

# THE GLOBALIZATION OF CRIMINAL VIOLENCE

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## INTRODUCTION

The current debate on globalization concerns not only its effects on economic and political processes, but also on crime and its violent variations. The complexity of the globalization phenomenon demands conceptual clarification before exploring its relationship to criminal violence. Globalization touches upon virtually every fiber of human life: economy, politics, culture, law, public health, science, and ecology. Numerous theories revolve around the notion of globalization and its multiple meanings. Faced with such a complex constellation of theoretical and semantic propositions, one must emphasize that globalization is not merely an idea, but first and foremost a fact.

Roland Robertson best characterized globalization as a “compression of the world” as exemplified by prodigious developments in the technology of transportation, communication, and information transmission.<sup>1</sup> Viewed in a historical context, our present globalization is only one stage in the progressive linkage of humanity. This process began in archaic societies with the discovery of rudimentary tools that allowed the gradual enlargement of social systems and continued through numerous technical advances, such as printing, railways, sailing vessels, steamships, telephones, jet planes, and the Internet.<sup>2</sup>

The economic aspect of the planet’s compression has been the extraordinary expansion of commercial and financial markets. Intensified trans-societal forces push us toward a “borderless global economy,”<sup>3</sup> where business, finance, and trade flows acquire a planetary dimension.<sup>4</sup>

One of the positive aspects of globalization occurs at the cultural level, where the general consciousness of the globe as a whole has intensified.<sup>5</sup> Awareness of the global human interest, expressed by Delbrück as the “common good of humankind,”<sup>6</sup> bolsters efforts to universally protect human rights, preserve the environment, and provide general economic and social welfare. Moreover, this normative conceptualization of globalization strengthens the possibilities for a peaceful and democratic international order. On the road towards human unity, in those areas

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<sup>1</sup> ROLAND ROBERTSON, *GLOBALIZATION: SOCIAL THEORY AND GLOBAL CULTURE* 8 (1992).

<sup>2</sup> See Jeffrey D. Sachs, *Globalization and the Rule of Law* (Yale Law School Occasional Papers, Second Series, Number 4, 1998); see also Charles François, *El Camino de la Globalización: Una Visión Sistémica* 5 (1999); William Twining, *Globalisation and Legal Theory* 7 (2000).

<sup>3</sup> Mike Featherstone & Scott Lash, *Globalization, Modernity, and the Spatialization of Social Theory: An Introduction*, in *GLOBAL MODERNITIES* 2 (Mike Featherstone et al. eds., 1995).

<sup>4</sup> Sachs, *supra* note 2, at 5.

<sup>5</sup> See ROBERTSON, *supra* note 1, at 8.

<sup>6</sup> Jost Delbrück, *Globalization of Law, Politics, and Markets—Implications for Domestic Law—A European Perspective*, in 1 *GLOBAL LEGAL STUD.* J. 11 (1993).

where unification is warranted, globalization has opened new opportunities. Instead of a tyrannical and ideological homogenization, global respect for human rights protects local cultures, while breaking them out of political and economic isolation. Indeed, as shown by the supranational experience of the European Union, a considerable degree of economic and political unification not only tends to preserve regional cultures through democratic institutions,<sup>7</sup> but also avoids the catastrophic destruction of those cultures through war.

Not all effects of globalization, however, are benign. Violence is one undesirable attendant effect. In the area of international commerce, Alex Seita has designated certain “commodities” associated with violence as “violence commodities.”<sup>8</sup> He affirms that:

Illegal or not, the demand for (and supply of) particular commodities can often be a contributing cause of violence, whether narrowly defined to mean death or serious physical injury to human beings, or broadly defined to include psychological harm to human beings and physical harm to other living organisms and the environment.<sup>9</sup>

Drugs are related to violence both on the side of drug users who commit robberies to buy them, and on the side of suppliers who use violence to protect, obtain, or distribute their commodity.<sup>10</sup> Similarly, the connection to violence is evident in other antisocial behaviors, such as the traffic of land mines, child prostitution, and the killing of dolphins through deep-sea drift net fishing.<sup>11</sup>

Economically driven transnational violence appeared long before recent developments in globalization. Two examples of this type of violence are the search for wealth that led to the conquest of the New World, and the Opium Wars fought by Great Britain against China to overcome restrictions on opium sales.<sup>12</sup>

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<sup>7</sup> This is the case of the Committee of the Regions created by the Treaty of Maastricht, of 1992.

<sup>8</sup> Alex Y. Seita, *The Role of Market Forces in Transnational Violence*, 60 ALB. L. REV. 635, 637 (1997).

<sup>9</sup> *Id.* at 637.

<sup>10</sup> *See id.* at 638. M. Cherif Bassiouni explains that drug violence can be divided into three types:

(1) intramural violence between traffickers fighting to control supply routes or sales routes; (2) violence to hinder law enforcement efforts; and (3) addiction related violence. [Furthermore, it is argued that the decriminalization [of drugs] would at best eliminate the first two categories of violence, and reallocation of enforcement dollars to drug treatment would significantly reduce the third.

M. CHERIF BASSIOUNI, *INTERNATIONAL CRIMINAL LAW* 944 (2d ed. 1999).

<sup>11</sup> *See Seita, supra* note 8, at 638-39.

<sup>12</sup> *Id.* at 637.

Today, in a world characterized by the acceleration of human interaction, vital problems have also become global. Problems such as economic crises, epidemics, transborder pollution, nuclear radiation, ozone depletion, global warming, computer viruses, and computer piracy no longer respect the sanctity of national borders.

Crime is one of these global problems. Criminal activities, old and new, have proliferated, and the threat of violent crime has increased in intensity and scope as a result of globalization. The advances in communications and transportation technology, the openness of borders and the computer networks that make these borders irrelevant, reduced state authority, cyber-finance, and offshore banking have enabled organized crime to create flexible, global networks and thus evade state regulations and cumbersome international law enforcement. The transnational expansion of criminal organizations has increased the level of violence through turf wars, reprisals, and attacks on state enforcement agencies and political officials. Organized crime has created a market in violence, subcontracted to and perpetrated by local criminals.

Global trade in weapons of mass destruction, the spread of information about manufacturing nuclear, bacteriological, chemical, biological, and radiological weapons, and targeted publicity by a globalized mass media has allowed non-state sponsored terrorism to become a chilling possibility. Once available only to a handful of powerful nation-states, individual players and small states now have access to tools of global destruction and terror. Furthermore, globalization has created incentives for local violent crime by threatening employment, wages, and social safety nets in industrial countries. The global circulation of capital and the promulgation of neo-liberal economic policies generates an ever-growing gap between the wealthy and the poor, enhancing the attraction of criminal choices.

Conversely, globalization may also be a positive factor in reducing crime. International cooperation has become an important tool to prevent and punish global crimes, as evidenced by the increasing influence of mutual assistance treaties and cross-border policing. To face new challenges, the indispensable globalization of crime control may also become the most powerful factor in containing both local and global crimes.<sup>13</sup>

This paper will address two challenges posed by the relationship of globalization to violent crime, both of which endanger democracy in different ways: 1) the emergence of global crimes, namely transnational organized crime and terrorism; and 2) the way globalization creates new

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<sup>13</sup> See generally J.W.E. Sheptycki, *Policing, Postmodernism, and Transnationalization*, in *GOVERNABLE PLACES: Readings in Governmentality and Crime Control*, 215 (Russell Smandych, ed., 1999) (writing that the globalization of free market policies creates opportunities for transnational crime, but also for increased transnational policing).

incentives for local crime, including crimes committed in resistance to globalization. Furthermore, this paper will explore global responses to those challenges, including the intensification of international cooperation, the refinement of legal instruments, and a deeper awareness of the ethical implications.

## I. THE NOTION OF GLOBAL CRIME

Senator John Kerry has eloquently dispelled the notion that crime today is a local phenomenon, pointing out that “vast poppy fields in eastern Turkey are linked to the heroin dealer in downtown Detroit,” that “the banker laundering drug money in Vienna is in league with the thriving cocaine refineries in Colombia,” that “the men of the Chinese triads who control gambling and extortion in San Francisco’s Chinatown work the same network as the Singapore gang that turns out millions of fake credit cards,” and that “the contract hit man who flies from Moscow to kill an uncooperative store owner in New York, on behalf of the Organizatsiya, gets his fake papers by supplying the Sicilian Mafia with Soviet Army surplus ground-to-air missiles to smuggle into the Balkans to supply the Bosnian Serbs.”<sup>14</sup>

Global crime “is a new phenomenon that profoundly affects international and national economies, politics, security, and, ultimately, societies at large.”<sup>15</sup> The main driving force of this phenomenon is drug trafficking. The importance of global drug trafficking is evidenced by a single cocaine seizure made in Los Angeles in 1989, which was at the time the world’s largest single seizure ever.<sup>16</sup> The 21.4 metric tons of cocaine hydrochloride stored and protected by only a six-dollar padlock “had a street value of around six billion dollars—more than the gross national product of 100 sovereign states.”<sup>17</sup>

Global criminalization of drug trafficking has generated market conditions for the supply of drugs in various regions of the world, and contributes an estimated \$190-\$250 billion per year to organized international crime.<sup>18</sup> Others, including Paul B. Stares,<sup>19</sup> a Senior Fellow

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<sup>14</sup> JOHN KERRY, *THE NEW WAR: THE WEB OF CRIME THAT THREATENS AMERICA’S SECURITY* 24 (1997).

<sup>15</sup> MANUEL CASTELLS, *END OF MILLENIUM* 166 (1998).

<sup>16</sup> Alison Jamieson, *Global Drug Trafficking*, in *TERRORISM AND DRUG TRAFFICKING IN THE 1990s*, 69, 69 (Alison Jamieson, ed., 1994).

<sup>17</sup> *Id.* at 69.

<sup>18</sup> MARK FINDLAY, *THE GLOBALISATION OF CRIME* 103 (1999); Peter B. Martin, *Confronting Transnational Crime*, in *GLOBAL ORGANIZED CRIME AND INTERNATIONAL SECURITY* 25 (Emilio C. Viano, ed., 1999).

<sup>19</sup> H. Richard Friman & Peter Andreas, *Introduction: International Relations and the Illicit Global Economy*, *THE ILLICIT GLOBAL ECONOMY AND STATE POWER* 17 n.2 (H. Richard Friman & Peter Andreas, eds., 1999) (citing PAUL B. STARES, *GLOBAL HABIT: THE DRUG PROBLEM IN A BORDERLESS WORLD* 2, 123-24 (1996)).

in the Brookings Foreign Policy Studies Program, and the 1994 United Nations Conference on Global Organized Crime, estimate that annual retail sales of illegal drugs doubled in the last decade, to reach \$500 billion – an amount larger than the global trade in oil.<sup>20</sup> In Thailand, the annual \$85 billion profit from drug trafficking doubles the country's earnings from exports.<sup>21</sup>

Tom Farer, Dean of the Graduate School of International Studies at the University of Denver, questions these macro-figures because they do not specify “whether they are based on the street price paid by retailers in the target country or if they are based on the price paid by those smuggling organizations that do not themselves handle retail sales.”<sup>22</sup> In any event, regardless of the method used to measure the magnitude of drug profits, results would still be daunting. In the United States, Peter Reuter points to the important macroeconomic consequences resulting from the diversion of about 5% of total consumer spending to illegal goods and services.<sup>23</sup> In addition, globalization generates global criminal networks, facilitating a high level of white-collar corruption and diffusing models of illegal economic activity worldwide.

Mark Findlay, Deputy Director of the Institute of Criminology at the University of Sidney, notes that crime relationships can no longer be analyzed as isolated from the process of economic globalization, but as another essential market force.<sup>24</sup> Indeed, criminal organizations conduct their activities in a similar manner to a legitimate enterprise and in a similar way they restructure in response to changes in world markets and its regulations.<sup>25</sup> However, crime organizations have to be distinguished from other market forces, not because of their inherent corruption and violence,<sup>26</sup> but for the intrinsic noxiousness of the goods they deliver.

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<sup>20</sup> CASTELLS, *supra* note 15, at 169 n.4.

<sup>21</sup> PASUK PHONGPAICHT, GUNS, GIRLS, GAMBLING, GANJA: THAILAND'S ILLEGAL ECONOMY AND PUBLIC POLICY 86 (1998).

<sup>22</sup> Tom Farer, *Conclusion Fighting Transnational Organized Crime: Measures Short of War*, in TRANSNATIONAL CRIME IN THE AMERICAS 245, 260 (Tom Farer ed., 1999).

<sup>23</sup> Peter Reuter, *The Economic Significance of Illegal Markets in the United States: Some Observations in 3 THE ECONOMICS OF CORRUPTION AND ILLEGAL MARKETS* 64, 64 (Gianluca Fiorentini & Stephano Zamagni eds., 1999).

<sup>24</sup> FINDLAY, *supra* note 18, at 1.

<sup>25</sup> Sabrina Adamoli et al., *Organized Crime Around the World*, 31 HEUNI 10 (1998); see also JAMES H. MITTELMAN, THE GLOBALIZATION SYNDROME 211 (2000) (“Crime groups are similar to legitimate businesses in that they embrace the logic of the market, show great flexibility in initiative, and are also hierarchically structured.”).

<sup>26</sup> Farer, *supra* note 22, at 247-48. The author reminds us that in an earlier era major American corporations conducted their labor relations by hiring thugs to break strikes and intimidate labor organizers. He mentions that even a corporation like Ford Motor Company at one point allegedly employed criminals for the express purpose of violating the rights of its workers.

