeltsin’s response is predictable. He continues to slow reform and move towards an “old-style” government. Consequently, if President Yeltsin does not change his course, he will almost guarantee the mafiya’s triumph over law and order.

\textbf{C. Communism and Ultranationalism}

Even if President Yeltsin turns away from a return to authoritarianism, there is a strong possibility that Russia will continue down that path without him. Despite Yeltsin’s victory in the Russian 1996 presidential election,\footnote{\textit{Russia's Daunting Future}, \textit{ECONOMIST}, July 6, 1996, at 43.} the electorate remains deeply divided.\footnote{40 percent of the electorate voted for the Communist Party in the 1996 presidential election. \textit{Id.}} In the December 1995 State Duma elections, the Communists won in almost every region of Russia.\footnote{Michael Specter, \textit{Anger Got the Votes}, \textit{N.Y. TIMES}, Dec. 19, 1995, at A8.} While some political scientists maintain the strong showing by the Communists in December’s election was not indicative of the power they wield,\footnote{See Michael McFaul, \textit{A Communist Rout?}, \textit{N.Y. TIMES}, Dec. 20, 1995, at A21.} it does demonstrate that a large portion of the population desires a more conservative form of government. Consequently, as pointed out by a 1994 study, “failure to take resolute measures to remove the economic roots of crime and to provide the legal guarantees for the struggle against organised crime, as well as a lack of political will in combating organized crime, could bring the...
national-socialists [or the Communists]\textsuperscript{179} to power . . . .\textsuperscript{180} If either the Communists or the ultranationalists come to power, it will certainly sound the death knell for many newfound civil liberties and a large number of the progressive reforms which Yeltsin's government has implemented.\textsuperscript{181} The effect of this action, like the effect of President Yeltsin's move towards authoritarianism, will only strengthen the mafiya's grip on Russia. However, it is not necessary for the Communists or the ultranationalists to come to power to spell the demise of reform. The mere fact that they hold a large share of the seats in the Duma is enough to assure the pace of reform will be slowed.

VI. THE CRIMINAL TIME BOMB

When the Newly Independent States of the former Soviet Union reach the point where public dissatisfaction causes a reversion towards authoritarianism or communism, these States will begin to lose the ability to fight organized crime effectively. From that time forward, the mafiya will become more firmly entrenched in the structure of society until no government action can remove it. In order to understand why this result might occur, one must understand the interrelationship of the trends and processes described in this Note.

Despite the strict law and order image the Soviet Union displayed, highly organized criminal groups were functioning behind the curtain of State authority. When communism collapsed, these groups no longer had to hide in the shadows. They came forward and discovered an environment in which they could flourish. By taking advantage of (1) the massive privatization, (2) the ineffective legal system, (3) the wide availability of professional talent, and (4) the absence of a legal culture, the mafiya flourished in the Newly Independent States.

\textsuperscript{179} This addition is my assertion based on the large share of the votes the Communist candidate received in the 1996 presidential election. See \textit{Russia's Daunting Future}, supra note 175.

\textsuperscript{180} ULRICH, supra note 6, at 15. This study specifically referred to the 1996 presidential election. However, based on the strong public sentiment regarding crime in Russia, I believe it remains a valid statement.

\textsuperscript{181} This result seems clear based on prior conservative statements of these two groups. For example, in 1994, Zhirinovsky pledged that "[the Liberal Democratic Party would] set up courts on the spot to shoot the leaders of criminal bands." Jayson Carcione, \textit{Russia a Dangerous Place to Do Business}, REUTER BUS. REP., Feb. 2, 1994, \textit{available in LEXIS}, News Library, REUBUS File. And recently, Zyuganov promised that if elected he would "restore public control over manufacturing industry . . . ." \textit{Russia's Communists, A Dreadful Prospect}, \textit{ECONOMIST}, Mar. 16, 1996, at 54.
Soon, organized crime began to interact with the economy. It found the State had failed to provide for basic contract enforcement, so the mafiya began to provide protection. Unfortunately, while providing this service increased the mafiya's wealth, its overall effect on the economy was negative. The mafiya decreased the effectiveness of the government's reform policies and increased social stratification. As a result, public dissatisfaction grew, and many people began to express feelings of anger and betrayal.

Organized crime amassed formidable financial and physical resources through its interaction with the economy, and it used these resources to influence government decisionmaking. Often, the mafiya's influence inhibited economic progress because the mafiya would oppose reform intended to improve the economy. As time passed, an increasingly dissatisfied electorate pressured Yeltsin to adopt a hard-line, authoritarian approach, and voted numerous ultranationalists and Communists into the parliament. In response to public sentiment, both Yeltsin and the new conservatives slowed reform. This action played right into the mafiya's hands because, by putting the brakes on reform, the government solidified the mafiya's position in Russian society.

The slowing of reform is beneficial to organized crime for the following reasons. First, if the Duma does not pursue reform, then Russian legislators will not pass new criminal and commercial legislation. The police will remain powerless to deal with organized crime, and business owners will continue to depend on the mafiya for contract enforcement. Second, the current inefficient political structure will stay the same. The corrupt government officials already in office will remain, and organized crime will still be able to influence legislation. Third, absent reform and new laws, the government will be forced to curtail civil liberties in a desperate attempt to confront organized crime. When this happens, freedom of the press will diminish even further, which means the mafiya's corrupt dealings with the State will be safe from exposure. Also, since a free press is essential to the development of a legal culture, the legal culture in the former Soviet Union will remain stagnant. Fourth, a lack of reform means effective privatization of the remaining State property will not occur, an eventuality that will suppress grass-roots economic activity and rid organized crime of any future competition.

