

THIEVES OF THE LAW AND THE RULE OF LAW IN GEORGIA

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Abstract

This article combines research on the Thieves of the Law in Georgia by a Georgian criminologist with the search for the real meaning of the Rule of Law in this former soviet country by an American lawyer. The first section of the paper cites some of the contradictory descriptions of the Thieves of the Law in the USSR and Georgia with a brief look at the functions of customary commercial law in emerging societies and concludes that the story of the Thieves of the Law is vital to understand the nature of Georgian society and the possibilities of establishing the Rule of Law in that Country. The next section illustrates the importance of and the continuing impact of the Thieves Law in national and international economic activities. A final conclusion stresses that defining law, crime and society is complex and that a knowledge of the particular stories of each is a necessary first step.

Keywords: Georgia, thieves in law, rule of law reform, crime, thieves code, traditions

Introduction

The establishment of the Rule of Law is important in all former Soviet states for social, political and economic growth. However, this establishment is not going as well as might be hoped. We believe that one reason for this is a failure to relate Rule of Law reform efforts to existing legal norms. The presentation of material on the Thieves of the Law in Georgia is intended to help reformers understand the current and historic legal context in Georgia. Although all Georgians are aware of the Thieves organization in Georgia, most foreigners have not been. But, when a university professor tells a Westerner that he might ignore laws passed by Parliament, but he would never ignore a Thieves' law, that law becomes interesting.

The interaction between Georgians and Americans regarding the Rule of Law is especially interesting because they are such opposite ends of the pole. Americans have a religious reverence for the Rule of Law, its procedures and manifestations, especially their Constitution. Georgians, on the other hand, automatically resist law in any and all forms because for most of

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their history “the law” has not been Georgian law but that of an overlord or conqueror. Although the Americans are not conquerors or colonizers, many Georgians tend to regard them as the current overlords. Georgians are happy to pass most suggested law reforms, possibly because they don’t have much intention to pay attention to them once they are passed. Perhaps understanding more about the legal context and history of Georgia would help make reform laws more effective.

Understanding the Thieves of the Law is one part of this effort. From one standpoint the Thieves, under the tutelage of the Soviet prison camp authorities learned to extend their historic guild or brotherhood into a more effective administrative structure and learned to extend that structure geographically throughout the Soviet prison camps in all of the USSR. Thus, an extended international criminal-economic organization is one more thing we have to thank the Soviets for. From another point of view, on a local basis the Thieves supplied local stability and support during the Soviet era. As the separate culture Caroline Humphrey refers to, they had an excellent welfare and tax systems and, of course, police force. They allowed the development of the shadow economy that sustained and enriched the country during difficult times.

As a political and economic force they have played and still play an important role. The interaction between Georgian clans and the Thieves is yet to be fully described, and their role in ordinary life in Soviet times when every neighborhood had its Thief also needs to be understood more thoroughly. It is hoped that this effort and the forthcoming American edition of the Glonti material will be a useful step toward an understanding that will underpin an effective effort to establish the Rule of Law.

The American Perspective: The Rule of Law in Georgia

I first went to Georgia as a Fulbright professor in the spring of 2000 because I thought the West, specifically the US, was not doing enough to help the former USSR learn democracy and the market economy. It seemed to me that the Soviets had never known much about either historically and they certainly hadn’t been free to study our way of doing things from behind the iron curtain. Given this total lack of familiarity or understanding of our complex system, worked out by us over hundreds of years, it appeared to me that the West was not adequately preparing Russia and the Newly Independent States (NIS) to function in their new free world. If anything the West was trying to teach these venerable societies about the free market and democracy and the Rule of Law about the same way someone might teach a child to swim by throwing him off the end of a dock. I thought I could at least put my little drop in the bucket by teaching American law in some area.

By my good fortune and Providence I wound up in Georgia. Georgian society was a revelation to me. I became slowly convinced that very little progress toward democracy, civil society and the free market economy was being made because the Western, more precisely American, culture and the Georgian culture did not understand each other. We Americans had all the good will, good intentions and technical expertise in the world, but good intentions do not necessarily result in good programs or progress. Nor was there much of a clear concept that the Georgians have an

extensive, intricate, sophisticated society and culture that has survived for centuries, not necessarily with any of the basic assumptions Americans make about the innate nature of man which includes a reverence for a written Constitution, a devotion to due process and a number of similar concepts which constitute the American civil religion. Assuming that American laws and market rules could be grafted onto Georgian society was like trying to graft an artichoke onto an orange tree. The reforms wither and die. The Georgians politely do what the Americans and other Western reformers ask by way of passing laws, adopting constitutions, changing police procedure, customs and tax procedures and instituting whatever other reform measures are suggested. And then, basically, nothing happens. As I left in June of 2000 an Agency was offering \$10,000,000 to implement the reforms that had been adopted. Many of those reforms are still not effective. However, it became clear to me fairly quickly that *something* was working because Georgia was not in anarchy nor was the society destitute. Even though there were not enough jobs, and public servants including teachers and professors were not being paid a living wage, Georgians went about their daily business in a way that indicated a common understanding of the laws of an economically viable society. Wondering just what these obviously unwritten laws were led me eventually to the Vory V Zakoni, the Ramidini or Thieves of the Law.

