

Universities in the fight against mafias

Research, teaching and training

Edited by Stefano D'Alfonso and Gaetano Manfredi

Federico II University Press



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As indicated in the forthcoming pages, this research was conducted in partnership with the CRUI, the anti-mafia parliamentary committee and the ministry of University and Research when this was led by ministry and Professor Gaetano Manfredi.

The person in charge of this research project is Professor Stefano D'Alfonso and the activity has been developed within the operations of the interdisciplinary research lab on mafias and corruption (Lirmac) of the Department of Social Sciences of the University of Naples Federico II in partnership with numerous professors of other Italian universities.

The book cover shows a section of the fresco of the Federico II University Board Room from the early 1900s. The artist is Gaetano D'Agostino. The subject depicted is the great historical ride of 1615, with the University's move from the convent of San Domenico Maggiore to the Palace of Studies. The city enters the Academy.

The photograph on the cover is by Professor Isabella Valente, published in the cultural heritage portal (porbec.it), in the Federico II section – Università dell'arte.

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2. *Law Studies**

With reference to the analysis of the contributions from scientific disciplines to the study of mafias, an initial methodological premise that we wanted to make is that the individual disciplinary macro-sectors are generally dealt with by a university researcher recognised as an expert in the field for his scientific commitment.

There are, however, some specific conditions in which it was deemed necessary to apply a methodological variant that envisages the involvement of several scholars in the analysis of scientific products pertaining to disciplinary scientific sectors falling within the same macro-sector. These are cases in which scholars deal with one or more Academic Discipline.

There are two conditions to which reference is made.

The first concerns the case in which there is a considerable number of contributions in certain macro-sectors. This is the case with Law Studies.

The second condition is given by the substantial difference that exists between some academic disciplines belonging to the single macro sector in terms of the expertise of the individual scholars: think of the profound distinction between Criminal Law and Private Law or, to give a further but different example, that between Political Economy and Economics and Business Management, which fall within the common macro sector of Economics.

The following academic disciplines are included in the macro-field of Law Studies, which is discussed in more detail here, and whose affiliated scholars have dealt with the topic of mafias:

- IUS/01 – Private Law
- IUS/02 – Comparative Private Law
- IUS/04 – Business Law
- IUS/07 – Labour Law
- IUS/08 – Constitutional Law
- IUS/09 – Public Law
- IUS/10 – Administrative Law
- IUS/11 – Ecclesiastical and Canon Law
- IUS/12 – Tax Law
- IUS/13 – International Law

* This paper has been written by Stefano D'Alfonso.

IUS/14 – European Union Law
 IUS/15 – Civil Procedural Law
 IUS/16 – Criminal Procedure
 IUS/17 – Criminal Law
 IUS/18 – Roman and Ancient Law
 IUS/19 – History of Medieval and Modern Law
 IUS/20 – Philosophy of Law
 IUS/21 – Comparative Public Law

In light of the above, the macro-sector ‘Law Studies’ has been broken down into 5 scholars for each of the following academic disciplines:

1. Private Law, Comparative Private Law, Business Law, Civil Procedural Law, Labour Law
2. Constitutional Law, Public Law, Administrative Law, Ecclesiastical and Canon Law, Tax Law
3. International Law and European Union Law
4. Criminal Procedure and Criminal Law

The different academic disciplines grouped in this way are therefore analysed according to the guidelines applied to all macro-sectors indicated in Chapter 3, Section I.

Prior to the analytical study of the scientific production developed by individual scholars, in order to also have an overall analysis for the macro-area of Law Studies, it is deemed appropriate to provide a single reading, so as to avoid the dispersion of a synthetic overview.