Drug trafficking and other forms of global organized crime affect vital individual and social interests, such as the health of the population.<sup>27</sup> Not only does drug-trafficking correlate with high public health costs, but also with “social costs,” such as gang associated crimes and a general deterioration of family and community life.<sup>28</sup> Indeed, the drug trade is inherently violent. The enforcement of the deviant order and authority imposed by transnational criminal enterprises perpetuates this violence. The widespread privatization of violence has blurred the boundary between public and private use of force.<sup>29</sup> Charles Tilly singles out, among other instances of private violence, the collaboration of national armies and police forces with drug lords to terrorize, extort, and engage in illegal trade on their own.<sup>30</sup>

Also, the globalization of communications, especially with the creation of the Internet, has become the means for a variety of criminal activities that range from sexual attacks against unwary children and adolescents, to the organization of criminal enterprise.

Terrorism is considered here as a global crime because of its possible global effects through large-scale indiscriminate violence, facilitated by technological advancements, which are even available to modern, free-lance individual terrorists.

Globalization not only creates contexts for new forms of crime, but also affects the frequency and intensity of localized traditional patterns of crime. The compression of the world has also considerably affected the dimensions and nature of traditional crime. Moreover, tribalistic reactions against current globalization under the guise of ethnic or nationalist ideologies have in turn brought about their own catalogue of violent crimes, sometimes attaining the level of genocide.

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<sup>27</sup> Geoffrey Pearson, *Drugs at the End of the Century*, 39 *THE BRIT. J. CRIMINOLOGY* 477, 478 (1999). The author asserts that the health risks resulting from some drugs are widely acknowledged and accepted within the scientific community, however, he questions whether the crime control measures taken to prevent health risks have been self-defeating.

<sup>28</sup> Rensselaer W. Lee III, *Transnational Organized Crime: An Overview*, in *TRANSNATIONAL CRIME IN THE AMERICAS*, *supra* note 22, at 1, 11. The author also cites an estimate of the social costs of drug abuse, mostly crime-related costs, of \$67 billion per year. *See also* OFFICE OF NATIONAL DRUG CONTROL POLICY, *REDUCING DRUG ABUSE IN AMERICA* 14-15 (1997).

<sup>29</sup> Charles Tilly, *Forward* to ANTON BLOK, *THE MAFIA OF A SICILIAN VILLAGE 1860-1960*, xiv (1975); *see also* Andrew Hurrell, *Security and Inequality in INEQUALITY, GLOBALIZATION, AND WORLD POLITICS*, 248, 259 (Andrew Hurrell & Ngaire Woods eds., 1999).

<sup>30</sup> *See* BLOK, *supra* note 29, at 6.

## II. SPECIFIC GLOBAL CRIMES

### A. GLOBALLY ORGANIZED CRIME

#### 1. *Scope*

The dramatic technological and scientific innovations that underlie the process of economic globalization have contributed to the parallel globalization of organized crime, making it more efficient, profitable, and noxious. Furthermore, organized crime capitalizes on the main products of the global economy, such as reduced border and custom control. Immigration has also favored this type of globalization as migrants are followed by criminal organizations from their homeland, especially within ethnically isolated groups.<sup>31</sup> In organized crime, violence constitutes the main instrument to ensure authority and legitimacy within the organization.

The main organized criminal operations are the Italian Mafia, the Russian mob, the Japanese *Yakuza*, the Chinese Triads, the Colombian cartels and the Mexican criminal organizations.<sup>32</sup> These are in turn subdivided. In Italy for example, organized crime is traditionally represented by three groups: the *Camorra*, around the Naples region; the *'Ndrangheta* throughout the region of Calabria; and the *Cosa Nostra*, or Sicilian Mafia.<sup>33</sup> The *Sacra Corona Unita*, a relatively new group, is concentrated in Puglia.<sup>34</sup> Highly organized criminal enterprises can also be found on a smaller scale in other countries such as Nigeria, Poland, Jamaica, Panama,<sup>35</sup> and most recently in Southern and Eastern Africa.<sup>36</sup> The Russian Mafiya, with its heritage of violence and contract killings,<sup>37</sup> began by infiltrating and taking over cooperative enterprises, key industries, and the media; "This 'new' Mafiya reflected the political and economic power of a criminal class more sophisticated than anything Russia had ever experienced before."<sup>38</sup>

Drug trafficking is the most prevalent form of organized crime. However, anything that receives added value from its prohibition is also part of the trade. This encompasses traffic in persons;<sup>39</sup> counterfeit cur-

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<sup>31</sup> Friman & Andreas, *supra* note 19, at 12.

<sup>32</sup> JAMES R. RICHARDS, TRANSNATIONAL CRIMINAL ORGANIZATIONS, CYBERCRIME, AND MONEY LAUNDERING 5 (1998).

<sup>33</sup> Regarding the latter, Anton Block contends, however, that Sicily has never had any single organization one could properly call "The Mafia." Tilly, *supra* note 29, at xiv. There is only a phenomenon called Mafia, which is the sum of the interactions of men wielding power through systematic use of private violence. *Id.*

<sup>34</sup> See RICHARDS, *supra* note 32, at 8.

<sup>35</sup> See KERRY, *supra* note 14, at 21.

<sup>36</sup> See Adamoli, *supra* note 25, at 20.

<sup>37</sup> See FINDLAY, *supra*, note 18, at 29.

<sup>38</sup> STEPHEN HANDELMAN, COMRADE CRIMINAL: RUSSIA'S NEW MAFIYA 21 (1995).

<sup>39</sup> See *infra* Part II.A.6.

rency; theft and illegal export of cultural property; theft and trafficking in automobiles; illegal traffic of rare metals, oil, and natural resources; software piracy and other computer related crimes; illegal migration; and trafficking in nuclear components<sup>40</sup> and in weapons, including those of mass destruction.<sup>41</sup>

## 2. *Organized Crime as a New Authoritarianism*

Although a standard definition of democracy is increasingly elusive, the most ordinary usage of the word in the United States, Europe, and Japan is “a fusion (but quite often a confusion) of the idea of power of the people and the idea of legally guaranteed individual rights.”<sup>42</sup> In this sense, democracy and respect for the rule of law are pre-conditions for a stable and prosperous global market society.<sup>43</sup> Ironically, democracy also creates favorable conditions for organized crime. However, this type of criminal activity will ultimately undermine the very foundations of democracy.

Until recently, dictatorial states and authoritarian ideologies threatened democracy. After the collapse of the Soviet Empire, the weakening of the Chinese communist regime, and the end of military dictatorships in Latin America, overt threats to democracies seemed to disappear. However, new forms of authoritarianism crept into the crevices of this democratic order.

Transnational organized crime, characterized by Louise Shelley as “[t]he new authoritarianism,” rapidly took advantage of the vacuum left by weakened centralized state power.<sup>44</sup> Indeed, the weakening and decline of the nation-state has paved the way for a new non-state authoritarianism, represented by transnational organized crime groups, which affect all aspects of society in countries as disparate as Russia, Colombia, Mexico, and Italy.<sup>45</sup> New structures of violence are growing under the cover of democracy and threatening it.

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<sup>40</sup> See Jamieson *supra* note 16, at xiv (stating that nuclear components originate in the former Soviet Union and then spread to Western Europe and the Third World).

<sup>41</sup> See Richard L. Williamson, *Law and the H-Bomb: Strengthening the Nonproliferation Regime to Impede Advanced Proliferation*, 28 CORNELL INT'L L.J. 84, 140 (1995); see also Barry Kellman & David S. Gualtieri, *Barricading The Nuclear Window – A Legal Regime To Curtail Nuclear Smuggling*, 3 U. ILL. L. REV. 667 (1996).

<sup>42</sup> Bernard Crick, *A Meditation on Democracy*, in THE CHANGING NATURE OF DEMOCRACY 255, 257 (Takashi Inoguchi et al. eds., 1998).

<sup>43</sup> Sachs, *supra* note 2, at 6.

<sup>44</sup> Farer, *supra* note 22, at 267-68 (referring to the fact that Russian organized crime was already in place during the Communist regime: “Embedded in the new Russia were economic enterprises skilled at functioning outside the legal economy and habituated to a culture of corruption”).

<sup>45</sup> See Louise I. Shelley, *Transnational Organized Crime: The New Authoritarianism*, in THE ILLICIT GLOBAL ECONOMY AND STATE POWER 25, 32 (H. Richard Friman & Peter Andreas eds., 1999).

Modern organized crime has an enormous potential for intrusion and disruption of democratic institutions, such as the judicial system, politics, law enforcement, and the media. In Russia, for example, crime syndicates penetrated the media to the extent that "the press fell victim to a more violent form of censorship than it had experienced under the Soviet regime."<sup>46</sup> Violation of democratic human rights is part of the picture of violence and intimidation. Webster and others have underscored contract killing as one of the most pernicious problems for Russian law enforcement. This is reflected in a 1996 Russian Ministry of the Interior annual report, which mentions that of 562 contract murders in Russia in 1994, only 132 were solved.<sup>47</sup> Stephen Handelman mentions mobsters fighting open battles over territory in the streets of Russian cities, "leaving their victims riddled with bullets in Chicago-style gangland assassinations."<sup>48</sup>

Some forms of organized crime are inherently authoritarian. For example, the *Cosa Nostra* has exercised violence to secure political and financial power, thus imposing its own authority on the democratic society. It is, in a certain way, a state within a state, with its own government, army, financial resources, and territorial competence. Further, it has achieved control of the neurological centers of the democratic state by achieving representation in the main governmental, judicial, and corporate entities.<sup>49</sup> Similar situations can be found in Southeast and Southwest Asia where drug production and trafficking operate either outside the reach of governmental power, or in collusion with it. In South America, narco-traffickers, together with extremist paramilitary groups, have manipulated the political institutions that oppose them.<sup>50</sup>

Democracy is affected by organized crime in progressive degrees until it ultimately infiltrates the legitimate government at all levels, rendering it powerless.<sup>51</sup> As Tilly points out, organized crime may parallel government in some respects, such as the use of effective means of coercion, and the taxing of producers of wealth.<sup>52</sup> Ultimately, organized crime, with its anti-democratic power structure and violent procedures, substitutes for state social services, security, arbitration of business disputes, and financial assistance.<sup>53</sup> Shelley gives examples of organized

<sup>46</sup> HANDELMAN, *supra* note 38, at 23.

<sup>47</sup> See CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, RUSSIAN ORGANIZED CRIME: GLOBAL ORGANIZED CRIME PROJECT 41 (1997).

<sup>48</sup> HANDELMAN, *supra* note 38, at 3.

<sup>49</sup> Jamieson, *supra* note 16, at 32.

<sup>50</sup> *Id.* at 102.

<sup>51</sup> Martin, *supra* note 18, at 25.

<sup>52</sup> Tilly, *supra* note 29, at xix.

<sup>53</sup> R. James Woolsey, *Global Organized Crime: Threats to U.S. and International Security*, in GLOBAL ORGANIZED CRIME: THE NEW EMPIRE OF EVIL 134, 143 (Linnea P. Raine & Frank J. Ciluffo eds., 1994).

crime assuming state responsibilities: the long tradition of Chinese Triads and Japanese Yakuza performing social welfare functions, and a new similar phenomena in Colombia and Russia. The Yakuza compensated for the state's slow reaction in helping earthquake victims in Kobe, Japan, and Pablo Escobar, the Medellin drug kingpin, financed educational and sports facilities.<sup>54</sup>

Manipulation through fear by organized crime groups is an equivalent of the traditional intimidation typical of all authoritarian governments.<sup>55</sup> Weak and corrupt government structures have abdicated their duty to protect their citizens. These governments reinforce the power of non-state actors through collusion and bribery.<sup>56</sup> Furthermore, transnational crime groups not only influence their states of origin, but also extend their influence abroad to the countries where they operate. They even undermine the administration of justice in the foreign countries where they conduct their operations. Shelley cites cases of law enforcers bribed in the United States and in different European countries to ignore drug smuggling and trafficking and money-laundering.<sup>57</sup> Also, thousands of contract killings perpetrated by transnational crime groups remain unpunished. This situation leads to citizen passivity in the face of organized crime, thus perpetuating this type of non-state sponsored authoritarianism.<sup>58</sup> Not only does organized crime undermine democracy through intimidation, violence, and corruption, but it also leads to a reduction of civil liberties as a result of the comprehensive and transnational measures needed to combat it.<sup>59</sup>

Donald Cressey views the structure of the American confederation of crime and that of the Sicilian Mafia as resembling feudalism.<sup>60</sup> In a similar way, the dissolution of the Soviet Empire eventually allowed the spread of organizations that had the characteristics of the feudal local governments of the past.<sup>61</sup> In both cases, these organizations allocate territory and a license to do business in return for a kind of homage.

The economic foundations of democratic states are also undermined by organized crime. In Russia, in 1993, it was estimated by Interior Ministry Officials that organized crime controlled most of Russia's 2000 banks, and over half of its financial capital. Control included not only ownership, but also providing financial information to criminal groups under the threat of violence. Moscow's police inspectors estimate that

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<sup>54</sup> Shelley, *supra* note 45, at 35.

<sup>55</sup> *Id.* at 32, 37.

<sup>56</sup> *Id.* at 32.

<sup>57</sup> *Id.* at 35, 45.

<sup>58</sup> *Id.* at 46.

<sup>59</sup> *Id.* at 47.

<sup>60</sup> DONALD R. CRESSEY, *THEFT OF A NATION* 36 (1969).

<sup>61</sup> *Id.*

one-third of Russia's new private entrepreneurs are involved in the drug trade and that this proportion is similar in the ex-Soviet states.<sup>62</sup> The involvement of criminal groups in roughly 40,000 state and private enterprises has also hampered the process of privatization in Russia.