Georgians today seem to be becoming disenchanted with their American patrons and do not always understand that the Americans expect them to do a great deal for themselves. Their history has been that of responding to overlords, and picking those overlords carefully. I think they are beginning to wonder about us and it behooves us to understand them more thoroughly for all our sakes. One thing we need to understand more are the Thieves because they have had such a pervasive influence on Georgian society. Studying the Thieves of the Law might help us build a rule of law. Even if there is nothing adequately positive to be salvaged from the Thieves' culture, understanding it better might help explain Georgia in a way that would be useful. Further, the Thieves are not adequately studied for their role in everyday life. During the Soviet period, Thieves operated as neighborhood supervisors and judge-arbitrators. Every neighborhood had its Thief who never committed a crime himself. There was a senior Thief, sometimes called a "Thief in a Frame" who had been empowered to act as an arbitrator or judge. The Thief knew all about the neighborhood and had connections with other neighborhood Thieves. If your car was stolen your Thief could find it and tell you how much you had to pay to get it back (or not pay if you were connected to the Thief or he owed you a favor)--this is the example always given to foreigners on initial inquiry. The Thief could also clear the entryway of your apartment of homeless squatters whom the police refused to touch. He could arbitrate business disputes. This service would cost you something, probably related to the value of the business, but the result could not be bought and you could count on the Thief to enforce the decision. Thieves also collected a tax or tribute from all members of the organization for the general fund or treasury, usually kept in cash and hidden away. They saw to it that members of the families of those in prison were cared for from this fund. Above all, they provided protection, a krysha (Russian for roof) for businesses. That this concept is still operative is the media report that current President Mikhail Saakashvili, when speaking to Italian businessmen in Italy, said, "Come to Georgia; I will be your krysha!" Current activities are reputed to include financial advice as well as physical security.

Almost everyone realizes that history is extremely important to Georgians. They are proceeding into the new millennium with their eyes firmly fixed on the 12th century, the golden age of Georgia. There are also more recent historical experiences that shape their culture, their character and their society. Given the long history of Georgia constantly conquered by one or another neighboring empire, it is understandable that economic activity outside the law was the only way to sustain the family. The line between hidden economic ways of sustaining life under a repressive regime, the most recent of which even outlawed a market economy and private property, and crime in the traditional sense became and continues to be blurred, particularly given the strong duty and loyalty toward family in Georgia. As in many other cultures, family responsibility and cohesiveness have held Georgia together over centuries of foreign rule. The obligation toward family is still extremely strong. If a family member asks a favor, even if it is slightly illegal, and you refuse, you will be shunned, really shunned as in the old Puritan notions, not only by your family but generally; you will become an outcast in society. In a society that depends heavily on relationships for its organization and operation, this can be close to a death sentence.

In some of its rules or “laws”, the Thieves in Law parallel the Mafia as Georgia parallels Sicily. There are differences but much that is similar. Leoluca Orlando writes that Sicily was always a place to be exploited rather than governed; always a colony passed from one ruler to another without even the compensation of a harsh but effective government.¹ Georgia is much the same. Overrun by one powerful neighbor after another, it became the military staging ground for the clash of empires, Ottoman, Persian, Mongol, and Russian. Georgians learned not to accumulate property which could be requisitioned but rather to survive by other means, burying their wine cisterns and even their houses in the ground. Georgians are very smart and subtle. They learned how to survive. Russian literature is full of stories of smuggling in the Caucasus. When considering Georgia the Land of the Golden Fleece, it is well to remember that fleece is also a verb. As Peter Nasymth has written, “in historic times, no matter who won the battle, the Georgians usually went home with the gold in the caravan.”²

As with the Mafia, the Thieves stress honor, with an especially strict code of conduct and responsibility. Orlando calls this honor a myth for the Mafia and perhaps it is also the same for the Thieves who like the Mafia took over many functions of the state.³ No wonder that when the Shevardnadze government took over, like the Sicilians, it had to resist the Thieves as criminals in order to retake its own (governmental) power.

An additional factor affecting Georgia is that most recently it was a part of the Soviet Union where that great effort was made to destroy the concept of private property. What was legitimate economic activity in most of the world was a crime against the state in the USSR, often punishable by death. Further the Soviets originally viewed law itself as a capitalism institution, designed primarily to protect private property, and questionable at best. This again contributed to the blurring of the line between crime and politico-economic resistance.

¹ Orlando, Leolura. “Fighting the Mafia and Renewing Sicilian Culture”, San Francisco, Encounter Books (2001).

² Naysmyth, Peter. “In the Mountains of Poetry”, New York, St. Martin’s Press (1998).

³ Orlando, Leoluca. “Fighting the Mafia and Renewing Sicilian Culture”, San Francisco Encounter Books (2001).

The Bolsheviks in the Soviet Union had no problem in defining the Thieves as criminal but as they say, it takes one to know one. The Soviets were happy to use the Thieves ability to organize a society and enforce its rules as a way of governing the prison camps. Of course, the Thieves rather helped this effort by requiring prison time of applicants for Thief status, probably to reinforce their status as resisters to the overlords and to establish their authority as enforcers, as well as to reflect their own life patterns, but they were also probably influenced by the fact that they considered the Bolsheviks themselves to be criminals. Of course, Stalin and many others were Georgians. (They are considered by criminologists to have been criminals, but not Thieves.) They adhered to no governing Code like the Thieves did, and, once in power they made every attempt to eliminate those, such as the Georgian revolutionary leader Kamo, who knew them to have been criminal. Further, the communists in pre revolutionary times were quick to use funds obtained by crime. Revolutionary and political movements are often funded by crime of one kind or another that some revolutionaries doubtless do not classify as crime at all.