Firstly, among the different disciplinary macro-sectors, the law studies one, as can be seen in figure 2, shows considerable attention on the part of scholars,

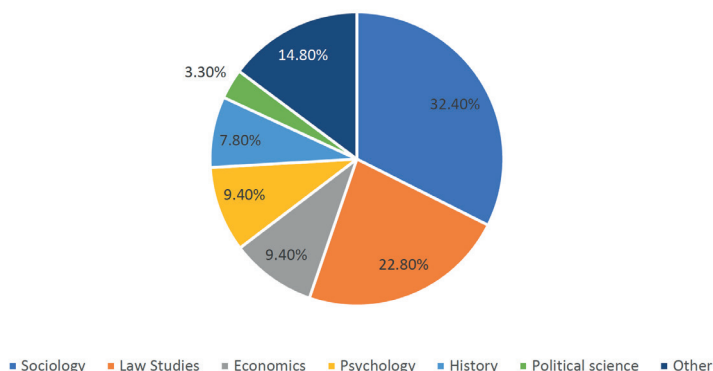


Figure 2. Publications by academic macro-sector

III. University research in the field of organised crime

which is only surpassed, from a quantitative point of view, by scholars from the sociology macro-sector, which is notoriously the one most sensitive to the scientific study of the mafia phenomenon in its various articulations. Law studies are followed by studies from the macro-sectors of Psychology, Economics and History.

Looking at ‘law studies’ in detail, from a quantitative point of view, it is useful to highlight the distribution of scientific works among the various scientific disciplines. This is well represented by figure 3.

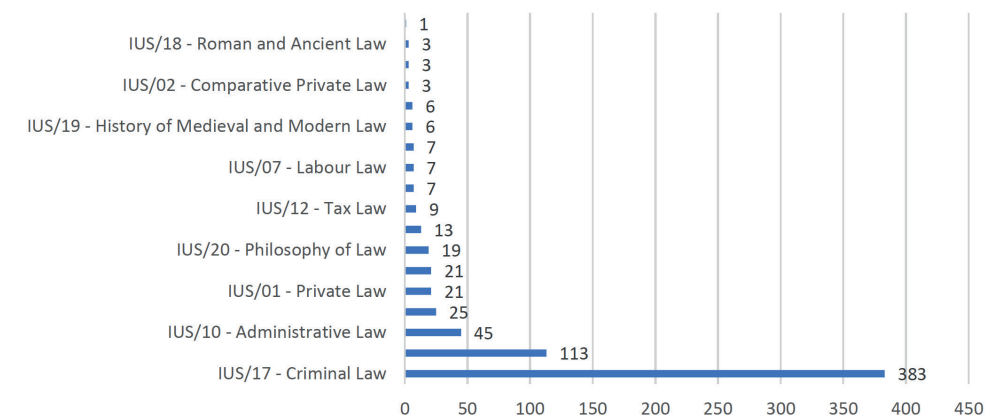


Figure 3. Total number of publications by Academic Discipline in the macro-sector ‘Law Studies’

The criminal law disciplines – first and foremost Criminal Law, which has almost 400 publications, and then Criminal Procedure, with over 100 – confirm the increased attention that scholars in this field have been devoting to the subject of mafias for quite some time. The peculiarities of the scientific commitment are described in the dedicated paper below⁵¹. It is also interesting to note that the Academic discipline Criminal Law, taken individually, is by far the one with the greatest commitment of legal scholars compared to all the academic disciplines.

⁵¹ See section on Criminal Law and Criminal Procedure by Giuseppe Amarelli.

The reasons underlying this distribution of the Criminal and Procedure Academic disciplines seem easy to determine. The criminal-legal aspects of the mafia phenomenon have always been at the centre of a scientific debate which, albeit enriched by several scientific disciplines, requires constant attention in following both the evolution of laws and the regulatory aspect within the dual scope of 'the established law' and of 'the view to the future law'.

Going back to the distribution of academic disciplines within the macro-sector of 'Law Studies', the role of Administrative Law can be highlighted and analysed alongside similar disciplines such as Constitutional Law and Public Law. Many of the topics addressed overlap while others are more specific to that particular academic discipline, as illustrated in Chapter 3, Section 2 above.