The availability of enormous financial resources strengthens this new authoritarianism. The independent states of the former Soviet Union hold even more economic and political power, since criminal enterprises have penetrated not only traditional criminal areas, but also legitimate aspects of the economy.<sup>63</sup> Together with the new authoritarianism, a new class of millionaires was born out of criminal activities, "working" directly in hand with the political forces running the country.<sup>64</sup> James Woolsey, Director of the U.S. Central Intelligence Agency, alleges that "in parts of Latin America the profits from drug trafficking already have enabled criminal organizations to buy elections, politicians, and government officials—in short, to subvert democratic processes and undermine fragile governments."<sup>65</sup> In Thailand the drug trade involves government officials at every level, and is an example of the links between organized crime and police, government machinery, and the courts.<sup>66</sup> One of the major reasons for the mass production of opium and heroin in the area encompassing Thailand, Burma, and Laos (The Golden Triangle) is the purchase of arms to fight against the Burmese government.<sup>67</sup> In Eastern Europe, organized crime victimized both the democratic revolution and the free market,<sup>68</sup> while in Colombia, the links between terrorism and organized crime are notorious.<sup>69</sup> Elizabeth Joyce explains that in Europe, as in many parts of Latin-America, political terrorism has facilitated organized crime and vice versa.<sup>70</sup>

In sum, organized crime erodes democracy and the actual exercise of individual rights. This anti-democratic power is generated through a process of cannibalization of economic life, which is facilitated by the

<sup>62</sup> Martin, *supra* note 18, at 27.

<sup>63</sup> Stanley E. Morris, *Maintaining the Security, Integrity, and Efficiency of Our Financial System in a Global Criminal Market*, in GLOBAL ORGANIZED CRIME: THE NEW EMPIRE OF EVIL, *supra* note 53, at 60, 64.

<sup>64</sup> Claire Sterling, *Containing the New Criminal Nomenklatura*, in GLOBAL ORGANIZED CRIME: THE NEW EMPIRE OF EVIL, *supra* note 53, at 106, 110.

<sup>65</sup> Woolsey, *supra* note 53, at 138.

<sup>66</sup> PHONGPAICHIT, *supra* note 21, at 106.

<sup>67</sup> *Id.* at 87.

<sup>68</sup> FINDLAY, *supra* note 18, at 116.

<sup>69</sup> WALTER LAQUEUR, *THE NEW TERRORISM: Fanaticism and the Arms of a Mass Destruction* 212 (1999). The author explains in this chapter the connection of narcobusiness with both guerrilla warfare and terrorism in Colombia, as well as the smuggling of drugs by extremist groups in Afghanistan and Lebanon. Trade in nuclear materials by Russian organized crime may be a potential link to nuclear terrorism.

<sup>70</sup> Elizabeth Joyce, *Transnational Criminal Enterprise: The European Perspective*, in TRANSNATIONAL CRIME IN THE AMERICAS, *supra* note 22, at 99, 102.

corruption or circumvention of a weakened governmental system. In addition, organized crime threatens democracy by financing political rebellion and terrorism.

### 3. *Money Laundering*

The economic need to reinvest the products of drug trafficking in the legal economy has made money laundering a necessary consequence of drug trafficking. Money laundering has thus been characterized as the “matrix of global crime.”<sup>71</sup> This subject links global crime with economic globalization and thus has vast political, economic, and legal ramifications.<sup>72</sup> Money laundering is also a way to measure the magnitude of drug trafficking. Maria Lós explains how the search for investment safety through networking on the part of international money launderers creates new ties and stronger cooperation among crime groups, and even solidifies their role within the legal economic sector, ultimately strengthening the power of organized crime worldwide.<sup>73</sup>

Money laundering, in and of itself, has a high potential for social harm. It can erode and distort competition, credit institutions, markets, and exchange and interest rates, thus affecting the national economy as a whole.<sup>74</sup> This necessary derivation from drug trafficking also has its own intrinsic potential to affect democracy, by jeopardizing free, legitimate business, which can only thrive in an environment of free and fair competition.<sup>75</sup>

Since money laundering is the most vulnerable element of the global Mafia’s systems, the attack against money laundering should be the crux of international cooperation at the judicial and investigative levels. This cooperation should lead to the creation of international mechanisms to track and seize the proceeds of crime everywhere in the world.<sup>76</sup>

### 4. *Corruption and Organized Crime*

Corruption constitutes a significant trait of global crime. The ensuing blurring of the line between state power and criminal power has

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<sup>71</sup> CASTELLS, *supra* note 15, at 178.

<sup>72</sup> On the role of the offshore financial system and its related invisible economy, see Jack A. Blum, *Offshore Money*, in *TRANSNATIONAL CRIME IN THE AMERICAS*, *supra* note 22, at 57, 57; Edgardo Rotman, *Natur und Umfang der Wirtschaftsstraftaten in ihrer Abhängigkeit von einigen Grundzügen des heutigen Wirtschaftslebens*, *KRIMINALISTIK*, 213, 214 (1977).

<sup>73</sup> Maria Lós, *Beyond the Law: The Virtual Reality of Post-Communist Privatization*, in *GOVERNABLE PLACES: READINGS IN GOVERNABLE GOVERNMENTALITY AND CRIME CONTROL*, *supra* note 13, at 239, 244-45.

<sup>74</sup> Jamieson, *supra* note 16, at 127.

<sup>75</sup> *Id.*

<sup>76</sup> ANTONIO NICASO & LEE LAMOTHE, *GLOBAL MAFIA: THE NEW WORLD ORDER OF ORGANIZED CRIME* 195 (1995).

made the fight against organized crime infinitely more difficult. In the countries where organized crime has asserted its political or financial power, be it by greed or fear, state illegality has become endemic.<sup>77</sup>

Although low levels of corruption have been deemed to promote economic growth in certain regions,<sup>78</sup> at a high level it inhibits growth and damages the economy because bribes are socially damaging and politically destabilizing.<sup>79</sup>

Bribes undermine the economic system by reducing governments' income (tax collection, customs, and revenue), by increasing the costs of products to cover the costs of corruption, and by destroying competition and reducing supervision. Furthermore, bribes distort policy, since choices and priorities are determined by personal gains rather than by national advantage.<sup>80</sup> Also, bribes destabilize society as a whole, by creating inequalities, reducing the incentive for productivity, and undermining local investment. Corruption has very demoralizing effects on society, encouraging criminal activity through a degraded image of law enforcement and of governmental integrity in general.<sup>81</sup>

Patrick Glynn,<sup>82</sup> Stephen J. Kobrin,<sup>83</sup> and Moises Naím<sup>84</sup> describe corruption's pernicious effect on emerging markets.<sup>85</sup> Corruption compromises the efficiency of economic activity making the transition to a free democracy more difficult and "distorts public perceptions of how—and how well—a proper market economy works."<sup>86</sup>

Corruption is not only damaging in itself, but it also furthers other noxious activities. This is clear when international criminal organizations use corruption to further drug production and trafficking, or when corruption is used to create havens for terrorists.<sup>87</sup> Russia is an example

<sup>77</sup> Jamieson, *supra* note 16, at 32.

<sup>78</sup> ETHAN A. NADELMANN, COPS ACROSS BORDERS: THE INTERNATIONALIZATION OF U.S. CRIMINAL LAW ENFORCEMENT 256 (1993), *citing* *Corruption, Institutionalization, and Political Development*, COMPARATIVE LEGAL STUDIES 7, 63-83 (1974). For specific examples of regions where low levels of corruption have promoted economic growth (Malaysia and Singapore) see Dennis Osborne, *Corruption as Counter-Culture: Attitudes to Bribery in Local and Global Society*, in CORRUPTION: THE ENEMY WITHIN 9, 19 (Barry Rider ed., 1999).

<sup>79</sup> See Osborne, *supra* note 78.

<sup>80</sup> *Id.* at 27.

<sup>81</sup> See E. U. Savona, *Beyond Criminal Law in Devising Anticorruption Policies*, 34 EUR. J. CRIM. POL'Y & RES. (1995), *cited in* Brice De Ruyver & Tom Van Der Beken, *Corruption and Organized Crime*, in CORRUPTION: THE ENEMY WITHIN, *supra* note 78 at 77, 80.

<sup>82</sup> Patrick Glynn has been an adviser to the World Economic Forum, which brings together experts to address corruption issues.

<sup>83</sup> Stephen J. Kobrin is the William H. Wurster Professor of Multinational Management at the Wharton School, University of Pennsylvania.

<sup>84</sup> Moises Naím is Editor-in-Chief of *Foreign Policy*.

<sup>85</sup> Patrick Glynn et al., *The Globalization of Corruption*, in CORRUPTION AND THE GLOBAL ECONOMY 7, 10 (Kimberly Ann Elliott ed. 1997).

<sup>86</sup> *Id.*

<sup>87</sup> Osborne, *supra* note 78, at 28.

of how corruption becomes a main factor in the expansion of organized crime. There, tempting offers from organized crime find weak resistance from poorly paid officers living in an atmosphere of low public service morale and distrust of law enforcement. The military personnel are particularly susceptible to offers from organized crime groups because of declining morale, poverty, erratic or late pay, and poor prospects in general. Such military personnel contribute to these groups with their expertise and military equipment, and with the theft or illegal sales of weapons.<sup>88</sup> In place of the black marketers of the old Soviet State are sophisticated power brokers and moneymen who contribute to the wholesale process of moral deterioration and corruption.<sup>89</sup>

Even though democracy may allow the growth of certain organized criminal businesses, overall, democracy is the only possibility of an effective control of corrupt activities through disclosure mechanisms and the participation of an informed public.<sup>90</sup> Diminishing opportunities for corruption will ultimately curb organized crime, as well as its economic and political power. A well-functioning democracy must find ways to investigate and eradicate corruption, lest it becomes its first casualty. Although, democracies are not immune from corruption, they possess "long-term anticorruption strengths."<sup>91</sup>

##### 5. *The Hypothesis of a Pax Mafiosa*

Today, organized crime often takes place through a network of enterprises, some under the cloak of legality, which operate not only locally but in an increasingly global environment.<sup>92</sup> James Richards points out that there is a growing recognition that criminal organizations have become global and that they are forming strategic alliances with each other, with rogue governments, and with terrorist organizations.<sup>93</sup> Carol Hallett, former Chair Commissioner of the United States Customs Service, underscores the interactive trend of various national criminal organizations.<sup>94</sup> Whether Italian, Asiatic, or South American, these groups are all trying to reach out beyond their national spheres of influence. From a

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<sup>88</sup> See Woolsey, *supra* note 53, at 141.

<sup>89</sup> See KERRY, *supra* note 14, at 34.

<sup>90</sup> See Maria Louisa Cesoni, *Mafia-Type Organizations: The Restorative Rights as a Preventative Policy*, in GLOBAL ORGANIZED CRIME AND INTERNATIONAL SECURITY, *supra* note 18, at 157, 167.

<sup>91</sup> Michael Johnston, *The Globalization of Corruption*, in CORRUPTION AND THE GLOBAL ECONOMY, *supra* note 61, 85, at 4.

<sup>92</sup> See Frank Pearce & Michael Woodiwiss, *Introduction to GLOBAL CRIME CONNECTIONS: DYNAMICS AND CONTROL* x, xiii (Frank Pearce & Michael Woodiwiss eds., 1993).

<sup>93</sup> RICHARDS, *supra* note 32, at 3.

<sup>94</sup> See Carol Hallett, *The International Black Market, Coping With Drugs, Thugs, and Fissile Materials*, in GLOBAL ORGANIZED CRIME: THE NEW EMPIRE OF EVIL, *supra* note 53, at 74, 76.

similar perspective, Manuel Castells emphasizes how local criminal groupings in all countries have come together in a global diversified network.<sup>95</sup>

In some instances, such as the Chinese triads, a worldwide network pre-existed the current globalization. This network was possible because of the 40 million Chinese living outside Mainland China, and it was facilitated by the Chinese language and its myriad of impenetrable dialects.<sup>96</sup> In Russia, this phenomenon is more recent and required a deliberate effort to expand internationally. Examples of Russia's expansion attempt include their collaboration with the Chinese triads in the smuggling of human contraband—that is, organized illegal immigration—and their cooperative use of the same routes to move heroin from China to Russia, Europe, and the United States.<sup>97</sup>

Claire Sterling<sup>98</sup> has vividly described the worldwide expansion of organized crime and how the big crime syndicates of various parts of the world drew together after the Soviet Empire crashed to reach a multi-lateral agreement that she calls *pax mafiosa*.<sup>99</sup> Before these communist countries had the time to reorganize their administration and politics, a gang of thugs, thieves, and ex-intelligence officers swiftly overtook them. This ascending criminal class spread its tentacles to various parts of the world, culminating with the construction of a heroin pipeline from the Golden Triangle of Myanmar (formerly Burma), across Asia Minor and the Balkans to Germany.<sup>100</sup> By 1993, the international criminal organizations of the Eastern and Western world were pooling services and personnel to coordinate all the phases of drug trafficking, which was then estimated to amount to half a trillion dollars a year.<sup>101</sup>

The current director of the Federal Bureau of Investigation provides evidence of the above-mentioned multi-national agreement.<sup>102</sup> He mentions that in 1993, authorities in Russia intercepted a significant cocaine shipment from Colombia to St. Petersburg, showing a connection between organized crimes in both countries.<sup>103</sup> He also refers to a Drug

<sup>95</sup> See CASTELLS, *supra* note 15, at 169.

<sup>96</sup> See KERRY, *supra* note 14, at 68.

<sup>97</sup> See *id.* at 140.

<sup>98</sup> Claire Sterling is an American Journalist working abroad since the 1950s covering international affairs and politics for several leading magazines and newspapers. She has written five books, mostly dealing with organized crime.

<sup>99</sup> See Sterling, *supra* note 64, at 106, 117-65. Sterling develops her idea of *pax mafiosa* in her book *CRIME WITHOUT FRONTIERS: THE WORLDWIDE EXPANSION OF ORGANIZED CRIME AND THE PAX MAFIOSA* (1994).

<sup>100</sup> See KERRY, *supra* note 14, at 22.

<sup>101</sup> See Friman & Andreas, *supra* note 19, at 7; see also Sterling, *supra* note 64, at 114.

<sup>102</sup> Louis J. Freeh, *International Organized Crime and Terrorism: From Drug Trafficking to Nuclear Threats*, in *GLOBAL ORGANIZED CRIME: THE NEW EMPIRE OF EVIL*, *supra* note 53, at 1, 2.