Different authors writing in English on the current criminal influence on economic development in the former Soviet Union interpret the term Thieves of the Law, differently. Since the Thieves have a Code obligation not to discuss their organization, akin to the Sicilian omerta, it is difficult to get definitive information; although in Georgia, Thieves are well known and understood in society. Solzhenitsyn refers extensively to the Thieves in the non-fiction Gulag books, without ever completely describing or defining them. One of the most pervasive stories about the origins of the Thieves is that they were formed in Soviet prison camps when Stalin threw unprecedented numbers of criminals, intellectuals and political prisoners together in groups that were uncontrollable because of their sheer size. The Soviet internal security police were said to have unofficially supported the Thieves as long as they kept order in the camps. However there is more than one point of view on what the story really is.

The Thieves Code prohibits any cooperation with state or government. This obligation caused a big split among the Thieves in prison camps during World War II when they were given the opportunity to serve in the soviet army, in violation of the Thieves Code. The return of those who fought to the prison camps caused a major battle called the bitches' war that weakened the entire Thieves organization considerably and created rival groups and factions. In later years some Thieves proposed that this rule among others be changed, and that the Thieves move toward being a more legitimate organization. One leader to take this position was Jaba Isoliani from Georgia who later served in the Goergian Parliament, the first Thief to do so openly. However the Thieves Congress at which this was proposed did not adopt that suggestion causing more splits and rivalries. One reason to try to understand the Thieves is that many of the criminal organizations that seem to be taking over a major part of the economies of many countries are based on the Thieves, even if they do not adhere fully to the Code and in fact war with the Thieves. Many other provisions of the original Code are also breaking down as the reason for the original Thieves and their original Soviet prison camp context no longer exists in the extensive form it once did. For example, it is often no longer necessary to have served in prison to be a Thief; in some organizations, coronation can be bought. Originally, Thieves could not achieve the highest status unless they had been in prison, were sponsored by existing Thieves served an apprentice-probationary period supervised by a Thief, and were voted in or crowned at a Thieves' meeting where they were given a new name or nickname. So who and what are they?

Johan Backman in *The Inflation of Crime in Russia* argues that the name of the Thieves should really be Acknowledged Thieves, because “zakoni” does not refer to law, but to something that is generally “acknowledged” by the underworld. He thinks “Thieves Professing the Code” is also a good suggestion, but “acknowledged thief” is better. But he also discusses the penchant of the Russian police culture of consciously stigmatizing groups and maintaining lists of stigmatized groups with detailed files as a method of law enforcement in a system depending heavily on extra-judicial discretion. Based on this analysis he asks whether this term, “has practically nothing to do with the actual underworld, but is invented and reinforced by the Russian police?” Could it be possible that the “acknowledged thief” is a pure police term and one of the stigmas serving the discretion of the Russian police culture?”⁴ That is, is it a term solely made up by the Soviet Ministry of Internal Affairs to strengthen their fight against this group by using a term which meant more or less acknowledged criminal leader, for purposes of stigmatizing the group and which ignored any political overtones.

On the other hand, Volkov refers to those who characterize the “Zakonniks” as lawyers, as “doctors of informal (unwritten) law.” He contrasts them primarily with the more modern emergent Russian criminal groups that he calls bandits. Others may think the bandits are modeled on Thieves but less constrained by their Code and more able to integrate into protection of the widest sort and forms of economic monopoly verging on and becoming totally legal, whatever that means in current Russian society. He quotes a speech of Putin’s as indicating that organizations which become totally legal should not have to worry about the original source of their capital, (possibly even as the American robber barons?).⁵

However, Federico Varese in *The Russian Mafia: Private Protection in a New Market Economy*⁶ raises the question of whether the Thieves were strictly a Soviet phenomenon arising in the overcrowded camps of the Stalin era or a product of pre-revolutionary Russia. He cites historian Jacques Rossi for the validity of the pre-Soviet existence of this group. He refers to the legends of the ‘old noble thieves world’ that tell of the heroics that existed in Tsarist Russia and cites Santere as an additional source. Others he cites say the opposite and the whole analysis is complicated by the fact that soviet analysts tended to label all crime and criminal organizations as inherited from capitalism. He says the term Vory-V-Zakoni only first appeared in criminal documentation and dictionaries in 1955, at the time when some the Thieves themselves were disappearing as a result of the bitches war. Another part of this problem is that some analysts see the Thieves as primarily an organization of convicts within prisons while others see widespread activity outside prisons. Varese also refers to historians who have chronicled thieves and beggars guilds in Russia from the middle of the nineteenth century onward. In comparing the guilds or arteli he finds the Thieves much better organized which he concedes may be a result of the Soviet prison camp system.

⁴Backman, Johan. “The Inflation of Crime in Russia”, National Research Institute of Legal Policy (1998).