Looking at the total number of publications by university in these academic disciplines, we can observe a fairly even distribution of attention levels, although there seems to be more commitment on the part of the University of Palermo and the University of Naples Federico II.

In addition, there seem to be quite high levels of attention on the part of scholars in the field of International Law, which has general-interest relevance as the topics addressed are original and followed at international level (see Chapter 3, Section II above). This discipline can be put together with Comparative Public Law and European Union Law although the latter two disciplines show lower levels of attention devoted to the themes of the present publication (see Chapter 3, Section II for a more detailed analysis of this).

Disciplines such as Private Law and Business Law, which overlap in some subjects such as confiscation and its consequences at different levels, albeit from different perspectives, also have a special weight in the attention that jurists pay to the subject. As for the former, the one with the greatest productivity, the predominant role of the Sicilian universities of Messina and Palermo can be noticed.

A further discipline whose contribution should be highlighted is Philosophy of Law. The University of Bologna demonstrates the greatest scientific interest. It was decided to treat this academic discipline jointly with other disciplines or topics whose number of publications was not deemed sufficient to require a specific in-depth study (e.g. Theoretical Philosophy, History of Philosophy and History of Medieval and Modern Law). On the other hand, a particularly active discipline such as Legal Sociology, Deviance and Social Change, due to the characteristics of the topics dealt with and its inclusion in another macro-sector, is developed in the in-depth studies dedicated to the macro-sector of Sociology.

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Further disciplines are also included in broader analyses in view of the lesser attention devoted in the individual academic disciplines. Among these is Labour Law, which, albeit representing at first glance a visual angle through which to investigate important phenomena related to the mafia phenomenon (e.g. mafia penetration in the workplace and therein the protection and safeguarding of labour relations) has few active contributions and mainly from the University of Catanzaro.

An interesting fact is the distribution of scientific contributions in the legal sciences at regional level and more specifically by university.

In terms of ‘macro-territorial areas’, the number of legal contributions from universities in southern Italy accounts for more than 50% of the total (figures 4-5).

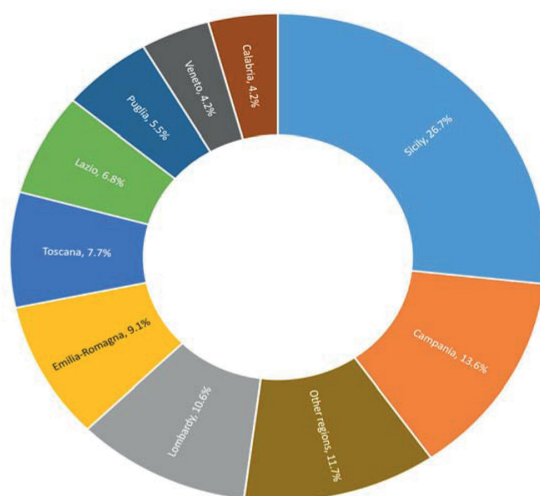


Figure 4. Total number of publications by region

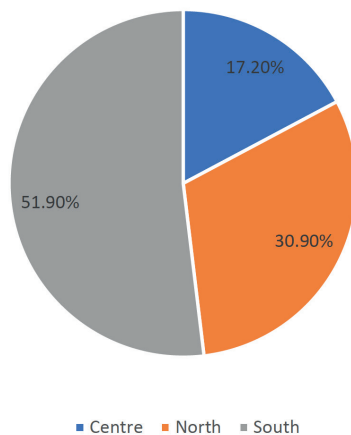


Figure 5. Distribution of products by geographical macro-area

What stands out is that the region of Sicily is the one that has paid the most attention to mafia issues over time, mainly thanks to the contribution of scholars in Criminal Law and Criminal Procedure. In these areas, the most active university is that of Palermo (which, incidentally, also confirms the figure when all the disciplinary macro-sectors are considered together). The Sicilian universities also record a concrete commitment on the part of scholars of Administrative Law, as well as of other disciplines, which is highlighted by the table below with reference to Palermo (figure 6).