<sup>103</sup> *Id.*

Enforcement Agency case involving concerted actions between the Russian, Sicilian, and American organized crime groups.<sup>104</sup> Senator John Kerry recognizes a lack of intelligence about the details of the evolving relations among the Big Five transnational crime organizations.<sup>105</sup> But even without details Senator Kerry points out that there has been an overall shift from competition to strategic alliance. In this respect, he notes that in the summer of 1992, the leaders of the Russian and Italian mobs held a series of secret summits in Prague, Warsaw, and Zurich.<sup>106</sup>

Alison Jamieson, a leading expert in organized crime, explains how the relaxing of controls in former Eastern Bloc countries has transformed them into transit states and mentions evidence that Sicilian and Colombian organized crime groups may already be operating in Eastern Europe.<sup>107</sup> In June 1991, the Czech Interior Minister reported that the mafia was trying to establish drug production in the former Soviet Union and set up new transit routes via Poland. Likewise, Polish authorities report that there has been an increase of Colombian settlers in their country.<sup>108</sup>

Sterling's idea of *pax mafiosa*, is also supported by a 1995 FBI report stating that members of Russian organized crime had begun operating with elements of the Italian Mafia and South American drug cartels.<sup>109</sup> Such an organized combination of forces has resulted in a division of labor in a number of countries, including the United States. The FBI task force report indicates that this combination poses a significant threat to Europe and the United States, especially when it includes the traffic of nuclear materials and other sophisticated weapons.<sup>110</sup>

The hypothesis of a *pax mafiosa* is also connected with Maria Lós' idea of a "global mafia capitalism," which is the

growing tendency of hierarchical criminal organizations . . . specialized in certain illicit markets (drugs, arms, sex trade, gambling, and so on) to diversify and form international business links both among themselves and with more conventional business partners . . . [enhancing] their efficiency at raising and laundering huge amounts of capital for strategic investments in foreign or transnational markets.<sup>111</sup>

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<sup>104</sup> *Id.*

<sup>105</sup> See KERRY, *supra* note 14, at 21.

<sup>106</sup> *Id.* at 29.

<sup>107</sup> Jamieson, *supra* note 16, at 116-117.

<sup>108</sup> *Id.*

<sup>109</sup> See CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, *supra* note 47, at 42-43.

<sup>110</sup> See *id.* at 42.

<sup>111</sup> Lós, *supra* note 73, at 244-45.

Peter Martin offers a different view of the *pax mafiosa*.<sup>112</sup> He examines alliances among organized crime groups of different national and ethnic origin. This occasional internationalization of the crime syndicate includes Colombians, Italians, and Russians uniting to facilitate markets in the drug trade.<sup>113</sup> He believes, however, that for the most part, “cultural differences, language incompatibility, and security considerations, keeps organized crime more transnational than international.”<sup>114</sup> Castells adds that the culturally-based criminal organizations, nationally, regionally and ethnically rooted, do not disappear in the new global networks, which allow the traditional organizations to survive.<sup>115</sup> This is true for the Italian Mafia, as well as for the Chinese Triads, equally rooted in history and ethnicity. Their internationalization not only allowed them to survive, but also brought them a new round of prosperity.<sup>116</sup>

Tom Farer questions whether the huge revenues imputed to illicit trade should only be attributed to a small number of major actors. He believes the political economy of illicit goods and services is closer to a free market with many rapidly changing players, rather than a cartel.<sup>117</sup> In addition, there are striking differences between traditional models of organized crime and modern criminal enterprises. The former are characterized by hierarchy and continuity, while the latter are “flexible, loosely structured systems that expand or contract in accordance with changing opportunities and risks.”<sup>118</sup>

## 6. *Traffic in Persons*

Traffic in persons is a worldwide phenomenon that is becoming the fastest growing branch of organized crime.<sup>119</sup> The global technological revolution has enabled “shopping” for women and children through the Internet. Computer technology also allows crime groups to coordinate their efforts.<sup>120</sup>

Although traffic in persons is by no means a new occurrence, and despite its legal abolition throughout most of the world, in recent years “it has been increasing at an alarming rate and . . . has assumed global

<sup>112</sup> See Martin, *supra* note 18, at 26.

<sup>113</sup> *Id.*

<sup>114</sup> See *id.* at 27.

<sup>115</sup> See CASTELLS, *supra* note 15, at 170.

<sup>116</sup> *Id.* at 170.

<sup>117</sup> Tom Farer, *Introduction to TRANSNATIONAL CRIME IN THE AMERICAS*, *supra* note 22, at xiv.

<sup>118</sup> Lee, *supra* note 28, at 12-13.

<sup>119</sup> Barbara Crossette, *UN Warns That Trafficking in Human Beings is Growing*, N.Y. TIMES, June 25, 2000, International Section at 10.

<sup>120</sup> Dr. Sally Stoecker, Introductory Remarks at the Trafficking Conference: The Exploitation of Women from Russia, Scale and Scope, at <http://american.edu/transcrime/misc/5April99.htm> (Mar. 11, 1999).

dimensions,”<sup>121</sup> including a high rate of exploitation and crimes from illegal immigrants who have little chance of earning legal incomes or receiving welfare assistance.<sup>122</sup> According to the director general of the United Nations’ Office for Drug Control and Crime Prevention, reliable estimates indicate that 200 million people may be under the control of traffickers of various kinds worldwide.<sup>123</sup>

One of the most sinister aspects of global crime is the spread of child prostitution worldwide. Traffic in children is expanding throughout the world. Estimates of child prostitution in the United States range from 100,000 to 300,000. The Center for Protection of Children’s Rights estimates that as many as 800,000 children are in prostitution throughout the world, with HIV infection being pervasive among them.<sup>124</sup> The UNICEF figures for India,<sup>125</sup> coinciding with those of a 1991 survey of *India Today*, estimates that there are somewhere between 400,000 and 500,000 child prostitutes in India.<sup>126</sup> The problem also exists in Europe, the United States, and Canada—the fastest growing markets for child prostitution.<sup>127</sup> Castells laments that children “have become sexual commodities in a large-scale industry, organized internationally through the use of advanced technology, and by taking advantage of the globalization of tourism and images.”<sup>128</sup>

The exploitation of women and children as sexual slaves is most common in Third World countries, where victims are procured by various means, including sale by family members, kidnapping, and false promises of employment. Thailand, Brazil, and the Philippines are the most significant centers of sexual slavery.<sup>129</sup> A United Nations report estimates that an enormous amount of women are employed as sex workers in various parts of the world and this report defines traffic in women as occurring “when a woman in a country other than her own is exploited . . . against her will and for financial gain.”<sup>130</sup> This trafficking includes illegal migration, deception, and violence. Often, sexual slavery be-

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<sup>121</sup> Trafficking, Prostitution: Conference on Traffic in Persons, at <http://www.bayswan.org/Utrecht.html> (last visited Nov. 11, 2000).

<sup>122</sup> Adamoli, *supra* note 25, at 14.

<sup>123</sup> Crossette, *supra* note 119. See also *Trafficking in Women: In the Shadows*, THE ECONOMIST, Aug. 26, 2000, at 38. Specifically, in the case of traffic in women, the article conservatively estimates that 300,000 women are smuggled yearly into the European Union and into prosperous Central European countries.

<sup>124</sup> CASTELLS, *supra* note 15, at 155.

<sup>125</sup> Phil Williams, *Emerging Issues: Transnational Crime and its Control*, in GLOBAL REPORT ON CRIME AND JUSTICE 225, 226 (Graeme Newman ed., 1999).

<sup>126</sup> CASTELLS, *supra* note 15, at 155.

<sup>127</sup> *Id.* Castells cites estimates by Mark Clayton (1966) and Robert Flores (1966) that the U.S. and Canadian markets vary widely between 100,000 and 300,000 child prostitutes.

<sup>128</sup> *Id.*

<sup>129</sup> Williams, *supra* note 125, at 225.

<sup>130</sup> *Id.* at 225.

comes the price for an initially voluntary illegal migration, a main form of global organized crime.

Gangs kidnap women from their countries of origin and forcibly ship them to others for substantial profit. It is clear that this problem has expanded far beyond the national level and into the global arena. Among many examples, it is worthwhile to mention the intense trafficking of Thai women into Japan for sex services through the combined action of both Japanese and Thai criminal organizations. Since Japanese immigration has become stricter, the smuggling of women is carried out by other means, ranging from overstaying tourist visas to the most contrived means. One Japanese gang leader smuggled over 40 women through airports inside large suitcases.<sup>131</sup> Such illegal immigration is followed by savage beatings and extortion that compose the usual picture of sexual slavery.<sup>132</sup>

Although various international agreements have been implemented in order to halt such activities, subsequent enforcement has been minimal.<sup>133</sup> In Thailand, corrupt authorities not only ignore but also often protect brothels in exchange for bribes and in some cases officials are themselves "pimps."<sup>134</sup>

Despite popular assumption, sexual slavery is not confined to economically impoverished countries. In Europe, thousands of teenage girls are reported missing every year from cities such as Paris, where authorities believe the young women were kidnapped and taken to Arab countries where they were forced into prostitution. Trafficking in women from Eastern Europe to Western Europe has also increased substantially.<sup>135</sup> The global nature of sexual slavery does not allow for an accurate method of measurement of the degree of its prevalence.

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<sup>131</sup> PHONGPAICHIT, *supra* note 21, at 166.

<sup>132</sup> *See id.* at 170.

<sup>133</sup> There have been a number of treaties specifically addressing this international problem. The first was the International Convention of the Suppression of the White Slave Traffic signed in Paris in 1910. *See* Youngit Yoon, *International Sexual Slavery*, 6 *TOURO INT'L L. REV.* 417, 430 (1995). The second was the 1921 International Convention for the Suppression of the Traffic of Women and Children, followed by the International Convention for the Suppression of the Traffic of Women of Full Age, signed in Geneva in 1933. *See id.* The most comprehensive convention to this date is the 1950 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. *See id.* Various international human rights instruments contain provisions, which are relevant to combat the traffic in persons, such as the Convention on the Elimination of all Forms of Discrimination against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutional Practices Similar to Slavery, and relevant I.L.O. conventions.

<sup>134</sup> *Id.* at 432; PHONGPAICHIT, *supra* note 21, at 9, 211.

<sup>135</sup> *See* Williams, *supra* note 125, at 225.

There have been gruesome case studies on sexual slavery in the global economy. However, Kevin Bales points out that the same economic boom that has increased the demand for prostitutes may eventually bring such prostitution to an end. This would happen through the increase in jobs for women, education and training, and educational television programs.<sup>136</sup>

## B. GLOBAL TERRORISM

Globalization has greatly facilitated the growth of terrorism. The development of international civil aviation has made hijacking possible, television has awarded terrorists with worldwide publicity, and modern technology has provided an amazing range of weapons and explosives.<sup>137</sup>

One of the sources of terrorism is the existence of bitter ethnic, religious, and ideological conflicts. Despite advancing globalization, the world is still torn by deep-seated divisions that occasionally spawn terrorist violence. Paradoxically, the globalization of technology has dramatically favored this human fragmentation by providing modern sophisticated weaponry to groups otherwise segregated from the international community.

The menace of international terrorism is multiform. First, there is a traditional state-sponsored terrorism, which is a form of global organized crime, also characterized as socio-political organized crime.<sup>138</sup> Although this form of terrorism continues to pose a significant threat, there is a new breed of freelance terrorists who constitute an even more frightening possibility. They are not sponsored by any particular state, and are loosely affiliated with extremist and violent ideologies. These terrorists have proven to be all the more dangerous precisely because of their lack of organization and the difficulties associated with identifying them.

The threat of terrorist attacks by these “amateurish” or “splinter” groups<sup>139</sup> is more likely now than in the past. The main reason for this greater likelihood is increased technological sophistication. In addition, the rise of fundamentalist movements, with their violent factions, provides new recruits for the ranks of terrorists motivated by religion, ethnicity, and ideology. After the disintegration of the Soviet Union, the weakening of state control allowed for the disappearance of sizeable

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<sup>136</sup> See KEVIN BALES, *DISPOSABLE PEOPLE* 64-65 (1999).

<sup>137</sup> See Jamieson, *supra* note 16, at 182.

<sup>138</sup> See Joseph L. Albini et al., *The Evolution of Espionage Networks and the Crisis of International Terrorism and Global Organized Crime*, in *GLOBAL ORGANIZED CRIME AND INTERNATIONAL SECURITY*, *supra* note 18, at 3, 3.

<sup>139</sup> Bruce Hoffman, *Terrorism and Weapons of Mass Destruction: An Analysis of Trends and Motivation* 38 (Rand Institute Paper Series, 1999).

amounts of enriched fissionable material, the subsequent commerce in nuclear components, and its potential availability to terrorist groups. In addition, the breakdown of espionage networks at the end of the Cold War resulted in less governmental effectiveness in the fight against terrorist groups.<sup>140</sup>

Another way in which globalization may be linked to terrorism is through the creation of marginalized areas, immersed in unemployment and poverty. Terrorist activities may provide exciting jobs and a sense of power for alienated, unskilled, and rootless young unemployed.<sup>141</sup> In addition, mentally disturbed individuals seeking attention may find a motivation for terrorist violence in the globalized media.

The globalization of communications through the Internet allows proselytizing among people with similar ideologies or various types of psychological imbalances that would make them prone to terrorist action. Through the coalescence of like-minded individuals, the Internet could become a terrorist medium for the twenty-first century.<sup>142</sup> This is particularly unsettling if one takes into account the thousands of violent neo-Nazi skinheads scattered throughout the United States, Canada, Europe, Australia, Brazil, and Egypt.<sup>143</sup> The Web can also become a terrorist weapon in itself. Technologically sophisticated cyber-terrorists can access financial institutions and intelligence information for criminal purposes. Through the alteration or defacement of home pages and entire sites, they can impair vital government or corporate communication processes.<sup>144</sup>

Another global threat is nuclear terrorism—the use or a credible threat to use a nuclear device. The potentialities of international nuclear terrorism were already analyzed twenty years ago in the very informative studies edited by Augustus R. Norton and Martin Greenberg.<sup>145</sup> The materials and technologies for nuclear terrorism are more accessible now than ever before.<sup>146</sup> Although catastrophic terrorism has been largely kept at bay until now by political and moral considerations, these con-

<sup>140</sup> See Albini, *supra* note 138, at 5.