⁵ Volkov, Vadim. “Violent Entrepreneurs: The Use of Force in the Making of Russian Capitalism”, Ithaca, NY, Cornell University Press (2002).

⁶ Varese, Federico. “The Russian Mafia: Private Protection in a New Market Economy”, Oxford University Press (2001).

While the Thieves' organization is in many ways reminiscent of the Sicilian mafia, unlike the Mafia, it is not strictly hierarchical, but rather distinctly democratic, or horizontal, or rather disorganized, depending on your point of view (Georgians tend to concede that they are disorganized, but also spontaneous). The organizational structure was more horizontal than vertical although there was also a clear progression in rank. Varese sees them outside the prison walls as a coalition of criminal leaders each controlling a sector but allied with each other.

Caroline Humphrey in *The Unmaking of Soviet Life* sees the Thieves as not an illegal network, but a separate world with distinct groups rather than networks. She also refers to the arteli and the bratva (fraternity) concepts. Her argument is that “the rackets are not only private suppliers of protection, nor simply ad hoc usurpers of state functions, but culturally distinctive groupings that use what we might call techniques of predation and patronage evolved from historically earlier Soviet contexts.”⁷ Her analysis is extensive and instructive. I would agree that the analysis of the Thieves requires an acknowledgement of a different, non-Western, definition of “the state” and definitely of the “Rule of Law”. Thieves in Georgia may well antedate the Soviet era. Analyses of their function and meaning need to recognize that opposition to the national government and its laws has been for centuries based on the fact that the governing power in Georgia has not been Georgian. Some Georgian Thieves have claimed a princely heritage from ataman times. The Soviets only increased this attitude by making the few activities that were legal new serious criminal offenses.

Some might say they helped hold the country together through a time of oppression and anarchy when private business was a crime and people suffered from economic deprivation as well as repression. Some allege that the current widespread international government corruption makes it hard to distinguish between criminals and newly emerging states which don't really exist in this part of the world as the West knows them. Writers on the economic role of criminal organizations after the fall of Communism stress that at least at the beginning, the state was just one organization among many with the potential for achieving order through controlled violence. The state must provide justice, a workable tax system, and an enforcement system of controlled violence. The Thieves do all that.

Some see positive elements in this system that ran Georgia for at least a century and built on folklore figures of earlier times like Arsena Odzelashvili whose statute can be found in Msketa, the ancient capital and spiritual center of Georgia and who robbed from the rich and gave to the poor. The Thieves do have laws. Even if they were originally named by the Soviet Militia as a means of stigmatization, their code and the necessity for obeying it certainly became widely known among the population. The Thieves regime was in a sense an alternate Rule of Law that was rarely violated since the consequences were serious to fatal. The Thieves are generally described as brutal, and they work to maintain that reputation. Nevertheless the Thieves enforced a legal system known to all and respected by many. Is it possible to have officially adopted the Thieves laws? Stephen Handelman of Freedom House has written in an article that at one point Georgia considered doing just that. He says, “Some countries, such as Georgia, have contemplated in effect giving up the battle by legalizing many of the existing practices of the

⁷Humphrey, Caroline. “The Unmaking of Soviet Life: Everyday Economies after Socialism”, Ithaca, NY, Cornell University Press (2002).

black market economy.”⁸ If Georgia had done this, it would not be completely unprecedented. Hernando DeSoto has documented that the American frontier law called the Homestead Act was not the result of legislative genius in Washington as was evidently given out at the time and is still so studied in American history, but rather a codification of existing frontier customary property law enforced by squatters’ associations. Further, even the lower federal courts as well as state legislatures refused to follow the U.S. Supreme Court decision, *Green v. Biddle*, upholding the rights of formal legal title holders over squatters titles. According to DeSoto, Congressmen eventually realized that squatters had a lot of votes and passed the Homestead Act and other legislation protecting the rights of those operating under squatters’ law. Interestingly, DeSoto titles one section discussing these issues, “Lawlessness or a Clash of Legal Systems?” He also writes:

*“It took the politicians some time before they awakened to the fact that alongside the official law, extralegal social contracts for property had taken shape and that they constituted an essential part of the nation’s property rights system. To establish a comprehensive legal system that could be enforced throughout the nation, they would have to catch up with the way people were defining, using and distributing property rights”*⁹

The question in DeSoto’s title seems extremely pertinent to the former USSR and Georgia. Looking for an answer to that question is one of the purposes of this work. The capacious American common law system, the life of which is experience rather than logic according to Oliver Wendell Holmes, Jr., also gradually encompassed the squatters’ law which included constitutions for claim associations and attendant rights for members. Although some squatter sanctions rivaled the Thieves in violence, most gave at least the illusion of due process.

Harold Berman in his latest book, *Law and Revolution II*, in discussing the emergence of capitalism in 16th century Germany, notes how many practices codified and systematized then had existed for centuries. He says that only economic historians have told this story so far, “yet it is critical also for legal history, since it reveals that a primary source of contract law in the sixteenth century was the customary law of merchants and bankers” The same was true for property law of the time.¹⁰ While at first glance it might seem a bit of a stretch to relate the Thieves law to emerging capitalist law in 16th century German commercial law, it is necessary to remember the discussions referred to above which points out that the whole concept of “state” and “law” is different in post Soviet societies and in Georgia in yet other ways. But as the foregoing examples indicate, the strength of customary law has been notable in achieving our current status of Rule of Law; the strength of the peoples’ law, considerable. And again, the question is what have the Thieves contributed and what do they still contribute, good or bad, to the peoples’ law for everyday life, and now, post-Soviet to the rules of economic activity?