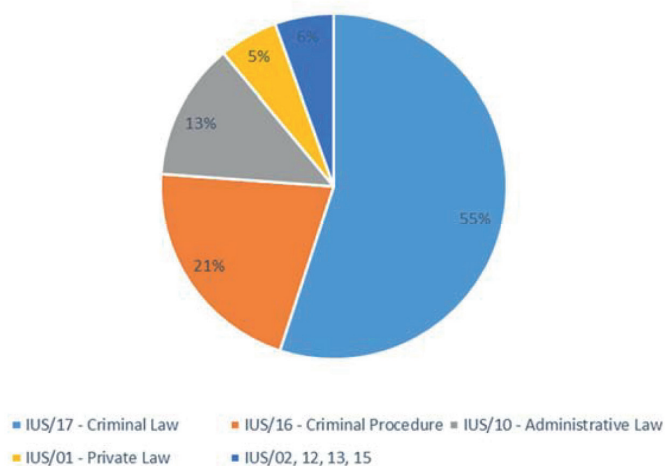


Figure 6. Total publications in the macro-sector Law Studies. University of Palermo

An equally significant role is played by the University of Catania, and almost exclusively by Criminal Law scholars (figure 7).

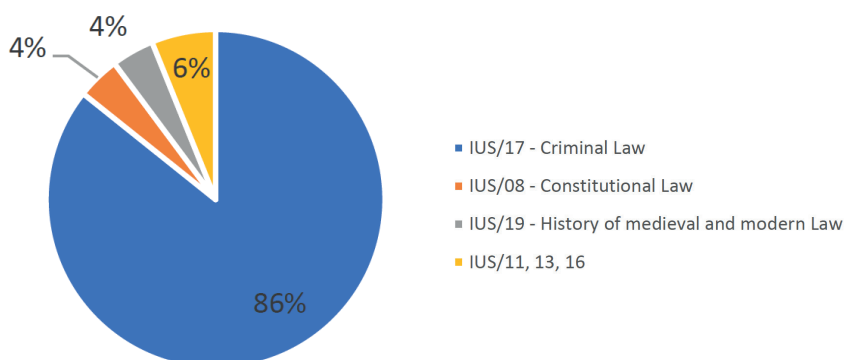


Figure 7. Total publications in the macro-sector Law Studies. University of Catania

III. University research in the field of organised crime

Another university that is significantly committed to law studies is the Federico II of Naples: Criminal Law contributes predominantly to this result.

Many other universities are similarly committed, as shown in the following diagram (figure 8).