<sup>141</sup> See Moorhead Kennedy, *The 21<sup>st</sup>-Century Conditions Likely to Inspire Terrorism*, in *THE FUTURE OF TERRORISM: VIOLENCE IN THE NEW MILLENNIUM* 185, 186 (Harvey W. Kushner ed., 1998).

<sup>142</sup> See *id.* at 208.

<sup>143</sup> See MARCUS HAMM, *AMERICAN SKINHEADS: THE CRIMINOLOGY AND CONTROL OF HATE CRIME* 65 (1993).

<sup>144</sup> See Kelly R. Damphousse & Brent L. Smith, *The Internet: A Terrorist Medium for the 21<sup>st</sup> Century*, in *THE FUTURE OF TERRORISM: VIOLENCE IN THE NEW MILLENNIUM* *supra* note 141, at 208, 220.

<sup>145</sup> See generally AUGUSTUS R. NORTON & MARTIN H. GREENBERG, *STUDIES IN NUCLEAR TERRORISM* (1979).

<sup>146</sup> See Brian Jenkins, *Will Terrorists Go Nuclear? A Reappraisal*, in *THE FUTURE OF TERRORISM: VIOLENCE IN THE NEW MILLENNIUM*, *supra* note 141, at 225, 234.

straints seem to be gradually eroding and the willingness of terrorists to engage in acts of mass destruction has increased.<sup>147</sup> Moreover, the rise of biological and chemical weapons in the 1990's considerably contributes to increasing future risks.<sup>148</sup> Since the 1995 attack on the Tokyo subway by Japanese doomsday cult Aum Shinrikyo, the potential use of biological and chemical weapons has been perceived as a threat to national security.<sup>149</sup> Walter Laqueur urges us to reconsider all past assumptions about terrorism. Global technological progress, plus the emergence of a new breed of terrorists with a higher degree of virulence, fanaticism, and hatred than in the past, has infinitely magnified the threat to human life.<sup>150</sup>

Terrorism, similar to organized crime, threatens the idea and practice of democracy. Some terrorist movements are precisely directed to undermine it. One aim of proponents of indiscriminate violence is to create an atmosphere of chaos in order to justify an authoritarian government, in which individual citizens relinquish their rights and liberties.<sup>151</sup> Bacteriological and nuclear terrorism have the power not only to destroy the institutional bases of democracies, but also to annihilate their very physical existence. Terrorism is mostly directed toward peaceful, unarmed civilians. Thus, it attacks the idea of democracy as protection of human rights by violating the basic rights of these innocent victims.

The global problem of terrorism has provoked an international response in the form of multilateral treaties and regional policies.<sup>152</sup> Moreover, a future international criminal court will likely legitimize and favor concerted international anti-terrorism efforts.<sup>153</sup> Philip Heymann, in his work *Terrorism and America: A Commonsense Strategy for a Democratic Society*, clearly explains the need for international global cooperation to fight and eventually punish terrorism.<sup>154</sup> He further explains that such joint efforts should not be restricted to formal state-to-state coopera-

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<sup>147</sup> *Id.* at 248-49.

<sup>148</sup> LAQUEUR, *supra* note 69 at 257.

<sup>149</sup> See Jonathan Tucker, *Introduction*, in *TOXIC TERROR* 1, 11 (Jonathan Tucker ed., 2000).

<sup>150</sup> See LAQUEUR, *supra* note 69, at 7.

<sup>151</sup> Alison Jamieson, *The Italian Experience*, in *TERRORISM AND DRUG TRAFFICKING IN THE 1990s*, *supra* note 16, at 9, 9.

<sup>152</sup> See generally OMER Y. ELAGAB, *INTERNATIONAL LAW DOCUMENTS RELATING TO TERRORISM* (1997); ROSALYN HIGGINS & MAURICE FLORY, *TERRORISM AND INTERNATIONAL LAW* (1997). Most of the treatises have been signed under the umbrella of the United Nations and its specialized agencies or under regional multilateral organizations, such as the Council of Europe and the Organization of American States. See BASSIOUNI, *supra* note 10, at 766.

<sup>153</sup> See Steven W. Krohne, *The United States and the World Need an International Criminal Court as an Ally in the War Against Terrorism*, 8 *IND. INT'L & COMP. L. REV.* 159 (1997).

<sup>154</sup> See PHILLIP B. HEYMAN, *TERRORISM AND AMERICA: A COMMONSENSE STRATEGY FOR A DEMOCRATIC SOCIETY* 155-56 (1998).

tion using traditional procedures, but must also include informal police-to-police cooperation, which is essential in a global scenario.<sup>155</sup>

### III. GLOBALIZATION AS INCENTIVE FOR LOCAL CRIME

#### A. THE CONNECTION BETWEEN GLOBAL AND LOCAL CRIME

There is a close connection between global and local crimes. Globalization excludes segments of economies and societies from the networks of information available to the dominant society,<sup>156</sup> thereby providing foot soldiers for global crime enterprises. Unemployment, alienation, and youth abandonment, which make up what Castells calls the "black holes of informational capitalism,"<sup>157</sup> provide the ideal terrain for criminal recruitment of global drug traffickers.<sup>158</sup> This phenomenon is even more acute in Russia, where after the downfall of the Soviet Union, the Russian youth became an attractive labor pool for criminal organizations.<sup>159</sup>

At the cultural level, global drug trafficking erodes the moral integrity of certain segments of the population in North America.<sup>160</sup> The globalization of organized crime contributes in various ways to the mechanisms of social systemic disintegration that spawns local crime. Not only is the drug trade inherently coupled with a high degree of corruption and violence, which are independent sources of social deterioration, but its volume also has macroeconomic effects that unsettle the functioning of a stable economy and generate unemployment and poverty.

Jonathan Simon and Theodore Caplow, in their article *Understanding Prison Policy and Population Trends*, explain how the economic restructuring caused by globalization, "especially the decline of well-paying but low skilled industrial jobs, has left large numbers of uneducated young males with few job opportunities and expanded the pool of people most likely to be attracted to crime as an economic option."<sup>161</sup> Crime becomes a better job opportunity since "drug dealing at least

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<sup>155</sup> See *id.* at 61. On police cooperation in this area, see Jacqueline Ann Carberry, *Terrorism: A Global Phenomenon Mandating a Unified International Response*, 6 GLOBAL LEGAL STUD. J. 685, 705 (1999).

<sup>156</sup> See CASTELLS, *supra* note 15, at 162.

<sup>157</sup> *Id.* at 161.

<sup>158</sup> See FINDLAY, *supra* note 18, at 64.

<sup>159</sup> See HANDELMAN, *supra* note 38, at 27.

<sup>160</sup> See FINDLAY, *supra* note 18, at 116.

<sup>161</sup> Theodore Caplow & Jonathan Simon, *Understanding Prison Policy and Population Trends*, in PRISONS 63, 66 (Michael Tonry & Jea Petersilia eds., 1999), citing ELLIOTT CURRIE, CRIME AND PUNISHMENT IN AMERICA (1998).

within the United States as opposed to international smuggling, requires no skills or specialized resources.”<sup>162</sup>

Although this pool of people is represented in prisons by a disproportionate number of minorities, the never-ending supply of recruits for the lower levels of organized crime does not flow only from ghettos and housing projects.<sup>163</sup> These individuals are also recruited from suburban sources, such as the outlaw motorcycle gangs which are heavily involved in the drug-distribution networks and in organized crime activities.<sup>164</sup>

Criminal violence, as a cost of the globalization of the market society, is patent in the developing world. Today, violent crime has reached dramatic proportions in Latin American countries such as Brazil, Mexico, Venezuela, Peru, Colombia, and Argentina, thus becoming a top priority on the list of public concerns.<sup>165</sup>

Globalization is connected with both urbanization and development. In 1969, Denis Szabo predicted that urbanization would bring about a high price to pay in terms of inadaptation and delinquency.<sup>166</sup> Furthermore, in their 1973 comparative study of crime in developed and in developing countries, Marshall B. Clinard and Daniel J. Abbott showed how development caused an increase of crime, to the point where rising crime rates became a measure of effective development.<sup>167</sup> In a recent addition to these studies, Mark Findlay has continued to stress the criminogenic nature of both urbanization and development.<sup>168</sup>

Urbanization seems to offer a gamut of opportunities to the young, rural, and unemployed. For the many who do not meet the labor requirements of a globalized environment, crime represents an alternative occupational choice. Crime opportunities are heightened by the nature of the

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<sup>162</sup> Christopher S. Koper & Peter Reuter, *Suppressing Illegal Gun Markets: Lessons from Drug Enforcement*, in 3 THE ECONOMICS OF CORRUPTION AND ILLEGAL MARKETS, *supra* note 23, at 138.

<sup>163</sup> See Deborah Baker, *How Safe is your 'Burb'?*, A.B.A. J., Sept. 1999, at 50-55. The author “explains that juvenile violence is no longer purely a city problem.”

<sup>164</sup> See Michael Woodiwiss, *Crime's Global Reach*, in GLOBAL CRIME CONNECTIONS : DYNAMICS AND CONTROL , *supra* note 92, at 1, 24.

<sup>165</sup> See generally ROBERT L. AYRES, CRIME AND VIOLENCE AS DEVELOPMENT ISSUES IN LATIN AMERICA AND THE CARIBBEAN (1998); MAYRA BUVINIC ET AL., VIOLENCE IN LATIN AMERICA AND THE CARIBBEAN: A FRAMEWORK FOR ACTION (1999); MAYRA BUVINIC & ANDREW MORRISON, TECHNICAL NOTES ON VIOLENCE PREVENTION (2000); PABLO FAJNZYLBER, ET AL., DETERMINANTS OF CRIME RATES IN LATIN AMERICA AND THE WORLD: AN EMPIRICAL ASSESSMENT (1998).

<sup>166</sup> See D. Szabo, *Urbanisation et Criminalité*, CHRONIQUE SOCIALE DE FRANCE, Juillet 1969, at 3-4, *cited by* JEAN PINATEL, LA SOCIÉTÉ CRIMINOLOGIQUE 94 (1971).

<sup>167</sup> See MARSHALL B. CLINARD & DANIEL J. ABBOTT, CRIME IN DEVELOPING COUNTRIES: A COMPARATIVE PERSPECTIVE 4 (1973).

<sup>168</sup> See FINDLAY, *supra* note 18, at 22, 58-67, 72-75.

modern urban environment, which includes more available goods, and a greater variety of vulnerable targets for property crime.<sup>169</sup>

In this way, globalization creates a transition in the focus of criminal inquiry, from localized crime cultures to global criminal environments.<sup>170</sup>

## B. GLOBALIZATION AND THE MACROECONOMIC CAUSATION OF CRIME

The globalization of markets has profoundly transformed the structures of employment, distribution of wealth, and consumption through modernization, development, and urbanization. Such macroeconomic transformations are accompanied by significant global changes of societal norms and values, which influence the scope and nature of local crime, especially violent crime.

To understand the impact of globalization on local crime, it is necessary to clarify the relationship of crime and macroeconomics in general, which is in itself brimming with ambiguities.

The earliest criminologists who established a correlation between crime and macroeconomics were statisticians: Guerry (1833), with his moral statistics of France, and Quetelet (1835) in Belgium, with his renowned *Physique Sociale*. In addition, Von Mayr, in Austria, demonstrated in 1867 that the trends for property crime depended on the price of rye.<sup>171</sup>

A number of influential scholars have since then examined the difficult challenge of explaining crime through economic data, including Ferri,<sup>172</sup> Lacassagne,<sup>173</sup> Durkheim,<sup>174</sup> Bonger,<sup>175</sup> Merton,<sup>176</sup> Clinard,<sup>177</sup>

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<sup>169</sup> See FINDLAY, *supra* note 18, at 72. The correlation between urbanization and crimes is exemplified by Findlay, with reference to an increase in private transportation, the existence of unattended homes, and the separation between locations of residence, employment, and recreation.

<sup>170</sup> See *id.* at 13-14.

<sup>171</sup> See S. Fields, *Economic Cycles and Crime in Europe*, in *USES OF CRIMINAL STATISTICS* 123, 125 (Ken Pease ed., 1999).

<sup>172</sup> See ENRICO FERRI, *SOCIOLOGIA CRIMINALE* 477-80 (1929).

<sup>173</sup> Antoine Lacassagne, in *Marche De La Criminalité En France (1825-1880)*, 22 *LA REVUE SCIENTIFIQUE*, 3<sup>RD</sup> SERIES, 674, 678 (1881) cited by WILLIAM A. BONGER, *CRIMINALITY AND ECONOMIC CONDITIONS* 148 (Henry P. Horton, trans., 1916). The author explains the connection between criminality and economic conditions in light of fluctuations in the price of wheat and of economic crisis.

<sup>174</sup> See EMILE DURKHEIM, *THE DIVISION OF LABOR IN SOCIETY* 353-57 (Gorge Simpson trans., 1933).

<sup>175</sup> See WILLIAM A. BONGER, *CRIMINALITY AND ECONOMIC CONDITIONS* 148 (Henry P. Horton, trans., 1916).

<sup>176</sup> See ROBERT K. MERTON, *SOCIAL THEORY AND SOCIAL STRUCTURE* 145-47 (1957).

<sup>177</sup> See CLINARD & ABBOT, *supra* note 167, at 114-16.