⁸ Handelman, Stephen. “Thieves in Power: The New Challenge of Corruption”, *Nations in Transit* 45, 49.

⁹ DeSoto, Hernando. “The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else”, New York, Basic Books, (107-108, 131 et seq.).

¹⁰ Berman, Harold J. “Law and Revolution II; The Impact of the Protestant Reformations on the Western Legal Tradition”, Cambridge, Harvard University Press (2003) p. 166.

It could also be said that the society of Thieves has given the Country of Georgia the only uncorrupted and enforceable judicial system Georgia has ever known. This is in contrast to many state judicial systems in the CIS, including Georgia. In Georgia, King Vashtung VI writing an enormous new legal code in the 18th century nevertheless privately despaired of there ever being true justice in Georgia.

Georgi Glonti's study brings newly released information and an independent perspective to the discussion of these issues that pertains not only to Georgia, but to the entire region, and indeed the world.

From a socio-political perspective how this quasi-governmental organization is to be fairly categorized is a difficult question. Is it primarily a quasi-legal society or a quasi-criminal society so extensive it developed its own legal system? Is it or was it primarily political? Most importantly from a social perspective, how has it operated and how does it operate now? These Thieves speak of honor. Have they treated their fellow citizens with honor? Has the Thieves Law supported the day to day economic activity which allows a society to survive? And have the Thieves of the Law enabled Georgian families to survive when no other form of income was available, making all Georgians to some degree a part of the Thieves Rule?

This last question is an important one for Georgian society and Georgian self-image. Many Georgians, when told that an American was looking for the positive side of the Thieves would say, "Well thank you for that." I think that in their deepest hearts Georgians are ashamed of their cooperation and tolerance of the Thieves but have found no other way to survive. It is necessary to bring some of this into the light so Georgians can deal with the truth of these matters, their part in it, and the need to go forward. Also, since most Georgians admit to following Thief law more strictly than governmental law, it behooves reformers to know what sort of system the Georgians have been used to. Perhaps the Thieves are more Robin Hood than Mafia, perhaps not. We will try to contribute some knowledge to this evaluation.

The country of Georgia is still considered to be a lawless society by many. In 2004 it was estimated that up to 80% of its economy was still shadow, or extra-legal. It is often listed as the most corrupt country in a corrupt region. Elizabeth Pond, writing in the *Wall St. Journal* in 2000 commented that the Georgian system was not corrupt; corruption was the system.¹¹ Georgia has never had an opportunity to develop a tradition of the Rule of Law and as a nation still barely understands the concept. In the 18th century King Vachkung the VI of Georgia attempted to identify sources of law which could be used by Georgia judges (Persian law, canon law, maybe even Armenian law) and to enact 267 new laws to run the country, but even after he completed his great work, he wondered if there would ever be the kind of law which results in justice in Georgia. Law to Georgians has tended to mean oppression and they are in no hurry to obey it no matter what the source, whether it is tax law or keeping their seat belts fastened while taxiing to an airport terminal.

In 2003 authorities of Georgia on behalf of the president of Georgia, Eduard Shevardnadze repeatedly publicly declared that the problem of the Ramkiani, the "Thieves of the Law"

¹¹ Pond, Elizabeth. "The Wall Street Journal", (2000).

threatened the political and economic stability of the country. Sessions of parliament and the Ministry of Internal Affairs were repeatedly held to develop efficient methods to conduct the struggle against professional criminality. This is particularly interesting because one of the small junta who helped remove the democratically elected president, Gamsecurdia, and put Shevardnadze in office, or whom Shevardnadze used to take power, was a well known Thief, Jaba Ioseliani, who later became a professor of theatre and author who was assassinated after the beginning of Shevardnadze's campaign against the Thieves.

So how criminal are the Thieves? For a criminologist, an early question is whether there is a category of criminals known as *professional* criminals. Early criminology research did not distinguish between organized crime and the criminal professional; there was little analysis of individual motivation or status. Now, however, there is an emerging category of professional criminal, one who earns his living by crime, and this is where most think the Thieves belong. The Thieves in Law, including their judicial branch, the Thieves in a Frame, infiltrate every aspect of Georgian life, control large financial resources participate in organized crime, have extensive contacts abroad and generally run a tight ship at home. But, they are currently being superceded by more "modern" criminal organizations which do not have their reluctance to cooperate with the state in any form and are able to combine criminally obtained capital with cooperative state officials to take a "legitimate" business position. In Russia, Putin has indicated that the government will only look at current practices of organizations, not how they originally got their money. This will allow former criminal organizations to go legitimate, but although some individual Thieves have abandoned the organization to become legitimate businessmen the Thieves as a whole seem committed to non cooperation with state authorities and dependence on crime for income.