182. See supra notes 78-114 and accompanying text.
183. See supra notes 115-152 and accompanying text.
184. McGrory, supra note 71, at 92-93.
In summary, the slowing of reform maintains or enhances all the factors which allowed the mafiya to flourish in the first place. Thus, in the absence of reform, the mafiya becomes stronger, and a snowball effect occurs: As its wealth and power grow, the effect of organized crime on the economy expands. The mafiya becomes richer, while the rest of the population suffers. Moreover, because of these impressive financial resources, the mafiya will continue to attract current and future professionals, and it will be able to exert greater influence on the government, slowing reform even further. Meanwhile, public discontent will grow; the parliament will enact increasingly authoritarian and anti-reformist legislation; and then, the entire process will begin again. Over time, the mafiya will grow even stronger and become so intertwined in the economies and governments of the former Soviet Union that the governments will not be able to remove it. Therefore, it is time for a clarion call: If the governments of the former Soviet Union continue to scale back reform, they are doomed because they will gradually lose their ability to deal effectively with the mafiya.

VII. THE INTERNATIONAL THREAT

If the mafiya does become so entrenched in the former Soviet Union that the local governments cannot remove it, then it poses not only a domestic threat but also an international threat. After the collapse of communism, it was not long until the entire world began to feel the impact of the mafiya's rise to power.

One-third of all the serious crimes in Poland were attributed to the "Russian mafiya." . . . In Sofia, Bulgarian police reported that it was virtually impossible to open a business without paying protection money to Russian gangsters. Over an eighteen-month period between 1991 and 1993, Russian gangs were responsible for at least a dozen murders in Berlin.\footnote{185}{HANDELMAN, supra note 12, at 256.}

In addition to those crimes, Russian mobsters committed murders in New York City\footnote{186}{Id.} and Los Angeles,\footnote{187}{See Russian Organized Crime: Hearing Before the Senate Government Affairs Permanent Subcomm. on Investigations, CONG. TESTIMONY (FDCH), May 15, 1996, available in LEXIS, News Library,} and they are quickly becoming preeminent players

\footnote{185}{HANDELMAN, supra note 12, at 256.}
\footnote{186}{Id.}
in global money laundering,\textsuperscript{188} drug distribution,\textsuperscript{189} and prostitution.\textsuperscript{190} Nevertheless, despite growing mafiya involvement in those areas, it was the risk of Russian gangsters smuggling nuclear weapons out of the country that led U.S. Senator Sam Nunn to state, “organized crime in the former Soviet Union is fast becoming not only a law enforcement nightmare, but a potential national security nightmare.”\textsuperscript{191} Indeed, according to a group of Russian generals and admirals, it is not a question of whether nuclear weapons will be smuggled out of Russia. Rather, it is a question of when.\textsuperscript{192}

As a result of the threat the mafiya poses, governments around the world are justifiably concerned with its development. If the mafiya does become entrenched in the former Soviet Union, the world will have to fear both the mafiya and a more militaristic Russia. This result will occur because all States have a basic need for security.\textsuperscript{193} As the mafiya’s power in Russia grows, the amount of transnational crimes it commits will increase because of domestic market saturation. In response to this increase, the other nations of the world will begin to pressure Russia to control its crime problem. However, because of the presence of criminals and corrupt officials in the Russian legislature, the government will not take effective action against the mafiya. As a result, foreign nations will increase the pressure on the Russian government and may even refuse to invest in or trade with Russia. If this happens, Russia’s economic plight will worsen, public discontent will increase, and the Russian people will elect a more conservative and nationalist government. This government will feel increasingly threatened and isolated by the actions of the other world nations. It may attempt to remedy its security dilemma by increasing its military preparedness and armaments, a course of action which could increase international tensions and threaten a return of the Cold War.

CONCLUSION

\textsuperscript{188} CNGTST File (statement of Detective Bill Pollard).
\textsuperscript{189} See Shelley, supra note 26, at 831.
\textsuperscript{189} See HANDelman, supra note 12, at 195-206.
\textsuperscript{191} HANDelman, supra note 12, at 263.
\textsuperscript{192} Global Organized Crime Hearing, supra note 7, at 32-33 (statement of Arnaud de Borchgrave).
\textsuperscript{193} KENNETH N. WALTZ, \textit{THE THEORY OF INTERNATIONAL POLITICS} 126 (1979) (asserting that the interaction between States in an anarchical international system is governed by a quest for security).
The criminal time bomb is ticking, and the nations of the world cannot afford to waste a second because the longer they wait, the worse the situation will become. Russia and the other Newly Independent States of the former Soviet Union cannot be allowed to coexist with the mafiya. Instead, these governments must take immediate action to stop the mafiya's rise to power. Hopefully, with the assistance of the other nations of the world, the Newly Independent States of the former Soviet Union will be able to maintain steady economic and political reform and defuse the criminal time bomb before it explodes.