Abbott,<sup>178</sup> and Shelley.<sup>179</sup> Although this type of research continues today, the findings are far from consistent. The relationship between wealth and crime is ambiguous. The basic ambiguity rests on the fact that while wealth increases the number of targets of crime, it also diminishes the need to steal. Wealth may therefore both cause and prevent crime.<sup>180</sup> Another point of ambiguity is that in periods of economic hardship and high unemployment, “communities which might otherwise be seen as criminogenic tend towards greater homogeneity, and property crime rates within these communities fall.”<sup>181</sup>

Many economic theories of crime wrongly assume a strict linear relationship between variables. A given percentage of unemployment will not necessarily produce the same percentage of property crime, and unemployment might have a different impact among the poor, the socially disadvantaged, and the well-educated middle class.<sup>182</sup> Although globalization affects crime through affluence, consumption, and unemployment, the significance of these variables can be overridden by other intervening factors such as drug or alcohol consumption and the prevalence of firearms.

### C. CRIME, UNEMPLOYMENT, AND MARGINALIZATION IN A GLOBALIZED ENVIRONMENT

One of the most salient features of globalization directly related to local crime is unemployment among the unskilled, and their recruitment into criminal activities not requiring specialized skills. The effects of the unemployment of the unskilled in a globalized environment are subject to the aforementioned ambiguities surrounding macroeconomic causation in general, and should be examined with the same caution. First, the correlation between crime and unemployment is contingent upon the type of social policies that redistribute wealth in a market economy, such as taxes and transfer benefits. Second, unemployment figures do not clearly reveal the real situation of the labor market. The recent research undertaken by Bruce Western and Katherine Beckett demonstrates the relationship between the United States’ increasingly high incarceration rates, and the low rates of U.S. unemployment during the 1980s and

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<sup>178</sup> See *id.*

<sup>179</sup> See Louise I. Shelley, *Crime and Modernisation Reexamined*, in 24 ANNALES INTERNATIONALES DE CRIMINOLOGIE 18, 18-20 (1986); see also LOUISE I. SHELLEY, CRIME AND MODERNISATION: THE IMPACT OF URBANISATION AND INDUSTRIALISATION ON CRIME 52-62 (1981).

<sup>180</sup> See Fields, *supra* note 171, at 127-28. The author describes wealth as either having an “opportunity” effect, in that wealth generates more goods to steal, or a “motivation” effect, in that wealth prevents crime when people have less need to steal.

<sup>181</sup> FINDLAY, *supra* note 18, at 20.

<sup>182</sup> See M. JOUSTEN, *General Report*, in CRIME AND ECONOMY 147, 151 (1995).

1990s.<sup>183</sup> The expansion of the penal system lowered traditional unemployment measures by removing able-bodied, working-age men from labor force counts.<sup>184</sup> In the long run, however, this policy may well raise unemployment by reducing the job prospects of ex-convicts.<sup>185</sup>

In countries with inadequate protection of human rights and low labor standards, globalization not only creates unemployment of the unskilled, but also leads to their exploitation. This phenomenon is particularly evident when industries divide the production of goods into various segments and allocate each segment to a different country. The segments of production that do not require skilled laborers are assigned to countries with very low labor costs, with the consequent abuse of the labor force. This division of labor and production occurs, for example, in the garment industry of Guatemala. There, official use of “maquiladoras”<sup>186</sup> as a segment of the multinational garment export-assembly industry is justified as the first step towards full industrialization. These government assembly factories have provided both dramatic growth to an impoverished nation and serious drawbacks in the realm of labor exploitation.<sup>187</sup> Labor exploitation leads to other forms of exploitation that generate violence. For example, arrest records document beatings and sexual violence by factory managers against the more helpless young women employees.<sup>188</sup>

In Latin America, as in other developing countries, unemployment weighs more heavily as a crime causation factor. Carranza, in his comparison of crime trends of certain Latin American countries with those of developed countries, found that in Latin America, unlike in developed countries, there is a significant correlation between crimes against property and unemployment.<sup>189</sup> The explanation lies in the fact that the European countries examined in the study are welfare states where unemployment benefits help to maintain the level of consumption.

Carranza’s research concluded that in countries with a high degree of development, crime against property increases and decreases inversely to the per capita consumption. When the consumption is reduced, property crimes go up, and vice versa. As opposed to certain developed

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<sup>183</sup> See Bruce Western & Katherine Beckett, *How Unregulated is the U.S. Labor Market? The Penal System as a Labor Market Institution*, 104 *Am. J. Soc.* 1030 (1999).

<sup>184</sup> See *id.* 1030-32, 1037-40.

<sup>185</sup> See *id.* at 1031.

<sup>186</sup> Javier F. Becerra, *DICTIONARY OF MEXICAN TERMINOLOGY* (1999). In the Mexican context, maquiladoras have been defined as “widely used . . . intensive . . . manufacturing operations established . . . by [mostly] non-Mexican corporations to take advantage of the lower Mexican wage levels and the proximity to the U.S. market.”

<sup>187</sup> See KURT PETERSEN, *THE MAQUILADORA REVOLUTION IN GUATEMALA* xiii, 8 (1992).

<sup>188</sup> *Id.* at 94-95.

<sup>189</sup> ELIAS CARRANZA, *DELITO Y SEGURIDAD DE LOS HABITANTES* (1997).

countries,<sup>190</sup> Latin American unemployment is directly related to the reduction of income and the consequent reduction of consumption.<sup>191</sup>

Marginalization and the consequent contraction of opportunities brought about by globalization favor the choice of crime as a compelling alternative.<sup>192</sup> In the big American urban slums, violence has become a way of negotiating power and opportunity.<sup>193</sup> Gangs have provided a substitute for dwindling structural opportunities, socializing the youth towards crime, and thus becoming more significant than other general forces of socialization, such as school and the family.<sup>194</sup> Mark Moore and Michael Tonry explain how the social and economic pressures drove away small merchants, reduced employment opportunities and led to family breakdown.<sup>195</sup> The same pressures precipitated the collapse of the social and economic structure of many urban neighborhoods in the late 1970s and early 1980s.<sup>196</sup> Insofar as globalization causes the marginalization of groups with limited resources, it will generate competition over these resources, in which aggressive and violent means are a central ingredient.

Although marginalization stimulates and influences crime choices, one cannot make a sweeping assertion about the causal relationship between marginalization and crime. "Rather, it is a recognition of the interaction of certain social influences on the way to making a crime choice," as Findlay suggests.<sup>197</sup> Individual predispositions always have an important role in influencing crime choices. An exaggerated emphasis on any macroeconomic factor may lead to error in the causation analysis and in the hierarchical distribution of the contributory factors. It is important to take into account that crime to a certain extent is always a choice and that beyond social determinants it is necessary to analyze individual motivations.<sup>198</sup>

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<sup>190</sup> *Id.* at 27. Carranza's study uses material produced by the British Home Office Research and Planning Unit, regarding England and Wales, the United States, France, and Japan.

<sup>191</sup> The structure of the social welfare state with public support both formal and informal, as well as safety nets, neutralize the criminogenic effects of unemployment. This can be inferred both from the studies of Carranza, *see id.*, and Elliott Currie, *Market, Crime and Community: Toward a Mid-Range Theory of Post-Industrial Violence*, in 1 *THEORETICAL CRIMINOLOGY* 147, 154-66 (1997). The former correlates Latin American statistics with those of developed countries, while the latter compares the United States with countries in which public support and welfare institutions have not yet been eroded by the market economy, despite globalizing trends.

<sup>192</sup> FINDLAY, *supra* note 18, at 115.

<sup>193</sup> *Id.* at 31.

<sup>194</sup> *Id.*

<sup>195</sup> Mark H. Moore & Michael Tonry, *Youth Violence in America*, in *YOUTH VIOLENCE*, 15 (Michael Tonry & Mark H. Moore eds., 1998)

<sup>196</sup> *Id.* at 1, 15.

<sup>197</sup> FINDLAY, *supra* note 18, at 68.

<sup>198</sup> *See id.* at 67.

## D. GLOBALIZATION OF THE "MARKET SOCIETY" AND VIOLENT CRIME

In the analysis of the causal connections between crime and globalizing social forces, one must be aware of the criminogenic potential of the current economic and cultural features of globalization, strongly stressed by Elliot Currie in his analysis of serious violence in the post-industrial era.<sup>199</sup> Using a comparative criminological method, he explores the differences among various countries to determine why levels of life-threatening violence are so high in the United States, some developing countries, and countries that were former members of the Soviet bloc.<sup>200</sup> His study finds important connections between market forces and violent crime in a world where economic life is moving globally towards deregulation and where longstanding mechanisms of social assistance are being dismantled.<sup>201</sup>

He indicts the "market society" for its disruptive effects on individuals, families, and communities, insofar as it leads to "mass poverty, high levels of violence, and other social pathologies."<sup>202</sup> By "market society," Currie does not just mean the existence of a market economy, but "the spread of a civilization in which the pursuit of personal economic gain becomes increasingly the dominant organizing principle of social life."<sup>203</sup> He explains in his work how the market society generates violent crime and also questions the globalization of market-driven policies as the only political alternative.<sup>204</sup>

Currie believes that the market society breeds violent crime through a series of mechanisms that are intertwined and mutually reinforcing.<sup>205</sup> His list of crime promoting features of the market society<sup>206</sup> can be used in our systematized analysis of the factors that explain the impact of globalization on local crime.

First, Currie indicates the progressive destruction of livelihood—the long-term absence of opportunities for stable and rewarding work, especially for the young and even more so for black youth.<sup>207</sup> This results in

<sup>199</sup> Currie, *supra* note 191.

<sup>200</sup> *See id.* As early as 1984, Archer and Gartner made comparisons of homicide rates between U.S. cities and those of other countries. For example, New York has 20-25 times as many homicides as London (cities with over 7 million people), and Atlanta has about 10 times as many homicides as Copenhagen (cities with about 500,000 people). *See* STEPHEN E. BARKIN, *CRIMINOLOGY: A SOCIOLOGICAL UNDERSTANDING* 256 (1997).

<sup>201</sup> *See* Currie, *supra* note 191, at 151.

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> *Id.* at 152.

<sup>205</sup> *Id.* at 154.

<sup>206</sup> *Id.*

<sup>207</sup> *See id.* at 155; *see also* CASTELLS, *supra* note 15, at 136 (exposing so called "new poverty," referring to a large number of working Americans "who simply cannot maintain a livelihood on the basis of their earnings.").

alienation for the young and the incapacity of parents to provide a nurturing and competent environment for children. In addition, Elijah Anderson points to the profound economic, physical, and social isolation of the inner-city, black community.<sup>208</sup> Globalization, through eliminating manufacturing jobs in the city, deprives black workers of employment. Their white counterparts can more easily follow the jobs out of the city because they do not face housing discrimination or commuting problems because of lack of public transit. This phenomenon is made worse by elimination of social welfare and job training programs in the area. The drug trade and the underground economy then supplant withdrawn opportunities.<sup>209</sup> Currie also points to accumulating evidence that suggests a connection between the labor market and crime.<sup>210</sup>

The second item on Currie's list of market society features concerns the inherent tendency of the market society toward extremes of inequality and material deprivation. This is especially applicable to the United States, as compared to European countries where tax and transfer benefits reduce the effects of poverty. Currie explains how both poverty and inequality are increasingly implicated in violent crime. He cites various studies that evidence a strong link between income inequality and violent crime. This is the case in the United States, but not necessarily in other market economies.

Another characteristic feature of the market society is the weakening of public supports that mitigate the level of crime.<sup>211</sup> The adoption of a low-wage, high-turnover labor market strategy tends to undercut parents' ability to nurture and supervise their children. Currie contrasts the United States system with virtually all other post-industrial nations, which provide "nearly universal care for three-to-five-year olds, in one way or another, and all provide some form of paid parental leave."<sup>212</sup> DiIulio has explained the recent emergence of a fearsome breed of young predators in the American crime scene through the idea of "moral poverty," resulting from the lack of love, care, and guidance from responsible adults.<sup>213</sup>

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<sup>208</sup> Elijah Anderson, *The Social Ecology of Youth Violence*, in *YOUTH VIOLENCE*, *supra* note 195, at 64, 110; *see also* CASTELLS, *supra* 15, at 136 ("21.8 percent of American children were living in poverty in 1994, while the proportion for black children was 43.8 percent.").

<sup>209</sup> *See* Anderson, *supra* note 208, at 67-68.

<sup>210</sup> Currie, *supra* note 191, at 178.

<sup>211</sup> Currie, *supra* note 191, at 159.

<sup>212</sup> *See id.* at 160.

<sup>213</sup> Edgardo Rotman, *The Concept of Crime Prevention*, in *LEGAL ASPECTS OF CRIME PREVENTION* 21, 49 (1999) (citing the statement of John, J. DiIulio, Jr., before the U.S. Subcommittee on Youth Violence, on February 28, 1996); *see also* WILLIAM BENNETT ET AL., *BODY COUNT: MORAL POVERTY . . . AND HOW TO WIN AMERICA'S WAR AGAINST CRIME AND DRUGS* 18-81 (1996).

The erosion of informal social supports is another trait of the market society.<sup>214</sup> The demand of rapid geographical mobility splits extended families and thins networks of friendship.<sup>215</sup> Social impoverishment also includes systematic private sector disinvestment in low-income communities,<sup>216</sup> vulnerability to informal control by youth gangs and drug dealers, and high levels of child abuse and neglect.