As mentioned above, there is an on-going debate among criminologists as to the connection or distinction between professionalism and organization in criminal activities. The criminal organization is stable and serves organizational ends, not personal agendas. A criminal organization is a professional business with clearly understood offices among its members, well-established connections with law enforcement and political authorities and so forth. Criminologists tend to consider organized crime not so much as a legal concept but as a complex social phenomenon whereas professional criminology is understood only as a criminal law concept which does not have sociopolitical characteristics. The authors of this work disagree with this analysis, since organized crime cannot be adequately understood without understanding professional criminals who are an integral part of criminal organizations. This is also important now that criminal organizations are moving into legitimate business.

The following excerpt from Georgi Glonti's book ¹², *Vory V Zakoni* is an illustrative description of a leading Georgian Thief who operated before and during the time of transition:

¹² Glonti, Georgi. "Vory V Zakoni" Tbilisi, Georgia (2004).

The Best Known Georgian Thieve

The Georgian Thieves leadership has had many personalities who exerted a big influence on the development of criminal society in the USSR and the countries of the CIS. Among those to be especially noted is a Legend **Jaba Ioseliani**, the actor-academic-politician.

Jaba Ioseliani was born in 1926. He was arrested for the first time at sixteen for larceny and soon achieved the supreme achievement in the criminal world, becoming "a thief of the law ". It was an unprecedented career at that time because of his youth. After his second arrest he disappeared from view and eventually was located in Leningrad. There, he lived under an assumed name and, without a secondary education, was accepted by the psychological faculty of the university. Unfortunately, he studied only four years. At twenty nine he was again arrested for participation in armed robbery and was sentenced to 25 years. By intervention of national leaders of the USSR theatre community, Sergo Zakariadze and Medeas Dzhaparidze, who were Georgians, his prison term was reduced and, as a consequence, Ioseliani was transferred from Russia to a Georgian prison colony where he was elected a thieves "curator" (overseer) of a zone.

Ioseliani was freed at the age of forty. He finished evening school and was admitted to the Theatrical Institute of Tbilisi due to the support of the then Minister of Finance of Georgia, P. Ananiashvili. Subsequently he successfully defended his candidate and doctor's dissertations (The theme of the latter: "Comedy masks of the Georgian theatre"), taught theater science in the Tbilisi Theatrical Institute and at the State University, and wrote plays which were successfully presented at a Theatre given financial support by Mardzhanishvili.

There are data that for all these years, the underworld maintained the rank of "the thief of the law" for Ioseliani. Young thieves learned endurance and the creative relation to business, by the example of the operation conducted in the 50's under Ioseliani's management in Moscow. He and his comrades devised the idea of putting their own cash registers in some consumer stores, and regularly punched buyer's cheques for several hours and then left with the proceeds leaving the shop to fend for itself. There is evidence that Ioseliani took part in the all-Union Thieves' Congress of 1980 at which questions of changes in the Thieves' Code and participation in commercial activity were decided which resulted in big changes in the further development of the criminal community of the USSR and the CIS.

At the end of the 1980's to the beginnings of the 90's the political stage rightfully claimed this person of destiny and abilities. Jaba Ioseliani would become one of the central state figures of independent Georgia. Ioseliani was the first of the all-Union Thieves who, having been in prison about 25 years was elected a deputy of the Supreme Soviet of Georgia (Parliament) and the councilor of president E. Shevardnadze from 1992 for 1995.

Ioseliani debuted in policy in 1989 when during the election of the People's Deputies of the USSR he held himself out as the authorized representative of the well-known public figure. Akakija Bakradze. We must recognize a successful debut: A. Bakradze became a People's Deputy, probably, because Ioseliani played a role in his success. In the Soviet society of the time,

especially in Georgia, the implication that a person was involved in the criminal underworld always was appreciated above all as a mark of courage and the ability to counter the authorities.

The tragic events of April 9, 1989 in Tbilisi that so painfully affected the destiny of Georgia and the USSR forced Ioseliani to make the decision that it was necessary to create an armed force for the protection of the interests of the nation. The need for such a force soon presented itself. In the summer of 1989 the relations between Georgians and the Azerbaijanians living in the Marneulsk area of Georgia appeared headed for bloodshed. The memory of the Tbilisi events was still fresh, and groups of armed Georgian youth rushed to Marneulsk to protect their compatriots. Among them there were both idealists and people with doubtful pasts. In August about 30 Georgian men who had participated in the Marneulsk events gathered in the Tbilisi stadium "Dynamo" and named themselves the "Mkhedrioni" (Cossack) squad. The idea of voting for candidates for commander did not arise. The post was offered to the most authoritative representative, Jaba Ioseliani who accepted without hesitation.

Ioseliani began at once to push forward his political ends using the Mkhedrioni. Their leitmotif was embodied in the following declaration: "We do not obey any political forces or state structures, and we serve the interests of the nation. We shall participate in interethnic conflicts to protect the peace of the population ". Actually, during the first stages of civil war in Abkhazia and South Ossetia, the members of the Mkhedrioni did not noticeably participate in fighting or marauding. However the rise in Georgia of an uncontrollable armed force led by such a leader as Ioseliani frightened everyone, especially Z. Gamsahurdia who confidently went on to victory in the general election for president. Ioseliani never hid his negative relations with Gamsahurdia, especially during the political process of 1987. The program of action which Ioseliani supporters aimed at Gamsahurdia is reflected in a statement of the time: "To remove this vermin before he has ruined all the people".