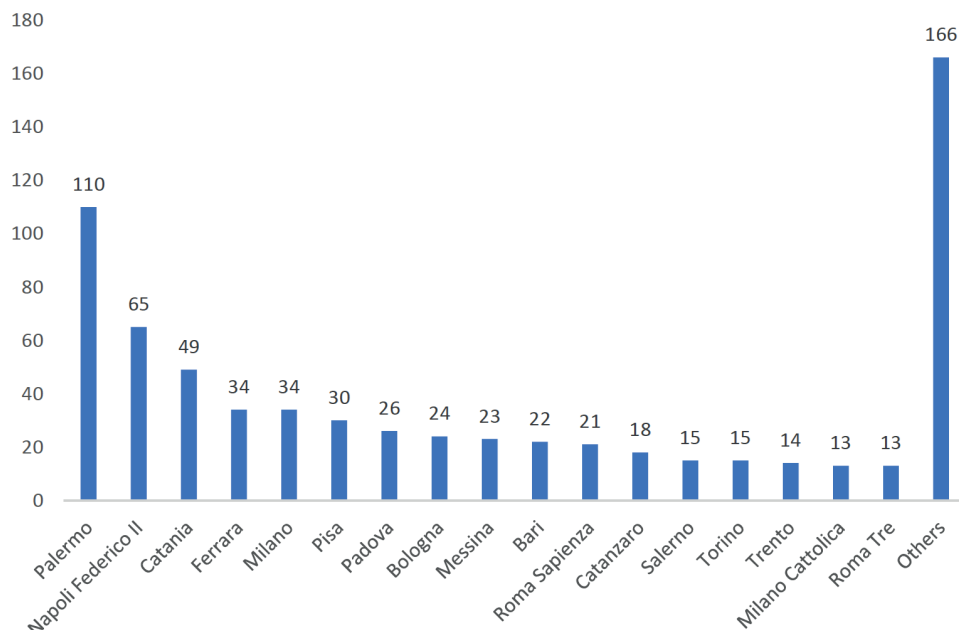


Figure 8. Total number of publications in Law Studies by university

It might also be interesting to link the analysis of content to the chronological distribution of scientific production. Keeping in mind that the most specific aspects of each discipline will be dealt with in dedicated parts of this volume, it can be interesting to notice some general features of the macro-sector of Law Studies (see figure 9 for the chronological distribution of publications).

Since the 2000s, production has been fluctuating, with a peak between 2012 and 2013. This surge is produced by Criminal Law first (see figure 9) and then, in 2013, by Criminal Procedure and Administrative Law.

Universities in the fight against mafias

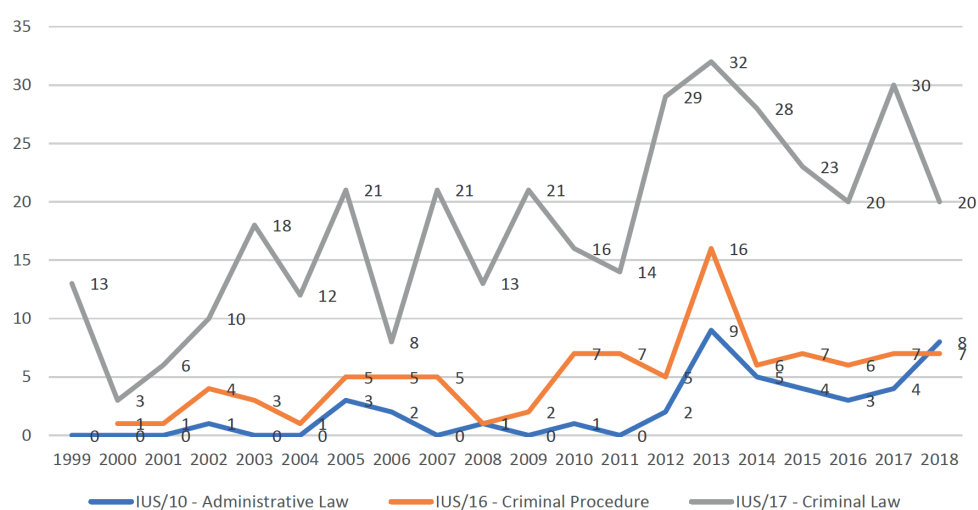


Figure 9. Chronological distribution of publications in Criminal Law, Criminal Procedure and Administrative Law (1999-2018).

If we take a closer look at the titles of publications, the surge in their number can be explained, for example, by referring to the introduction of the new anti-mafia Code, approved with legislative decree n. 159 on 6th September 2011 and which has a strong influence on many legal aspects falling within the scope of different academic disciplines.

At the same time, a significant interest can be detected in the topic of ‘concorso esterno’⁵² which has been the subject of several legal pronouncements, including from the Italian Cassazione (Supreme Court). This topic has always been one of the most commonly investigated by Criminal disciplines (see Chapter 3, Section II for a more detailed analysis of this).