Currie indicts a dominant culture which prioritizes competition and consumer values over community contribution and productive work. He denounces the erosion of what he calls "craft values," that is, the value of a job well done, and the pleasure of contributing to the community with efficient and creative work. Further, Currie emphasizes that crude competitiveness, callousness, indifference, and social irresponsibility characterize the culture that a market society generates.<sup>217</sup>

An important issue, pointed out by Currie and other criminologists, is the deregulation of the technology of violence. The extraordinary involvement of firearms in violent crimes in the United States has been recently underscored by Franklin Zimring and Gordon Hawkins. They indicate that the use of firearms in assault and robbery is the single environmental feature of American society that is most clearly linked to the extraordinary death rate from interpersonal violence in the United States.<sup>218</sup> Jeffrey Fagan and Deanna Wilkinson point to the fact that adolescents in cities are carrying guns on a large scale.<sup>219</sup> Guns have become the symbols of respect, power and manhood in the youth culture.<sup>220</sup> The supply and demand for guns has also increased the seriousness of youth violence, which has risen to an epidemic level.<sup>221</sup>

The final trait of the market society that Currie lists is the erosion of alternative political values and institutions capable of channeling the frustrations of social and economic deprivations into constructive social action. Currie considers the United States an example of a market soci-

<sup>214</sup> From a different perspective, showing the importance of informal social controls by which neighborhood residents themselves achieve public order and curb violent crime has been stressed, see Robert J. Sampson, et al., *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, SCIENCE, Aug. 15, 1997. See also Robert J. Sampson & Stephen W. Raudenbush, *Systematic Social Observation of Public Spaces: A New Look at Disorder in Urban Neighborhoods*, 105 AM. J. SOC. 3 (1999).

<sup>215</sup> Currie indicates that the much praised "flexibility, from the point of view of the employer translates into rootlessness for individuals and families and atomization for communities." Currie, *supra* note 191, at 160.

<sup>216</sup> A phenomenon also pointed out by Anderson, *supra* note 208, at 67.

<sup>217</sup> Currie, *supra* note 191, at 164.

<sup>218</sup> FRANKLIN E. ZIMRING & GORDON HAWKINS, CRIME IS NOT THE PROBLEM: LETHAL VIOLENCE IN AMERICA 122 (1997).

<sup>219</sup> Jeffrey Fagan & Deanna Wilkinson, *Guns, Youth Violence, and Social Identity*, in YOUTH VIOLENCE, *supra* note 195, at 105, 179.

<sup>220</sup> See *id.*

<sup>221</sup> See *id.*

ety lacking institutions that countervail the unfettered expansion of market principles, such as Swedish “compassionate” capitalism and the Japanese “Keiretsu,” both of which are a form of capitalism based on corporate paternalism. It is excessively optimistic however, to take these models as a solution to the ailments of the market society. An empathetic atmosphere and community cohesion will not necessarily withstand the “competitive and individualistic commitments of modern market economics.”<sup>222</sup> If a real attitudinal and value transformation is to take place, a critique of the market society should become part of a deeper analysis of the psychological structure of society as a whole. Such a societal transformation would potentially counteract the negative traits of the market-driven society. The magnitude of such undertaking exceeds the scope of any criminological study. In contrast, without denying such possibility, it is important to gain a comprehensive and clear diagnosis of the current social situation. The individual and social complexities of modern life do not lend themselves to easy generalizations. Generalizations can be attempted, but within a context broader than the market society. The present analysis can hardly encompass a sorely needed general theory of individual and social change.

#### E. THE GLOBALIZATION OF THE AMERICAN CRIMINAL JUSTICE MODEL

The worldwide influence of American culture makes the effects of globalization on local crime in the United States particularly productive.

Jonathan Simon points to the unprecedented globalization of the American economy and society, and shows how some effects of this globalization have significant relationships to crime in the United States. These effects are the demand for unskilled labor, combined with the high cost of urban living, narcotics traffic, and the social anxiety produced by all these factors.<sup>223</sup>

Currie predicts that the globalization of the market society as we know it, and the endemic violence that it breeds, will lead to the widespread adoption of the American model of punishment.<sup>224</sup> Such a model includes the massive use of imprisonment as the dominant way of governance, despite the fact that the use of imprisonment is a very expensive, inefficient, and self-defeating model. Mark Mauer has recently published a comprehensive analysis of what he calls the “race to incarcerate” in the United States. The analysis reflects the extraordinary rise of rates of imprisonment in the United States from 1972-1995, compared

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<sup>222</sup> FINDLAY, *supra* note 18, at 60.

<sup>223</sup> Jonathan Simon, *Refugees in a Carceral Age: The Rebirth of Immigration Prisons in the United States*, in 10 PUBLIC CULTURE: BULLETIN OF THE PROJECT FOR TRANSNATIONAL CULTURAL STUDIES 577, 603 (1998).

<sup>224</sup> See also Currie, *supra* note 191, at 167.

with that of selected nations,<sup>225</sup> and the fact that in American “drug arrest statistics African-Americans are grossly over-represented in part because of race-based disparity in arrest, conviction, and severity of punishment.”<sup>226</sup>

The main reason for the massive escalation of imprisonment in America is the impact of the globalization of drug trafficking by organized crime. The imprisonment of drug offenders has become the major factor in the rise of incarceration.<sup>227</sup> Alfred Blumstein links the rise of juvenile homicides to the cocaine trade in the mid-to-late 1980s, with the availability of firearms on the street, and explains how the introduction of cocaine into drug markets created an escalating need of arms for self-protection.<sup>228</sup> The over-punitive response to the surge of drug trafficking in the 1980s and the 1990s has fed the burgeoning prison industry with an unlimited pool of offenders.<sup>229</sup> Today, drug smuggling and trafficking represents the economic base for a criminal population enormously expanded with the introduction of crack cocaine. The lack of alternative opportunities for a large segment of the population has provided an “apparently inexhaustible supply of new recruits to replace those imprisoned or killed.”<sup>230</sup>

Crime and punishment have become a dominant theme of the American political culture.<sup>231</sup> Crime is dramatically over-represented as an issue in electoral campaigns,<sup>232</sup> and the media attention has made it “the preferred metaphor for all forms of social anxiety.”<sup>233</sup> The prioritization of crime and punishment in advanced industrialized nations, especially in the United States, has led to the phenomenon that Jonathan Simon calls “governing through crime.”<sup>234</sup> This means that crime and punishment have become the preferred context for governance—that is, for the guidance of human behavior in general.<sup>235</sup> One of the ways of governing through crime—which does not exclude others such as harsh retribu-

<sup>225</sup> MARC MAUER, *RACE TO INCARCERATE* 15-41 (1999).

<sup>226</sup> Farer, *supra* note 22, at 260; *see also* CASTELLS, *supra* note 15, at 145 (“[The] prison population is socially and ethically biased: in 1991, 53 percent of inmates were black, and 46 percent white, the proportion of blacks continuing to climb in the 1990s. The ratio of incarceration rates of blacks *vis-à-vis* whites in 1990 was 6.44.”).

<sup>227</sup> *See* Caplow & Simon, *supra* note 161, at 71-72.

<sup>228</sup> John M. Hagedorn, *Gang Violence*, in *YOUTH VIOLENCE*, *supra* note 195, at 365, 380 (citing Alfred Blumstein); *see also* CASTELLS, *supra* note 15, at 141 (indicating that the drug phenomena, in black ghettos, was a turning point for many communities).

<sup>229</sup> *See* Caplow & Simon, *supra* note 161, at 94.

<sup>230</sup> *See id.* at 94.

<sup>231</sup> JONATHAN SIMON, *Governing Through Crime*, in *THE CRIME CONUNDRUM: ESSAYS ON CRIMINAL JUSTICE* 173 (L.M. Friedman, and G. Fisher, eds., 1997).

<sup>232</sup> *Id.*; *see also* Caplow & Simon, *supra* note 161, at 94.

<sup>233</sup> SIMON, *supra* note 231, at 173.

<sup>234</sup> *Id.*

<sup>235</sup> *Id.*

tion—is a new risk-management approach, reflected in an increasing number of rules governing public spaces, such as strict surveillance and security measures in international airports and amusement enterprises.<sup>236</sup>

The magnitude of the prison population and the extraordinary economic investment in the prison system in the United States also reflects the significance of crime and punishment as the dominant source of governance.<sup>237</sup> This excessive reliance on imprisonment is carried out at the expense of health care, education, job training, housing, and other forms of community provisions that might effectively address the causes of violence at its roots.<sup>238</sup> As a recent article in *Le Monde Diplomatique* points out, these punitive winds have reached the European shores.<sup>239</sup> “Security” is now strictly defined as protection against criminality and no longer includes provisions for social benefits, wages, and medical and educational needs.

New strategies in crime prevention, based on making people safe, or making people believe that they are safe, have become substitutes for the previous approach based on addressing the root causes of crime.<sup>240</sup> Yet, these root causes of crime—social, economic, and psychological—though ignored by the new strategies, still exist in reality. Globalization has added factors that in certain segments of the population have increased maladaptation and social disorganization. New forms of crime prevention should not disregard these new factors.

#### F. THE GLOBALIZATION OF THE CULTURE OF VIOLENCE

The globalization of a culture of violence, spread through the media and becoming a major subject of popular culture, from children’s cartoons to investigative journalism, also affects local crime.<sup>241</sup> The over-representation and legitimization of violence by the global media is compounded locally by the availability of guns, the institutionalization of violence by the criminal justice agencies, and lax parental supervision and weak parental bonding.<sup>242</sup> At the cultural level, these phenomena are connected with the general dissolution of traditional norms and values that characterize the current era of globalization. According to Gil Bailie, “the epidemic of crime, drugs, and violence we are now exper-

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<sup>236</sup> *Id.* at 179.

<sup>237</sup> See MAUER, *supra* note 225, at 8-10.

<sup>238</sup> This fact was pointed out among others, by ELLIOT CURRIE, CRIME AND PUNISHMENT IN AMERICA 191 (1998).

<sup>239</sup> See Loïc Wacquant, *L’Idéologie de l’insécurité: Ce Vent Punitif qui Vient d’Amérique*, LE MONDE DIPLOMATIQUE, Apr. 1999, at 1; see also Loïc Wacquant, LES PRISONS DE LA MISÈRE 67 (1999).

<sup>240</sup> See Rotman, *supra* note 213, at 48.

<sup>241</sup> See FINDLAY, *supra* note 18, at 105, n.11.

<sup>242</sup> See *id.* at 107-09; see also Simon, *supra* note 223.

encing is just the most conspicuous manifestation of a broader and deeper disintegration."<sup>243</sup>

The attraction of criminal activities and violence is even greater in the cultural atmosphere of the local gang. Globalization has led certain local sectors of the population, such as youth gangs in the United States, to adopt cultural patterns in which criminal violence is encouraged. That is, criminal values are confirmed within a certain social sub-system to the point of becoming the dominant pattern of behavior.<sup>244</sup>

The availability of drugs, and an increased supply of lethal guns to youth compounds the enormous expansion of a culture of youth violence shown on television and in the movies,<sup>245</sup> accessible in both suburbs and inner-cities.<sup>246</sup>

Other negative consequences related to the cultural aspect of the globalization phenomenon exist. In the economic realm, the values of mass consumption, spread through the globalization of the mass media to every corner of the planet, have intensified the sense of economic frustration of the vast population groups excluded from the benefits of free trade and global markets. This leads to the irony of creating societies that cultivate economic aspirations at the same time as they deny a number of marginalized individuals the means to achieve them to.<sup>247</sup> These feelings are per se criminogenic, as the seminal work of Robert Merton demonstrated in the 1960s.<sup>248</sup>

#### G. RESISTANCE TO GLOBALIZATION AS A SOURCE OF LOCAL CRIME

Ideological resistance to globalization may result in criminal acts. Paradoxically, globalization occasionally intensifies the localism manifested in ethnic, national, or religious hatred. This reaction is generated by the fear of losing national, ethnic, or group identities. In opposition to the current intensification of globalization, one witnesses the increase of hate crimes in various European countries and in the United States, as well as a resurgence of tribalism reflected in genocidal crimes in former Yugoslavia and in Rwanda.<sup>249</sup>

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<sup>243</sup> GIL BAILIE, *VIOLENCE UNVEILED: HUMANITY AT THE CROSSROADS* 4 (1995).

<sup>244</sup> See FINDLAY, *supra* note 18, at 95.

<sup>245</sup> See Moore & Tonry, *supra* note 195, at 10-12.

<sup>246</sup> See *id.* at 13-14.

<sup>247</sup> See FINDLAY, *supra* note 18, at 29.

<sup>248</sup> See generally MERTON, *supra* note 176.

<sup>249</sup> See generally FEDERAL REPUBLIC OF YUGOSLAVIA, *A WEEK OF TERROR IN DRENICA: HUMANITARIAN LAW VIOLATIONS IN KOSOVO* (1999); RWANDA, *WAR AND PEACE* (J. Tebbs ed., 1999); RWANDA: *THE INSURGENCY IN THE NORTHWEST* (1998).

Globalization diminishes people's sense of community. It destroys jobs and social support and threatens individual bearings and values.<sup>250</sup> The weakening of the nation-state brought about by globalization has also strengthened regional groups struggling for independence, which at times become genocidal.<sup>251</sup> Examples are the West Pakistani assault on Bangladesh, and the Nigerian federal government attack on the Ibos.<sup>252</sup> New tides of immigrants further aggravate the social tensions created by unemployment in Western European countries. In some instances the pressure led to the perpetration of odious crimes generated by xenophobia and racial hatred.<sup>253</sup>

The globalization of certain kinds of culture can generate regression into psychological Isolation and tribalism. This is reflected in the terrorist subculture represented by the Nazi skinheads in various parts of the world.<sup>254</sup> The neo-nazi skinheads should be distinguished from gang delinquency in general. In the latter, racism is not an organizing principle but rather an excuse for juvenile delinquency.<sup>255</sup> Although violence only plays a small role in most gang behavior, for neo-nazi skinheads, violence and racism are their signature trademark.<sup>256</sup> The skinheads do not conform to the classic criminological definition of a "street gang." Instead, they represent a wider agenda that is potentially more dangerous to society. Their common ideology has led Marcus Hamm to describe them as a "terrorist youth subculture."<sup>257</sup>

The cultural reaction to globalization has compounded feelings of economic frustration with the hatred of other groups to the point of generating individual and collective crimes. People have yet to accept that their community no longer consists of their street, town, or country, but has expanded to include the entire world. Worthwhile globalization does not necessarily diminish the importance of local contribution to the richness of human life through local or national art, literature, and other manifestations of folkloric identity. On the contrary, it should lead to the affirmation of human unity, not by destroying local cultures, but by eroding economic and political isolationism and conflict-producing identifications.