The overall objective of Ioseliani during this period was to give the Mkhedrioni official status as a militia or military force. In September, 1990 some weeks prior to the defeat of the communists at elections, Ioseliani succeeded in registering the Mkhedrioni as a legal person or organization. He was helped in this task by an old friend, the first vice-president Sovmina Guram Mgeladze, presently a substantial businessman controlling a solid share of the gaming industry in Moscow. The Mkhedrioni achieved the status of a recognized legal entity for the purpose of acting as rescuers in cases of natural disasters. That designation allowed Ioseliani to create legal bases and divisions in different areas of Georgia.

The Mkhedrioni was also registered as public organization without the right of possession of weapons; however, they kept actively armed and by this time they already had armored vehicles. These activities were watched closely by Gamsahurdia who, after his victory at the elections, immediately cancelled the registration of the Mkhedrioni and forbade its functioning. However he decided that the right opportunity to dissolve this organization had not yet come. The decree of President Gorbachev of the USSR "About dissolution of the illegal armed formations ", made public in the winter of 1990 helped since the possibility of asking for the help of the Soviet Army thereby appeared. On February, 18, 1991 special troops called Zakvo conducted operations on seizing illegal weapons and technical equipment in the territory of a former Komsomol small town, a suburb of Tbilisi where the central base of the Mkhedrioni had been established. The

result of this exercise was a little injury to men on both sides, and the arrest of the head of the Mkhedrioni and his closest lieutenants. Ioseliani was charged with “Illegal storage of Makarov pistols” and thrown into prison.

During this period in prison together with Jaba Ioseliani there were a leader of South Ossetia Toretz Kulumbegov, chairman of the National Democratic party of Georgia George Chanturija, and the cameraman George Haindrava. All of them were recognized by International Amnesty as prisoners of conscience. While in prison Ioseliani was put forward as a candidate for the presidential elections. Having found out about it, Gamsakurdia hastily convened a session of parliament and changed the law.

Jaba Ioseliani well knew how to react against arbitrary authorities when in prison. He at once declared a dry hunger-strike and maintained it for forty two days. Only after much persuasion he accepted a plea from hands of the Orthodox Patriarch of Georgia, Ilia II to cease his strike. As with many a folk hero, the time in prison, became for Ioseliani the peak of his popularity.

In December, 1991 Jaba Ioseliani was freed. Six days earlier demonstrations against president Gamsahurdia had begun in Tbilisi. The revolt was headed by the head of the National Guard, Kitovani--the main shock force for the putsch - but they had such serious early losses that they ceased storming the presidential palace. So, the support of Ioseliani was solicited and he mobilized the Mkhedrioni since the majority of members had not earlier entered the fighting because their leader was in prison.

Two hours after being freed Ioseliani acting on this request, notified his forces to mobilize with the words: "All forces: on overthrow status". Within one day Kitovani's national guardsmen received the required reinforcement. (To tell the truth, the criminal world, while opposing this political dictatorship, did not forget itself: in a shipment of two hundred Kalashnikov rifles, only half remained the next day.).

Word had it that Ioseliani also decided Z. Gamsahurdia's destiny. Answering the offer of the president of Armenia, Levon Tep-Petrosyan to grant asylum to his Georgian colleague, Ioseliani reportedly agreed thus saving Gamsahurdia's life. The Mkhedrioni recorded victory over Gamsakurdia by a phrase which was probably supreme, in the annals of political frankness: "In Georgia there came into authority a known Thief over an unknown sculptor". The explicit understanding of the measure of Kitovani's popularity and political possibilities made Ioseliani immediately the main supporter of the return to Georgia of Eduard Shevardnadze. In a conversation with the former Minister for Foreign Affairs of the USSR, held on January, 6, he formulated his position thusly: “Why send in Hodia on the soccer field if we have Pele?” To the supporters of Gamsakuria on whom he this very day ordered his troops to open fire, Ioseliani addressed another aphorism: "Building Democracy is more difficult than eating beans.”.

In his subsequent capacity as vice-president of the Council on Safety and Defense and as a deputy in Parliament Ioseliani began to lobby for his power base, the fine figures of the underworld. Due to the insistence of Ioseliani, in 1993 an amnesty for prisoners was declared. As a result about five thousand criminals were released. Ioseliani also precisely defined the spheres of economic influence between him and Kitovani: on one side a tribute would be collected for

the Mkhedrioni, on another the national guards grazed. “While I am alive, dictatorship will not happen ” - so Jaba Ioseliani stated his views which have established his place and position on the Georgian state. Probably he was right; dictatorship and criminal power cannot be jointly held. But as it usually happens in politics, yesterday's thieves and robbers bring with themselves those customs and rules by which they lived before. So the question of principle was raised for Georgia: shall we live under Thieves' Law, or will the fashion for criminal politicians pass?

In 1995 Ioseliani, with a group of colleagues, was convicted of the charge of “change to the native land” or treason and of the organization of an assassination attempt on President Eduard Shevardnadze as well as the organization of the assassination of the leader of the National Democratic party, George Chanturia, the head of the presidential Fund, Soliko Habejshvili and the chief of a traffic police, George Gulua. A number of other well known criminals were incriminated also. The Mkhedrioni were outlawed. In 1998. Ioseliani was sentenced to 11 years of deprivation of liberty, but in 2001 he was released. Ioseliani once again became interested and involved in politics. Shortly before his demise he stated his intent to participate in parliamentary elections.