These are merely a few examples of potential in-depth analyses that could be carried out by cross-referencing a variable like time with content-related aspects for each of the disciplines that form the object of the detailed investigation.

The data we currently possess enable the observer to elaborate a few further considerations. Amongst these, the use of other languages of communication,

⁵² *Translator’s note: According to Italian Law, the phrase ‘concorso esterno’ (external participation) indicates the crime of aiding and abetting a mafia-related organisation and is opposed to the different felony of being a regularly participating member of a syndicate (associazione mafiosa).*

different from Italian. The figures confirm a fact that is well-known to Law Studies scholars, which is to say that almost all of the papers in this sector are written in Italian. As for most of the academic disciplines, the percentage of Italian articles is almost 100% – this is the case, for instance, with some of the most important ones such as Administrative Law, Constitutional Law and Public Law. In other disciplines, the use of a foreign language for publications is close to 10%, as is the case with Criminal Law, Criminal Procedure and Private Law, with the former two showing the use of languages different from English, i. e. mainly Spanish and some works in German and French. Clearly, when looking at publications belonging to International Law, the percentage of works written in a foreign language is much higher and stands at around 40%.

This fact can be commented on in different ways. Firstly, in terms of the ability to contribute to the European and international debate on mafias. For instance, many publications of our Law scholars would receive much wider attention and greater impact if their dissemination potential was increased as they could contribute not only to the scientific debate but also to the in-depth analysis carried out by European and international institutions. As is commonly understood, many of the legal norms established in our codes are widely and greatly praised abroad. Take the identification of ‘*associazione mafiosa*’ (mafia-type organisation), for example, alongside its related other crimes such as ‘*concorso esterno*’ (external participation). The same can be said of other disciplines and norms, such as those related to (anti)money-laundering or to the regulations and application of norms in the field of asset confiscation. In order to understand how publications from Italian scholars might contribute to the international debate, a few papers from International Law experts can be considered, as these are the ones that make the wider use of a foreign language in their publications (mainly English). While a more in-depth analysis of this sector can be found in Chapter III, Section II, we can here point out that publications in English in the sector of International Law have been mainly focused on topics relevant at international and European level, including those that support policy making, spark debates on new regulations (i.e. *International Law and transnational organised crime, Regulation of Money Laundering*) and help broader frameworks in need for more commonly shared features (i.e. *The Notion of Organized Crime and the European Convention on Human Rights*; *The Notion of Organised Crime: Why Definitions Matter*; *Redefining Organised Crime: A Challenge for the European Union?*).

Taking a closer look at sectoral studies in a foreign language on topics related to our own legal system, it can be noticed that the authors are foreigners or

Italians permanently working for foreign institutions such as universities. Besides the obvious appreciation for such contributions, we cannot but highlight that there is wasted potential of Italian contributions, including on issues of domestic interest.

In light of the above-mentioned considerations, scholars of Law Studies should probably focus their attention on this fact which can also be observed in most of the other academic disciplines, except a few where there seems to be a clearly higher percentage of papers written in English due to specific features (i.e. Economics).

Another important indicator regards the types of publication according to the categories of the Iris database. The sector of Law Studies stands out for showing a higher-than-average figure in monographies (figure 10).

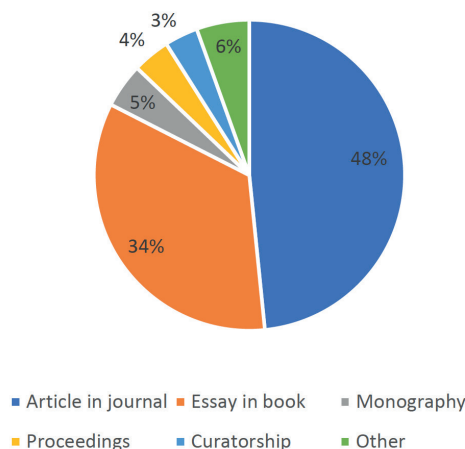


Figure 10. Total publications in Law Studies by type.