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<sup>250</sup> *Germany for Germans: Xenophobia and Racist Violence in Germany*, 1 HUMAN RIGHTS WATCH: HELSINKI (1995).

<sup>251</sup> NEIL KRESSEL, *MASS HATE: THE GLOBAL RISE OF GENOCIDE AND TERROR* (1996).

<sup>252</sup> Leo Kuper, *Theoretical Issues Relating to Genocided: Uses and Abuses*, GENOCIDE: CONCEPTUAL AND HISTORICAL DIMENSIONS, 31, 40 (George J. Andreopoulos ed., 1994).

<sup>253</sup> Jamieson, *supra* note 16, at 123.

<sup>254</sup> HAMM, *supra* note 143, at 65, 80.

<sup>255</sup> *Id.* at 62.

<sup>256</sup> *Id.*

<sup>257</sup> *Id.* at 65.

#### IV. A GLOBAL APPROACH TO GLOBAL CRIMINAL VIOLENCE.

The critical developments of global criminal violence at the end of the twentieth century are compounded by insufficient international cooperation in the realm of crime control. Transnational crime has become one of the "challenges that overwhelm the problem-solving capacity of even the most powerful and activist sovereign states" and makes the existence of an effective international legal order indispensable.<sup>258</sup>

At the present time, the lack of cooperative relations between nations at the political and legal level is the greatest impediment to fighting organized crime. Mutual legal assistance treaties and effective extradition treaties must urgently fill the existing gaps. Also, stringent bank secrecy legislation must yield to the needs of international law enforcement. In addition, the obligation of cooperating in law enforcement should be included in trade and economic agreements. A configuration of enforceable laws and standards should mirror the existing seamless web of commerce.<sup>259</sup> J.W.E. Sheptycki speaks of a transnationalization of policing that has been expanded through globalization and the development of information technology.<sup>260</sup> Antonio Nicaso and Lee Lamothe indicate the need for a new global strategy to combat the new global Mafia, with an international thrust above and beyond jurisdictional borders, in order to put law enforcement on an equal footing with criminal organizations.<sup>261</sup>

Transnational cooperation also entails a joint effort of de-bureaucratization and simplification of the legal system. This cooperation should allow for the interaction of multiple and overlapping jurisdictions of various countries. This concerted action has proven to diminish the chances for the creation of monolithic criminal organizations considerably.<sup>262</sup>

The main device necessary to neutralize global crime is the implementation of standards and law enforcement intelligence mechanisms that would impede the laundering of organized crime proceeds. This can

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<sup>258</sup> RICHARD A. FALK, *LAW IN AN EMERGING GLOBAL VILLAGE: A POST-WESTPHALIAN PERSPECTIVE* 59 (1998).

<sup>259</sup> KERRY, *supra* note 14, at 172.

<sup>260</sup> Sheptycki, *supra* note 13, at 215.

<sup>261</sup> ANTONIO NICASO & LEE LAMOTHE, *GLOBAL MAFIA: THE NEW WORLD ORDER OF ORGANIZED CRIME* 17 (1995).

<sup>262</sup> Nicholas Dorn & Nigel South, *After Mr. Bennett and Mr. Bush: U.S. Foreign Policy and the Prospects for Drug Control*, in *Global Crime Connections: Dynamics and Control*, *supra* note 92, at 72, 82.

be done without affecting the globalization of financial markets and the free movement of capital, with all its beneficial consequences.<sup>263</sup>

The problems posed by global crimes should not lead to an attempt to retreat into national isolationism. Rather, global cooperation should be intensified to cope with the negative aspects of globalization. It must be stressed again that globalization is not an ideology, but an irreversible and dynamic fact. By the same token, global cooperation is not an ideology, but an indispensable tool needed to deal with the factual realities of globalization. The rapid progress of technological and economic globalization cannot be stopped. What can be changed is the provincialism of countries that still hold to the tenets of sovereignty, which makes international cooperation cumbersome and ineffective. Ironically, organized crime is setting a good example for international cooperation. Although nationally, regionally, and ethnically rooted, traditional criminal organizations (e.g. Sicilian Mafia, Chinese Triads, and Russian *Mafiyas*) understand that global networking allows them to survive.<sup>264</sup>

In this regard, Shelley underscores the importance of coalitions among law enforcement, communications and computer service providers, governments, international organizations, and corporations.<sup>265</sup> In addition, there is a need for increased coordination of local, state, and federal law enforcement through task and strike forces.<sup>266</sup>

It is also important to note that criminal law has to be used only when indispensable. Over-criminalization is not only ineffective, but is also self-defeating and creates a string of unforeseeable negative side effects. Organized criminal activities thrive on the criminalization of the trade in certain goods and services. This is especially true in the field of narcotics, which currently constitutes the main source of revenue for criminal organizations.

The legalization of a broad range of illegal substances should be seriously considered and weighed against the extremely harmful consequences of criminalization. The long list of benefits invoked by the advocates of legalization,<sup>267</sup> among others, includes: public health benefits through prevention and treatment from the availability of resources once directed towards criminal repression; preventing death from the ingestion

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<sup>263</sup> William McLucas, *Global Financial Systems Under Assault, Countering the \$500 Billion Conspiracy*, in *GLOBAL ORGANIZED CRIME: THE NEW EMPIRE OF EVIL*, *supra* note 53, at 15, 16.

<sup>264</sup> CASTELLS, *supra* note 15, at 170.

<sup>265</sup> See Louise I. Shelley, *Crime and Corruption in the Digital Age*, 51 J. Int'l Aff. 619 (1998).

<sup>266</sup> See Louise I. Shelley, *Transnational Organized Crime in the United States: Defining the Problem*, 32 *KOBE U. L. REV.* 77, 87 (1998).

<sup>267</sup> ELÍAS NEUMAN, *LA LEGALIZACIÓN DE LAS DROGAS* 257 (1997); *see also* ELAINE B. SHARP, *THE DILEMMA OF DRUG POLICY IN THE UNITED STATES* 149-66 (1994).

of impure non-regulated drugs; preventing the violence associated with obtaining drugs; protection of privacy rights; dramatic preservation of scarce judicial and correctional resources; preventing the exploitation of poor alienated youths used as pawns for organized crime; and preventing money laundering associated with drug sales. Because drug trafficking is the paramount organized crime business, the legalization of drugs is probably the greatest threat organized crime would have to confront.<sup>268</sup>

The opponents argue that legalization would most certainly increase drug use and related public health costs.<sup>269</sup> The greatest danger, however, is that if drugs were legalized, criminal organizations would expand into other areas, such as “smuggling weapons or nuclear materials, or producing and shipping container-loads of expertly engraved counterfeit U.S. currency.”<sup>270</sup> This phenomenon, called “succession of goals” in organization theory, and “displacement”<sup>271</sup> in the vocabulary of crime prevention, is not unique to legalization, but is also a consequence of current U.S. drug policy.<sup>272</sup>

This policy, generally described by the metaphor “war on drugs,” won some battles against the Colombian drug cartels but was completely unsuccessful in attaining its larger goals. The “war on drugs” has been branded as a “conspicuous foreign-policy fiasco” that has not reduced the inflow of illicit drugs into the country or made them less easily available and has “done little more than rearrange the map of drug production and trafficking.”<sup>273</sup> Not only did it fail to stop the drug trade, but it also caused considerable harm, both politically and ecologically.<sup>274</sup> The “war on drugs” brought about violence in Colombian rural areas, increased the participation of guerillas in the drug trade, and generated a phenomenon of crime displacement, such as the shift of criminal power and resources from Colombia to Mexico.<sup>275</sup>

Every policy solution regarding the drug problem has its downside. The source of drug addiction is rooted in the psychological structure of modern society, based on ruthless competition, the cultivation of sensual values, reinforcement of egotistical attitudes, and idolization of economic success. Thus, state policies, repressive or not, will not significantly af-

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<sup>268</sup> CASTELLS, *supra* note 15, at 174.

<sup>269</sup> Lee, *supra* note 28, at 34.

<sup>270</sup> *Id.*

<sup>271</sup> Rotman, *supra* note 213, at 66.

<sup>272</sup> Lee, *supra* note 28, at 34.

<sup>273</sup> *Id.* at 29.

<sup>274</sup> See RICARDO VARGAS MEZA, *DRUGA, MÁSCARAS Y JUEGOS: NARCOTRÁFICO Y CONFLICTO ARMADO EN COLOMBIA* 15 (1999). The author mentions the damages caused by herbicides to the environment and how the destruction of crops led farmers to penetrate deeper and deeper into the rainforest in order to grow their coca.

<sup>275</sup> Lee, *supra* note 28, at 31.

fect drug consumption.<sup>276</sup> At the legal level, it is necessary to weigh the options carefully and adopt the most cost-effective and rational approach.

It is useful in this regard to examine the contribution of therapeutic jurisprudence, an interdisciplinary approach to law that is rapidly expanding throughout the legal and social science world.<sup>277</sup> This approach invites us to consider the therapeutic, or rather antitherapeutic effects of the law. In this line of thought, the consequences produced by laws criminalizing the drug industry should be therapeutically appraised. Legislators should reduce the antitherapeutic consequences produced by criminal laws and enhance the therapeutic effects of government intervention.<sup>278</sup> It has been claimed that the Surgeon General rather than the Attorney General should direct the United States drug policy.<sup>279</sup> Demand reduction, such as treatment, could be a cost-effective way to diminish drug consumption.<sup>280</sup> This is strongly supported by the United Nations International Drug Control Program study, which found that one dollar spent on treatment decreases drug use as much as seven dollars spent on domestic law enforcement, eleven dollars on confiscating drugs at the border, and twenty-three dollars to stop drugs at their country of origin.<sup>281</sup>

There are also political and economic strategies that may reduce the impact of globalization on local crime. For example, action upon the structure of urban settings can affect crime perhaps more effectively than operating directly upon it. This requires the development of a dynamic system, in which action on any of its elements affects the others. Furthermore, the design of a successful response to unemployment in terms of economic policy can also diminish the criminogenic effects of globalization.

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<sup>276</sup> See CASTELLS, *supra* note 15, at 174.

<sup>277</sup> Dennis P. Stolle et al., *Integrating Preventive Law and Therapeutic Jurisprudence: A Law and Psychology Based Approach to Lawyering*, 34 CAL. W. L. REV. 15, 17 (1997). See generally LAW IN A THERAPEUTIC KEY (David B. Wexler & Bruce J. Winick, eds., 1996); PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION (Dennis P. Stolle et al. eds., 2000).

<sup>278</sup> David B. Wexler, *Reflections on the Scope of Therapeutic Jurisprudence*, in LAW IN A THERAPEUTIC KEY, *supra* note 277, at 811, 823. For the application of therapeutic jurisprudence to drug addiction, see Bruce J. Winick, *Harnessing the Power of the Bet: Wagering with the Government as a Mechanism for Social and Individual Change*, 45 U. MIAMI L. REV. 737, 772-88 (1991).

<sup>279</sup> DAVID C. JORDAN, DIRTY MONEY AND DEMOCRACIES 14 (1999).

<sup>280</sup> Lee, *supra* note 28, at 33.

<sup>281</sup> Tally M. Wiener, *Drug Policy Priorities in the Wake of the June 1998 Drug Summit*, 25 BROOK. J. INT'L L. 759, 788.

## V. CONCLUSION

The fight against transnational crime and its threats to democracy should be undertaken, however, without empowering the state's repressive machinery to an extent incompatible with fundamental democratic principles.<sup>282</sup> The non-state authoritarianism implicated in global organized crime should not be met by authoritarian measures, but with measures assuring the protection of human rights and public safety.

It is only through the globalization of democratic values and human rights that the challenge of global violent crime can be met effectively. This does not mean an abdication of the State from its power to accomplish its intrinsic functions to act and mobilize resources. As Richard Falk points out, to respond to the harmful aspects of globalization the State, imbued with a stronger sense of responsibility, must "recover its role as guardian of the people."<sup>283</sup> In addition, the increasingly passive role of the states regarding global economic activity should shift to regulatory initiatives, covering areas such as the monies laundered by organized crime activities.<sup>284</sup>

The beneficial effects of globalization, consisting of a greater international division of labor, a more efficient allocation of capital, and increasing competition, productivity, and average living standards, should not erode the capacity of governments to manage the economic activity. To achieve this goal, the global economic interdependence of countries worldwide demand concerted economic policies. In this way, the attainment of higher incomes should be coupled with re-distributive policies and social safety nets, which will largely eliminate the incentive for local crimes.

The role of an ethically inspired education in the prevention of organized crime is essential, especially in the main area of drug trafficking. The image of the drug trafficker as a businessperson, and of drug trafficking as indistinguishable from other forms of contraband, prevails in some Latin American countries.<sup>285</sup> The distribution of the knowledge of the physical and psychological harm caused by psychotropic drugs should replace that image, and thus generate the moral outrage that might facilitate cooperation.<sup>286</sup>

In order to address the root causes of global crime, it is necessary to acquire an actual sense of global social responsibility and a global moral consciousness, beyond international conventions and national legal ef-

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<sup>282</sup> Freeh, *supra* note 102, at 4-5. The author proposes the instruction of legitimate law enforcement officers to investigate in accordance with democratic principles.

<sup>283</sup> FALK, *supra* note 258, at 223.

<sup>284</sup> *Id.* at 60.

<sup>285</sup> NADELMANN, *supra* note 78, at 285.

<sup>286</sup> *Id.* at 285.

forts. Only a renewed ethical force can educate and inspire society, and fight against corruption, economic and moral poverty, and the all-pervasive culture of indifference and irresponsibility.