In 2003 Jaba Ioseliani died in the central clinic of the Tbilisi University Medical Institute. He died after not regaining consciousness after an assault instigated, some believe, by political opponents. Leading Russian and European doctors came to treat him, but they appeared to be powerless. He was buried in the pantheon of Didubisk, the cemetery for state and public figures of Georgia.

Conclusion

Glonti's work shows that professional criminality in territories of the former USSR and in Georgia in particular has deep roots and is closely connected to sociopolitical conditions at various historical stages of development of the society.

The thieves' community has arisen and was developed in the bowels of the repressive Stalinist system of the GULAG and was essentially transformed during the period of the Khrushchev-Breshnev era. The original organization characterized, on the one hand, irreconcilable confrontation with a ruling government, and, on the other, a symbiosis with camp administration in the business of operation of the camps and supervision of inmates in penal servitude for the fulfillment of socialist five year plans.

The modern community of Thieves of the Law has regenerated itself as mafiosi-like gangsters of organized crime although it has kept the traditions of some formal rituals having more symbolical than practical value. At the same time modern Thieves as leaders of criminal societies are a terrible force which did, during the reorganization of the former USSR and the wild capitalism of the 80's-90's-and beyond, succeed in getting financial power, political influence and transnational criminal connections which make them even more dangerous to the existing nation state or any social system.

This is an international problem, the solution to which many believe lies in essentially new legal approaches including more perfect and coordinated actions of policemen and financial systems of the countries of the CIS and of other nations.

The question also persists as to whether the Thieves have any positive aspect. In “Global Organized Crime in Latvia” the authors make the following comments:

“From the global view, organized crime as a transnational anti-social reality is a phenomenon with a powerful intellectual and material potential. However, on the other hand, this phenomenon also inspires a few positive consequences:

- It is able to initiate consolidation of countries with different orientations and legal system;
- It determines the development of new legal systems, organizational forms, technologies and methods intended to control the phenomenon itself, and from a dialectical aspect, it can encourage the progress society.”

These authors also agree with Viano’s statement in 1995 that economic revitalization in the former Soviet areas requires a “genuine social partnership that embraces all elements of the people in a common economic task which in turn requires overall fairness, equity in the distribution of property, income and social services.”¹³ And, they believe this kind of social and economic justice would also counteract organized crime. Along with many others they see the necessity of developing national structures to deal with organized crime, but some commentators on the current international efforts at nation building are beginning to wonder if the days of the nation state are numbered. If so, social and economic justice in those states that remain and survive becomes increasingly important as do efforts to establish social and economic justice on a world wide basis.

The Thieves may have had, and do have, more of a positive influence in Georgia than elsewhere. Today, the Thieves organization in Georgia has yielded to Georgian family values and the clan organization which is the basis for much of social organization. Thieves in Georgia do marry and their Thieves titles do tend to become hereditary, with sons following fathers as Thieves. Further, although there is a new anti crime legislation from the U.S. and Italy and a stronger police force and some thought that the Thieves are weaker in Georgia, the perceived failure of the new tax policies of the Saakashvili government for small businesses has led to an increase in the shadow economy that will benefit the Thieves. As elsewhere, Thieves are entering the legitimate business world, and have perhaps more incentive to do so since their existence is perhaps historically more political than elsewhere. For these reasons, understanding the Georgians Thieves better is one way to help understand the Georgian approach to the Rule of Law.

¹³ Viano, Emilio C. (ed.) “Global Organized Crime and International Security”, Burlington, VT, Ashgate (1999).

Appendix:

The Thieves Code

There were seven basic laws in the Thieves Code:

1. A thief must be faithful to and support the basic thieves' idea.
2. A thief is forbidden to have any contact with law-enforcement agencies.
3. A thief must be fair in all relations with all others, both to "thieves in the law " and to authorities.
4. A thief has a duty to support and define the thieves' environment, especially for young members.
5. A thief is forbidden the following:
 - a) A thief must refuse to cooperate with any power structures;
 - b) A thief must refuse to give evidence in criminal investigations or to courts of justice;
 - c) A thief must refuse to confess to a perfect crime;
 - d) A thief must remain silent concerning accomplices and their presence (for example, dispositions of "raspberry");
 - e) A thief must not have property or savings;
 - f) A thief may not have a family;
 - g) A thief must periodically be imprisoned;
 - h) A thief may not carry weapons;
 - i) A thief may not be employed under any condition;
 - j) A thief must maintain order in his zone of influence by resolving conflicts and refusing to take sides in quarrels and fights;
 - k) To heat (to adjust procurement) ШИЗО1 and ПКТ2;
 - l) A thief must "fill up the thieves' blessing," i.e. collect a tribute from all convicted, concluded and other persons;
 - m) A thief must honour his parents (especially his mother);
 - n) A thief must not join any parties or associations;
 - o) A thief must understand the thieves basic concepts.
 - p) A thief must teach correct concepts of life to youths, and explain them;
 - q) A thief must not have a registration (registration);
 - r) A thief must be honest in gambling games among thieves;
 - s) A thief must have up to six assistants.