Although this mostly depends on the specific features of each macro-sector (on the whole, for instance, the number of monographies in Economics is limited), we believe that such a large number of monographies represent a plethora of in-depth and complex studies which can contribute to the scientific and institutional debate on these issues. Take monographies on the abovementioned ‘concorso esterno’ (external participation) for instance, or those about the politics-mafia relationships and on the links between mafias and professionals, as well as those on asset confiscation, the dissolution of city councils, the penitentiary regulation 41-bis, or mafia-related tax and asset audits.

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Furthermore, two extra pieces of information need to be reported here. First of all, there seems to be a majority of contributions produced by single authors, rather than teams, differently from what happens in other disciplines. One of the reasons underpinning this trend can be identified in the specific features of each academic discipline involved in this macro sector, where it is generally more convenient for authors to publish and sign articles under their sole name.

One last fact regards the distribution by gender amongst authors of publications, where males account for 70% of the total.

*Private Law, Comparative Private Law, Business Law, Labour Law**

This section of the report has dealt with the results of research activities carried out in several academic disciplines included in the Private Law realm, hereby broadly intended.

In particular, what is included in this area are the products falling within the scope of Private Law (IUS/01), Comparative Private Law (IUS/02), Business Law (IUS/04), Labour Law (IUS/07) and Civil Procedural Law (IUS/15), totalling about 40 contributions distributed across a period ranging from 1993 to 2019. Nevertheless, our attention is mainly devoted to works published since the year 2000, as the Iris database only guarantees high reliability in the period 2000-2018, with a few extra entries for 2019.

The first point to highlight is the uneven distribution of scientific products in the different legal disciplines considered. Indeed, more than half of these products belongs to Private Law, with 21 in Private Law and 3 in Comparative Private Law. In addition, 14 other studies are produced in the Business Law area, with an even distribution within this sector among Business Law and Labour Law (7 works each) and only 1 paper in the area of Civil Procedural Law.

As regards the research topics of each sector, the picture is varied, partly due to the variety of disciplines investigated. Despite this, it seems noteworthy to highlight the frequency of products that analyse general features of mafias alongside others that focus on more specific aspects of the phenomenon.

Thus, for instance, in Private Law there are wide-ranging studies aimed at investigating the interactions between Civil Law and regulations combating mafia-type organisations at both subjective and objective levels, as well as studies

* This paper has been written by Maura Ranieri.

The commitment of Italian universities to education in the field of legality and to research on the subject of mafias is the main focus of this investigation edited by Stefano D'Alfonso and Gaetano Manfredi. For the first time, data is shown about the overall framework of teaching and research activities dedicated to this topic, with twenty-nine scholars from different academic disciplines and several universities who come together to reflect on the current situation and on the commitment of universities in the fight against mafias, highlighting both strengths and weaknesses of the system. The reflections illustrated here bring to light the dynamic nature of the local and cultural context where universities operate as well as the type of interaction that these institutions maintain with the national and local context. At the same time, it seems clear that great expectations are held at various levels in terms of what universities could do, especially with regards to the demand for knowledge about the best ways to fight mafias. This research reveals that Italian universities possess a considerable capital of knowledge which represents a 'hidden treasure' to be valued and used with the aim of promoting widespread awareness of their role in the anti-mafia field.

This book is the result of cooperation between many university professors and researchers, the Parliamentary anti-mafia Committee, the Conference of Italian University Rectors (CRUI) and former minister of University and Research Gaetano Manfredi, under the supervision and coordination of the interdisciplinary research laboratory on mafias and corruption (Lirmac) of the Department of Social Sciences of the University of Naples Federico II. This network of professionals and institutions enabled the construction of a significant database where teaching and research activities carried out by scholars from different universities can be identified, across about one hundred academic disciplines spanning from Sociology to Law, from History to Economics.

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